

CITY OF FORT DODGE/WEBSTER COUNTY

HUMAN RIGHTS

CITY ORDINANCE NO.: 1801  
COUNTY ORDINANCE NO.: \_\_\_\_\_

"AN ORDINANCE CREATING THE FORT DODGE/WEBSTER COUNTY, IOWA, HUMAN RIGHTS COMMISSION. PROVIDING FOR ITS STRUCTURE AND FOR ITS GENERAL POWERS. DEFINING UNFAIR PRACTICES, PROHIBITING DISCRIMINATION IN EMPLOYMENT, IN PUBLIC ACCOMMODATIONS, SERVICES OR PRACTICES, HOUSING, CREDIT, EDUCATION, AIDING AND ABETTING AND RETALIATION. PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE AND SETTING OUT GENERAL PROVISIONS DEFINING CERTAIN TERMS. PROVIDING A REPEALER AND EFFECTIVE DATE OF THE ORDINANCE."

BE IT ORDAINED by the Fort Dodge City Council and the Webster County Board of Supervisors.

SECTION 1. PURPOSES. The purposes of the City of Fort Dodge and Webster County in enacting this ordinance are:

- A. To secure for all individuals within the City of Fort Dodge and Webster County, freedom from discrimination because of race, color, religion, creed, sex, national origin, age or mental or physical disability in connection with employment, retaliation, aiding or abetting; race, creed, color, sex, national origin, religion or disability in connection with education and public accommodations, services or practices; race, color, creed, sex, religion, national origin, familial status or disability in connection with housing; age, color, creed, national origin, race, religion, marital status, sex, physical disability or familial status in connection with credit; and thereby to protect the personal dignity of these individuals, to insure their full productive capacities, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individual citizens within the City of Fort Dodge and Webster County.
- B. To provide for the execution within the City of Fort Dodge and Webster County of the policies embodied in the Iowa Civil Rights Act of 1965 and in the Federal Civil Rights Act and to promote cooperation between the City of Fort Dodge, Webster County and the State and Federal agencies enforcing those Acts; and
- C. To provide at the local level, a Human Rights Commission dedicated to the following: effective enforcement of this Ordinance; serve as a source of information to employers, laborers, business people, employees, landlords, tenants, and other citizens relative to various civil rights legislation and regulations; and

active assistance to prevent and eliminate the effect of discriminatory practices.

SECTION 2. CONSTRUCTION. This Ordinance shall be construed broadly to effectuate its purposes.

SECTION 3. DEFINITIONS. Unless indicated otherwise in this Ordinance, the following will define the listed words and phrases:

- A. "Administrative Closure" means that, in the opinion of the Commission, that no useful purpose would be served by further action by the commission respecting a complaint that the case should be closed. In some cases, the case should not be closed until after 60 days from date of filing.
- B. "Bona fide occupational qualification" (BFOQ) means discrimination on a prohibited basis is lawful only if it results from a bona fide occupational qualification essential to the normal operation of the employer's business or enterprise. The "BFOQ" exception will be interpreted narrowly and the burden of proving that a prohibited basis is a "BFOQ" rests upon the party seeking to rely upon the exception. Customer or employer preference or historical usage, tradition, or custom or stereotyped characterizations will not merit the exception.
- C. "Commission" means the Human Rights Commission created by the Joint Agreement of the Fort Dodge/Webster County Human Rights Commission, under the authority of Chapter 28E, April 19, 1979.
- D. "Complainant" means a person claiming to be aggrieved by a discriminatory practice and who has filed a complaint with the Commission.
- E. "Contract" means any agreement which is awarded, let, procured, or entered into with, or on behalf of, the City, County or any awarding authority thereof.
- F. "Contracting authority" means any City or County department, agency, commission, authority, board or person, or any authorized employee, officer or director of any of the foregoing, including any purchasing agent of the City or County who makes or enters into any contractual agreement for the provision of any goods or services of any kind or nature whatsoever for and on behalf of the City or County.
- G. "Court" means the district court in and for Webster County, Iowa or any judge or magistrate of said court if the court is not in session at that time.
- H. "Disability" means the physical or mental impairment of a person which constitutes a substantial handicap,

limiting one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

1. The term "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
  2. The term "regarded as having an impairment" means: has a physical or mental impairment that does not substantially limit major life activities but that is perceived as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or has no impairments defined to be "physical or mental impairments," but is perceived as having such an impairment.
- I. "Discriminatory practice" means any act or practice having an adverse effect on any protected class.
  - J. "Employee" means any person employed by an employer.
  - K. "Employer" means any person, public or private, employing employees within the numerical requirements of this ordinance and in the corporate limits of Fort Dodge and Webster County.
  - L. "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or any person holding himself/herself to be equipped to do so.
  - M. "Executive Director" shall mean Human Rights Officer of the Commission, selected under the authority of and pursuant to the terms and conditions of Article VII, Section 4, of the Joint Agreement of the Fort Dodge/Webster County Human Rights Commission, under the authority of Chapter 28E, Code of Iowa. The executive director shall have such duties, powers and authority as may be conferred by the Commission, subject to the provisions of the Ordinance.
  - N. "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual(s) or the designee of such parent or other person having such custody, with the written permission of such parent or other person.
  - O. "Incident date" is the date action was taken against the complainant or date that complainant was notified of the act or practice, whichever comes first.

- P. "Injury" shall mean a loss of pecuniary benefit, rights or any offense against a person's dignity.
- Q. "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining, or dealing with employers concerning grievances, terms or conditions of employment.
- R. "No probable cause finding" is a decision rendered by the commission to determine that there is no probable cause to believe that discrimination exists after reviewing an investigation of a complaint.
- S. "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees or receivers. It also includes, but is not limited to any owner, lender, builder, manager, broker, salesman, agent, employee or lending institution and includes any Commission, Authority, Board or other instrumentality of government.
- T. "Probable Cause Finding" shall mean the decision rendered by the commission that there is probable cause to believe that discrimination exists after reviewing an investigation of a complaint.
- U. "Public accommodation" means each and every place, establishment, facility of whatever kind, nature or class that caters or offers services, facilities, or goods to the general public. Public accommodation shall not mean any bona fide private club, other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities or goods to the general public for fee, charge or gratuitously, it shall be deemed a public accommodation during such period. Public accommodation includes each 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".
- V. "Respondent" means that person against whom a complaint has been filed with the Commission.
- W. "Retaliation" means any act directed at a complainant or other person with the intent of affecting that person unfavorably because of his/her formal or informal efforts

to secure or aid in securing compliance with this Ordinance.

- X. "Satisfactorily adjusted" shall mean that the complainant has indicated in writing that the complaint has been resolved to the satisfaction of the complainant and that no further action is desired from the commission. Whenever the offer of adjustment by a respondent is acceptable to the investigating official, but not to the complainant, the commission may close the case as satisfactorily adjusted. In a case which has been determined by the commission as having probable cause, the respondent's signature must be obtained before the case can be considered to be satisfactorily adjusted.
- Y. "Successfully conciliated" shall mean that a written agreement has been executed on behalf of the respondent, on behalf of the complainant, and on behalf of the commission, the contents of which are designed to remedy that alleged discriminatory act or practice and any other unlawful discrimination which may have been uncovered during the course of the investigation.
- Z. "Terms and conditions of employment" shall include but is not limited to medical, hospital, accident and life insurance or benefits, leave, vacations, and other terms, conditions and privileges of employment.
- AA. "Withdrawn" shall mean that the complainant has indicated in writing the desire that no further action be taken by the commission regarding the complaint.

#### SECTION 4. ESTABLISHMENT OF COMMISSION ON HUMAN RIGHTS.

- A. Members of the Fort Dodge/Webster County Human Rights Commission shall be appointed under the authority of and pursuant to the terms and conditions of Article VIII of the Joint Agreement of the Fort Dodge/Webster County Human Rights Commission, under the authority of Chapter 28E, Code of Iowa.
- B. The Commission shall elect a chairperson and vice-chairperson from the members of the Commission.
- C. The appointment of the executive director shall be made by the Commission and confirmed by the Fort Dodge City Council and the Webster County Board of Supervisors pursuant to Article VII, Section 4, Joint Agreement of the Fort Dodge/Webster County Human Rights Commission authorized by Chapter 28E, April 19, 1979.
- D. Any four members shall constitute a quorum.

- E. All members of the Commission shall serve without compensation, but shall be reimbursed for necessary travel and other expenses, out of the funds appropriated for the Commission. The executive director and the Commission staff shall be compensated in such amounts as may be determined under the terms and conditions of Article VII, Section 5, of the aforementioned 28E Agreement.
- F. The Commission may recommend such additional personnel as it may deem necessary to carry out the purposes of this Ordinance consistent with the funds appropriated for that purpose and any gifts or grants which the Commission may receive from other sources.

SECTION 5. POWER AND DUTIES. The Commission shall have the following powers and duties.

- A. To prescribe the duties of the executive director and such investigators and other employees and agents as the Commission shall deem necessary for the enforcement of this Ordinance.
- B. To receive, investigate, and finally determine the merits of complaints alleging discriminatory practices.
- C. 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, extension of credit, real estate, financial transactions, and housing in the City or County and to attempt the elimination of such discrimination by education and conciliation.
- D. To subpoena books, papers, records and any other real evidence necessary to the investigation of any complaint filed pursuant to this Ordinance.
  - 1. The executive director, or designee, shall issue subpoenas (as by law provided).
  - 2. Every subpoena shall state the name of the Commission, the purpose for which the subpoena is issued, and the name and address of the party on whose behalf it was issued.
  - 3. The subpoena shall be directed to a specific person, their attorney, an officer, partner, or managing agent of any person who is not a natural person. The subpoena shall command that person to produce designated books, papers, or other real evidence

under his/her control at a specified time and place. Where a public hearing has been scheduled, the subpoena may command the person to whom it is directed to attend and give testimony.

4. The subpoena shall be served by any person authorized by law to serve subpoenas or by any member of the Commission staff by delivery of a copy thereof to the person named therein.
  5. Where service is accomplished by personal service, proof of service will be by acknowledgement of receipt of the person served or by the affidavit of the person serving the subpoena.
  6. Upon prompt petition by the person to whom the subpoena is addressed, the executive director or designee may quash or modify a subpoena where it is demonstrated by the petitioner that reasonable cause exists to squash said subpoena.
  7. Where a party fails to respond to a subpoena, the executive director or designee may authorize the filing of a petition for enforcement with the district court.
  8. Subsequent to notification to a respondent of the approval of a hearing upon the merits of a complaint, legal counsel, staff and respondent may employ prehearing discovery measures as set forth in the Iowa Administrative Procedure Act, in addition to oral interviews and informal requests for documents and other materials and information.
- E. To hold hearings upon any complaint made against a person, an employer, an employment agency, a labor organization, 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 persons, employer, employment agency, labor organization, employees, or members thereof to produce for examination any books and papers relating to any matter involved in such complaint. The Commission shall issue subpoenas for witnesses in the same manner and for the same purposes on behalf of the respondent upon his/her request. Such hearings may be held by the Commission or by any hearing officer appointed by the Commission.
- F. To order such remedial action necessary to carry out the purposes of this Ordinance. For purposes of this

subsection and pursuant to the provision of this Ordinance "remedial action" includes but is not limited to the following:

1. Hiring, reinstatement or upgrading.
2. Admission or restoration of individuals to program(s) and admission to a public accommodation or an educational institution.
3. Sale, exchange, lease, rental, assignment or sublease of real property to an individual.
4. Payment to the complainant of damages for an injury caused by the discriminatory practice which damages shall include but are not limited to actual damages, court costs and reasonable attorney fees, and the issuance of an order requiring the respondent to cease and desist from said practice.
5. Reporting as to the manner of compliance.
6. Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the Commission and inclusion of notices in advertising material.
7. In addition to the remedies provided in the preceding provisions of this subsection, the Commission may issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this section as follows:
  - a. In the case of a respondent operating by virtue of a license issued by the State or a political subdivision or agency, if the Commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory practice and that the practice was authorized, requested, commanded, performed, knowingly or recklessly tolerated by the board of directors of the respondent, by an officer or executive agent acting within the scope of his/her employment, the Commission shall so certify to the licensing agency. Where the licensing agency derives all or part of its authority from the City or County, it shall be bound by the Commission finding, unless it is reversed in the course of judicial review. In the case of



such a licensing agency, where such a certification has been made, the licensing agency may initiate licensee disciplinary procedures.

- b. In the case of a respondent who is found by the Commission to have engaged in a discriminatory practice in the course of performing under a contract, subcontract, with the State, political subdivision or agency, if the practice was authorized, requested, commanded, performed, knowingly or recklessly tolerated by the board of directors of the respondent, by an officer or executive agent acting within the scope of his/her employment, the Commission shall so certify to the contracting agency. Where the contracting agency fits within Section 3.P the finding of discrimination is binding on that contracting authority, unless the Commission's finding of a discriminatory practice is reversed in the course of judicial review.
  - c. Upon receiving a certification made under this subsection, a contracting authority may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with provisions of this Ordinance and assist the State and all political subdivisions and agencies thereof to refrain from entering into further contracts with that respondent.
8. The election of an affirmative order under paragraph 7 of this subsection shall not bar the election of affirmative remedies provided in paragraphs one through six of this subsection. The terms of a conciliation agreement reached with the respondent may require him/her to refrain in the future from committing discriminatory practices of the type stated in the agreement, to take remedial action as in the judgment of the Commission will carry out the purposes of this Ordinance and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished as contempt by the court upon showing by the Commission of the violation at any time within six months of its occurrence. In all cases where a conciliation agreement is entered into, the

Commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the Commission deems proper. At any time in its discretion, the Commission may investigate whether the terms of the agreement are being complied with by the respondent.

- G. 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 Ordinance. In the event said respondent is the recipient of, or engaged in any program or activity through grants, loans, contracts or insurance from any Federal or State Agency, the Commission shall seek to enjoin said Federal or State Agency, on a temporary basis, from further engagement with said respondent. 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.
- H. To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill among the various racial, religious, ethnic, and other groups within the City or County and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, housing, or credit because of race, creed, color, sex, national origin, religion, disability or age.
- I. To prepare and transmit to the Mayor, City Council and Board of Supervisors 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.
- J. To make recommendations to the Mayor, City Council and Board of Supervisors for such further legislation as may be necessary and desirable, and to adopt, publish, amend and rescind regulations consistent with and necessary for the enforcement of this Ordinance.
- K. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, including the Iowa Civil Rights Commission whose purposes are consistent with those of this Ordinance, and in the

planning and conducting of programs designed to eliminate discrimination based on race, color, religion, creed, national origin, sex, disability or age.

- L. 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 Ordinance.
- M. To hold meetings at intervals of not less than one per month at a time and place to be determined by the Commission.
- N. To enter into contract with Federal and State Civil Rights agencies which would further the purposes of this Ordinance and seek from the Equal Employment Opportunity Commission, the U.S. and Iowa Civil Rights Commission the designation as a deferral agency, which shall have legal precedence in all cases in its jurisdiction, except where otherwise agreed, or where a complainant requests in written form that the deferral agency not be notified.
- O. To require that all contracts entered into on behalf of the City and County and all subcontractors thereon, for which the consideration is in excess of ten thousand dollars shall contain a nondiscrimination clause barring discrimination in employment and shall be required that public notices contain the provisions set forth therein.
- P. To adopt by-laws and regulations necessary for the functioning of the Commission and consistent with the terms of this Ordinance.
- Q. To operate under Joint Agreement between Webster County and the City of Fort Dodge pursuant to Chapter 28E of the Iowa Code in order to further cooperation between the two governments in enforcement of the terms and provisions of this Ordinance.

#### SECTION 6. PUBLIC MEETINGS, RECORDS AND CONFIDENTIALITY.

- A. In accordance with Chapter 21 of the Code of Iowa, all meetings of the Commission shall be public meetings except as provided by law.
- B. All records of the Commission shall be public except as provided by law.
- C. No member of the Commission or of its staff shall disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory practice by conference, conciliation, or persuasion, unless such disclosure is

made in connection with the conduct of an investigation, after a public hearing is scheduled or district court action is commenced upon a complaint filed as provided in this Ordinance. This section does not prevent any complainant, respondent, witness, or other person from publicizing the filing of a complaint or the matter therein complained of. Any violation of this section shall be punishable by a fine not to exceed one hundred dollars.

SECTION 7. DISCRIMINATORY EMPLOYMENT PRACTICES.

A. It shall be a discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge from employment, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, national origin, religion or disability of such applicant or employee, unless based upon the nature of the occupation. If a disabled person is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the discriminatory practices prohibited by this section.
2. Labor organization, the employees, agents or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights or benefits of such membership because of the age, race, creed, color, sex, national origin, religion or disability of such applicant or member.
3. Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate to publicize that individuals of any particular age, race, creed, color, sex, national origin, religion or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation. If a disabled person is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the discriminatory practices prohibited by this section. An employer, employment agency or their employees, servants or agents may

offer employment or advertise for employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment shall not discriminate among the disabled on the basis of race, color, creed, sex, national origin, religion or age.

B. The following age provisions not applicable to retirement programs:

1. The provisions of this ordinance relating to discrimination because of age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purpose of evading the provisions of this Ordinance. However, a retirement plan or benefit system shall not require the involuntary retirement of a person because of that person's age. This paragraph does not prohibit the following:
  - a. The involuntary retirement of a person who has attained the age of sixty-five and has for the two prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing savings or deferred compensation plan of the employer which equals in aggregate, at least forty-four thousand dollars.
  - b. The involuntary retirement of any person covered by a collective bargaining agreement which was entered into by a labor organization and was in effect on September 1, 1977. This exemption does not apply after the termination of that agreement or January 1, 1980, whichever first occurs.
2. An employee welfare plan may provide life, disability or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.
3. Nothing in this ordinance will be construed to prohibit compulsory retirement of any employee who has attained seventy years of age, and who is

serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined by Section 1201(a) of the Federal Higher Education Act of 1965.

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

1. 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.
2. 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.
3. 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.
4. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.
5. 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

condition 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.

- D. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of 18 years, unless that person is considered by law to be an adult.
- E. 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.
- F. This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over forty-five years of age.
- G. This section shall not apply to:
  - 1. 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.
  - 2. The employment of individuals to render personal service to the person of the employer or members of the employer's family.
  - 3. 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.
- H. This section shall not apply to those employers and/or activities exempted pursuant to Section 601A.6 of the Code of Iowa, as amended.

SECTION 8. PUBLIC ACCOMMODATIONS, SERVICES OR PRACTICES.

- A. It shall be a discriminatory practice for any public accommodation, agent or employee thereof:
  - 1. To refuse or deny to any person because of race, creed, color, sex, national origin, religion or disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, national origin, religion or disability in the furnishing of such accommodations, advantages, facilities, services or privileges.
  - 2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, national origin, religion or disability is unwelcome, objectionable, not acceptable, or not solicited.
- B. This section shall not apply to:
  - 1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion, when such qualifications are related to a bona fide religious purpose.
  - 2. The rental or leasing to transient individuals of less than four rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his immediate family reside therein.

SECTION 9. DISCRIMINATORY HOUSING PRACTICES. It shall be a discriminatory practice for any owner, or person acting for an owner, of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers, salesmen, attorneys, auctioneers, agents or representatives by power of attorney, appointment, or any person acting under court order, deed, trust, or will:

- A. To refuse to sell, rent, lease, assign or sublease any real property, housing accommodation or part, portion or interest therein, to any person because of the race, color, creed, sex, religion, national origin, familial status or disability of such person.
- B. To discriminate against any person because of his/her race, color, creed, sex, religion, national origin, familial status, or disability in the terms, conditions



or privileges of the sale, rental, lease assignment, sublease of any real property, housing accommodation or any part, portion or interest therein.

- C. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, sublease of any real property, housing accommodation or any part, portion or interest therein, by persons of any particular race, color, creed, sex, religion, national origin, familial status or disability is unwelcome, objectionable, not acceptable or not solicited.
- D. To discriminate against the lessee or purchaser of any real property, housing accommodation or part, portion or interest of the real property, housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, disability, age, familial status, national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives or in any similar capacity.
- E. The provisions of this section shall not apply to:
  - 1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, when such qualifications are related to a bona fide religious purpose.
  - 2. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of his family reside in one of such housing accommodations.
  - 3. The rental or leasing of less than four rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if he or members of his family reside therein.
  - 4. Restrictions based on sex on the rental or leasing of housing accommodations by non-profit corporations.
  - 5. Discrimination on the basis of sex in the rental or leasing of a housing accommodation when residents of both sexes must share a common bathroom facility on the same floor of the building.

6. Regarding 'familial status' housing accommodations provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons. As used in this subsection, 'housing for older persons' means housing communities consisting of accommodations intended for, and at least 80% occupied 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 such persons intended for and occupied solely by persons 62 years of age or older.

SECTION 10. DISCRIMINATORY CREDIT PRACTICES. It shall be a discriminatory practice for any:

- A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms of conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability or familial status.
- B. Person authorized or licensed to do business in this state pursuant to Chapter 524, 533, 534, 536, or 536A, Code of Iowa, to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability or familial status.
- C. Creditor to refuse to offer credit, life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex or familial status. Refusal by a creditor to offer credit, life or health and accident insurance based upon the age or physical disability of the consumer shall not be a discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by Chapter 505 et. seq., Code of Iowa. The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this Ordinance.
- D. Cosignatures may be required of a married couple intending to establish a joint account with the company or business issuing the credit card. The exception for cosignatures is limited and the issuer should presume

the applicant is seeking a credit card in the applicant's own name regardless of the marital status of the applicant.

SECTION 11. AIDING OR ABETTING. It shall be a discriminatory practice for:

- A. Any person to intentionally aid, abet, compel or coerce another person to engage in any of the practices declared discriminatory by this Ordinance.
- B. Any person to discriminate against another person in any of the rights protected against discrimination on the basis of age, race, creed, color, sex, national origin, religion or disability by this Ordinance because such person has lawfully opposed any practice forbidden under this Ordinance, obeys the provisions of this Ordinance, or has filed a complaint, testified, or assisted in any proceeding under this Ordinance. Any employer, employment agency, or their employees, servants or agents may offer employment or advertise for employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex, religion, national origin or age.

SECTION 12. DISCRIMINATORY EDUCATIONAL PRACTICES. It shall be a discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

- A. On the basis of race, creed, color, sex, national origin, religion or disability, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, program or activity except athletic programs.
- B. On the basis of race, creed, color, sex, national origin, religion or disability, denial of comparable opportunity in intramural and interscholastic athletic programs.
- C. On the basis of race, creed, color, sex, national origin, religion or disability, discrimination among persons in employment and the conditions thereof.

- D. On the basis of sex, the application of any rules concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.
- E. For the purpose of this section "educational institution" includes any preschool, elementary, secondary, merged area school, area education agency, post secondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

SECTION 13. RETALIATION.

- A. It shall be a discriminatory practice for any person to discharge, harass, penalize, or otherwise retaliate against an individual because of that individual's attempts to secure compliance or aid in securing compliance with this Ordinance or the remedies provided thereunder.
- B. It shall be a discriminatory practice for any person to discharge, harass, penalize or otherwise retaliate with respect to employment, housing, education, public accommodations, services, or financial practices against any individual because of that individual's association with persons of a particular race, religion, creed, physical or mental disability, national origin, color, sex or age.

SECTION 14. COMPLAINT AND APPEAL PROCEDURES.

- A. A person claiming to be aggrieved by a discriminatory practice, his agent, the director of the commission, the City Attorney, County Attorney or a non-profit organization with a purpose of combating discrimination may file with the Commission a written complaint stating that a discriminatory practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the Commission to identify the person charged (hereinafter the respondent). The director shall promptly furnish the respondent with a notice of charge and a copy of the

complaint. The complaint must be filed within one hundred eighty days after notification of the alleged discriminatory practice. A complaint filed with the Iowa Civil Rights Commission under the provisions of the Iowa Civil Rights Act shall be sufficient for the purposes of this Ordinance, if it alleges discriminatory acts within the corporate limits of Fort Dodge or Webster County.

- B. A member of the Commission staff or one or more members of the Commission, as appointed by the Chairperson shall constitute the investigating committee. It shall be the purpose of the investigating committee to promptly investigate the allegations of discriminatory practice set forth in the complaint.
- C. At the outset of any investigation, the investigating committee may approach the respondent with mediation proposals which would encourage the administrative closing of the case.
- D. The investigating committee may recommend to the commission that the complaint be administratively closed because there is no useful purpose that would be served by further action by the commission respecting a complaint, such as:
  - 1) The commission staff has not been successful in locating a complainant after diligent efforts;
  - 2) The respondent has gone out of business;
  - 3) A right to sue letter has been issued;
  - 4) After a probable cause decision has been made, it is determined that the record does not justify proceeding to public hearing;
  - 5) A satisfactorily adjustment has been made that was agreeable to the investigating committee, but not to the complainant; and
  - 6) The complainant has indicated in writing the desire that no further action be taken by the commission regarding the complaint.
- E. The investigating committee shall take the testimony of the complainant, respondent, witnesses, and such other evidence as it deems relevant. The investigating committee shall present the evidence to the Commission and make a recommendation to the Commission as to whether there is probable cause to believe a discriminatory

practice has been committed. At any time during the investigative procedures and prior to a vote by the Commission on probable cause, a respondent may request mediation, which, after Commission approval would allow for the administrative closing of the case.

- F. If it is determined after investigation that no probable cause exists for such complaint, the Commission shall forthwith notify the complainant and respondent. The notification to the complainant shall state that there has been a no probable cause finding and that the complainant has 20 days to petition to reopen the case. The respondent shall be notified that the complainant has the right to petition to reopen the case listing the time limitation.
- G. The respondent shall be notified immediately if the complainant does petition to reopen, along with a copy of the petition. The respondent shall then have 20 days to resist the petition. Failure to resist shall not obligate the Commission to reopen if inadequate grounds to reopen are alleged.
- H. If it is determined after investigation that probable cause exists for crediting the allegations of the complaint, the Commission staff shall promptly proceed with conciliation.
- I. The Commission shall notify the Iowa Civil Rights Commission whenever a finding of probable cause or no probable cause has been made with respect to any case within their jurisdiction or whenever such case is otherwise closed.
- J. The complaint may be amended at any time prior to the scheduling of the complaint for a public hearing, and thereafter, only upon the consent of the person(s) conducting the hearing. Such leave shall be freely given when justice so requires.

#### SECTION 15. CONCILIATION.

- A. After a finding of probable cause, the respondent shall be promptly notified in writing of the finding and shall be informed of his/her right to conciliate.
- B. Where the conciliation results in an agreement between the respondent and the Commission, the agreement shall be in writing and shall be signed by the respondent or his/her representatives and by the director of the Commission. The director shall consult with the complainant prior to signing the agreement, and should

the complainant object to the agreement it must be presented to the Commission for its approval before the agreement may be signed. The complainant shall be given an opportunity to state the reasons for dissatisfaction to the Commission.

- C. If, after attempts to conciliate, the person or persons directed to conciliate shall find that conciliation efforts have failed, such failure shall be reported in writing to the Commission. If the Commission determines the charge to be well founded, it will promptly schedule the matter for public hearing. If the Commission determines the charge not to be well founded, it shall declare the case closed and shall so notify the Iowa Civil Rights Commission of the failure of conciliation efforts and of the action taken.

#### SECTION 16. PUBLIC HEARING.

- A. After the Commission has voted to take a complaint to public hearing, the Commission shall serve on the respondent by registered or certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a public hearing. The hearing shall be held not less than twenty days but not more than sixty days after the Commission has voted to take the complaint to public hearing. A copy of the notice shall be furnished to the complainant, the Iowa Civil Rights Commission, and such other public officers and such other persons as the Commission deems proper.
- B. The notice shall include:
  - 1. A statement of the time, place and nature of the hearing;
  - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  - 3. A reference to the particular section(s) of the Ordinance alleged to have been violated; and
  - 4. A short and plain statement of the matters asserted. If the Commission is unable to state the matters in detail at the time that the notice is served, the initial notice may be limited to a statement of the issues involved.
- C. The hearing will be conducted by a hearing officer appointed by the Commission.

- D. No person shall take part in the conducting of the hearing who has any personal interests in its outcome or who has taken part in the investigation of the complaint. No commissioner who would be disqualified under the above criteria shall take part in any vote or discussion by the Commission respecting the complaint.
- E. If a party fails to appear in a contested case proceeding after proper service of notice, the person(s) conducting the hearing may proceed and make a decision in the absence of the party.
- F. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. The case for the Commission may be presented by any member of the Commission staff, an attorney from the City or County Attorney's office, or an attorney of the complainant's choice. The hearing need not be bound by the strict rules of evidence, but the admission of evidence should be based on sound discretion.
- G. The record in a case shall include:
1. All pleadings, motions, and intermediate rulings;
  2. All evidence received or considered and all other submissions;
  3. A statement of all matters officially noticed;
  4. All questions and offers of proof, objections and ruling thereon; and
  5. All proposed findings and exceptions.
- H. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporter. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings 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.
- I. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.



- J. The person(s) conducting the hearing will make written findings of fact and conclusions of law, will state in writing their determinations as to whether or not the respondent discriminated against the complainant, and their recommended disposition, including remedies provided under Section 5.F of this Ordinance.
- K. If the decision under Subsection J is made by a hearing officer, the Commission shall vote as to whether to adopt, modify or overrule the written findings and proposed remedies. Their decision shall be by a majority of those present and voting. Thereupon, the Commission shall issue a ruling, either incorporating the proposed findings and remedies as its own, or stating the Commission's decision, including separate findings and remedy. Decisions shall be sent by certified mail to the parties of record. For the purposes of Section 18, the date of mailing shall be considered the date of the Commission's decision.

SECTION 17. JUDICIAL REVIEW-ENFORCEMENT.

- A. Any complainant or respondent claiming to be aggrieved by a final order of the Commission, including a 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. An enforcement proceeding brought by the Commission shall be brought in the Webster County District Court.
- C. Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the appropriate party. Thereupon, the Commission shall file with the court a transcript of the record of the hearing before it. The court shall have the power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the Commission, in whole or in part.
- D. An objection that has not been urged before the Commission shall not be considered by the court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
- E. If no proceeding to obtain judicial review is instituted within thirty days from the service of an order of the Commission under this Section, the Commission may obtain

an order of the court for the enforcement of such order upon showing that 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.

- F. The petition shall name the Commission as a respondent and shall contain a concise statement of:
1. The nature of the Commission action which is the subject of the petition;
  2. The particular action appealed from;
  3. The grounds on which relief is sought; and
  4. The relief sought.
- G. Service of the petition shall be made by certified mail to the Commission and all parties of record in the case before the Commission, within ten days from filing of judicial review.
- H. The court shall not itself hear further evidence with respect to issues of fact. However, the court may remand the case to the Commission for the taking of further evidence upon application by any party and a showing of materiality and that there was good cause for failing to present such evidence before the Commission in the original proceeding. The Commission may modify its findings and decision by reason of additional evidence and shall file that evidence and any modifications, new findings or decision with the court and mail copies to all parties.
- I. The court may affirm the Commission's action or remand to the Commission for further proceedings. The court shall reverse, modify, or grant any other appropriate relief if substantial rights of the petitioner have been prejudiced because the Commission action is:
1. The violation of constitutional, statutory law, or the provisions of this Ordinance;
  2. In excess of the Commission's authority;
  3. In violation of any commission rule;
  4. Unsupported by substantial evidence in the record;
  5. Unreasonable, arbitrary or capricious or an abuse of discretion; and

6. Or affected by any other error of law.

J. Appeal from the District Court may be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

SECTION 18. SIXTY DAY ADMINISTRATIVE RELEASE.

A. A person claiming to be aggrieved by a discriminatory practice must initially seek administrative relief by filing a complaint with the commission in accordance with this Ordinance. A complainant after the proper filing of a complaint with the Commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

1. The complainant has timely filed the complaint with the Commission as provided in this ordinance; and
2. 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 B of this section.

B. 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, the Commission has served notice of hearing upon the respondent pursuant to this ordinance, or the complaint was closed as an administrative closure and two years have elapsed since the issuance date of the closure.

C. An action authorized under this section is barred unless commenced within ninety days after issuance by the Commission of a release under Subsection B of this section or within one year after the filing of the complaint, whichever occurs first. If a complainant obtains a release from the Commission under Subsection B of this section, the Commission shall be barred from further action on that complaint.

D. A party may obtain a copy of all documents contained in case file where the Commission has issued a release to the complainant pursuant to this section. A party shall be defined as the complainant, or legal representative for the complainant, the respondent, or legal representative for the respondent.

SECTION 19. REPEALER. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed insofar as they do so conflict, specifically Fort Dodge Ordinance 1768 and Webster County Ordinance 019.

SECTION 20. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, this adjudication shall not effect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 21. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed on first consideration by the City Council, City of Fort Dodge, Iowa, this 3rd day of June, A.D., 1991.

Aye Tarbell, Snyder, Cormack, Burleson, Salvatore, Boekelman,

Nay Rodenborn

Other None

Passed on second consideration by the City Council, City of Fort Dodge, Iowa this 10th day of June, A.D., 1991.

Aye Tarbell, Snyder, Cormack, Burleson, Salvatore, Boekelman,

Nay Rodenborn

Other None

Passed and approved upon third consideration by the City of Fort Dodge, Iowa this 17th day of June, A.D., 1991.

Aye Tarbell, Snyder, Cormack, Burleson, Salvatore, Boekelman

Nay Rodenborn

Other None

Michael D McCarville  
MICHAEL D. MCCARVILLE, Mayor

ATTEST:

Dennis W Milefchik  
DENNIS MILEFCHIK, Clerk

ADOPTED AND PASSED by the Supervisors of the County of Webster, Iowa, this  
18th day of June, 1991.

Floyd A. Magnusson  
Chairperson, Floyd A. Magnusson

Jill Kirkberg  
Jill Kirkberg, Board Member

John Russell  
John Russell, Board Member

Norman Mundie  
Norman Mundie, Board Member

Elmer Pliner  
Elmer Pliner, Board Member

I, V. M. Gudmonson, being duly sworn under oath, hereby state that I am the Auditor for Webster County, Iowa, and that this is a true and accurate copy of the Webster County Ordinance No. 022, passed by the Webster County Board of Supervisors on June 18, 1991.

V. M. Gudmonson  
V. M. Gudmonson, Webster County Auditor

First Reading: 6-11-91

Second Reading: 6-18-91

Third Reading: Waived

Final Passage: 6-18-91

Published: 7-3-91

**ORDINANCE NO. 2070**

**CITY OF FORT DODGE HUMAN RIGHTS ORDINANCE NO. 1801  
AS AMENDED**

**AN AMENDMENT RELATING TO THE FORT DODGE HUMAN RIGHTS  
ORDINANCE AND DISCRIMINATION BASED UPON A PERSON'S SEXUAL  
ORIENTATION OR GENDER IDENTITY.**

**BE IT ENACTED BY THE FORT DODGE CITY COUNCIL:**

Section 1. Ordinance No. 1801 is amended by adding the following new subsections:

NEW SUBSECTION. Section 3. BB. "Gender identity" means a gender related identity of a person, regardless of the person's assigned sex at birth.

NEW SUBSECTION. Section 3. CC. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

NEW SUBSECTION. Section 9. DD. A person shall not 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, sexual orientation, gender identity, religion, national origin, disability, or familial status.

NEW SUBSECTION. Section 9. DE. A person shall not represent to a person of a particular race, color, creed, sex, sexual orientation, gender identity, 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.

NEW SUBSECTION. Section 9. DF. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.

NEW SUBSECTION. Section 9. DG. A person shall not 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, gender identity, religion, national origin, disability, or familial status.

NEW SUBSECTION. Section 9. E7. **ADDITIONAL HOUSING EXCEPTION.** Section 9, subsections A through DG, do not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status in appraising real estate.

Sec. 2. Section 5, subsections H and J, are amended to read as follows:

H. To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill 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, sexual orientation, gender identity, national origin, religion, ancestry, or disability.

J. To make recommendations to the city council for such further legislation concerning discrimination because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability as it may deem necessary and desirable.

Sec. 3. Section 7, subsection A., paragraphs 1, 2, and 3, are amended to read as follows:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, 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.

2. Labor organization or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or member.

3. Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin.

Sec. 4. Section 7, subsection G, paragraph 3, is amended to read as follows:

3. Any bona fide religious institution or its educational facility, association, corporation, or society with respect to any qualifications for employment based on religion, sexual orientation, or gender identity 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.

Sec. 5. Section 8, subsection A, paragraphs 1 and 2, are amended to read as follows:

1. To refuse or deny to any person because of race, creed, color, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, national origin, religion, or disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.

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

Sec. 6. Section 8, subsection B, paragraph 1, is amended to read as follows:

1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose.

Sec. 7. Section 9, subsections A through D, are amended to read as follows:

A. 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, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person.

B. To discriminate against any person because of the person's race, color, creed, sex, sexual orientation, gender identity, 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.

C. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein, by persons of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status is unwelcome, objectionable, not acceptable, or not solicited.

D. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion, or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or

accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, 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.

Sec. 8. Section 9, subsection E is amended to read as follows:

1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, sexual orientation, or gender identity, when the 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.

Sec. 9. Section 10, subsection A through C is amended to read as follows:

A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.

B. Person authorized or licensed to do business in this city pursuant to chapter 524, 533, 534, 536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.

C. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin race, religion, marital status, age, physical disability, sex, sexual orientation, gender identity, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XIII, subtitle 1. The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

Sec. 10. Section 12, unnumbered paragraph, is amended to read as follows:

It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

Sec. 11. Section 12, paragraph E, is amended to read as follows:

For the purpose of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, or postsecondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion, sexual orientation, or gender identity when

such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

Sec. 12. NEW SECTION. Section 22. CONSTRUCTION OF CHAPTER.

This chapter shall not be construed to allow marriage between persons of the same sex, in accordance with chapter 595.

EFFECTIVE DATE

This Ordinance shall be in full force and effect following passage, approval and publication as by law provided.

The above Ordinance passed on first consideration by the City Council of the City of Fort Dodge, Iowa this 9<sup>th</sup> day of July, 2007.

Ayes: Payne, Inman, Wilson, Burleson, Olson, and Bemrich

Nays: Litwiller

Other: None

The above Ordinance second and third consideration were waived by the City Council of the City of Fort Dodge, Iowa and adopted this 9<sup>th</sup> day of July, 2007.

Ayes: Payne, Inman, Wilson, Burleson, Olson, Litwiller and Bemrich

Nays: None

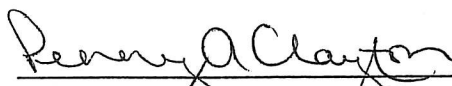
Other: None

City of Fort Dodge, Iowa



Terry J. Lutz, Mayor

Attest:

  
\_\_\_\_\_  
Penny A. Clayton, City Clerk