

COUNCIL ACTION FORM

SUBJECT: REMOVAL OF HUMAN RELATIONS COMMISSION INVESTIGATION FUNCTION

BACKGROUND:

On August 21, 2018, the City Council met with the Ames Human Relations Commission (AHRC) to address the future direction for the Commission. At that time, the City Council directed staff to adopt a procedure to refer complaints to the Iowa Civil Rights Commission (ICRC) and eliminate the AHRC Hearing Officers and Investigative and Conciliation Officers.

Chapter 14 of the Ames Municipal Code outlines the responsibilities of the AHRC and describes the protected classes and protected areas where discrimination is unlawful. These protections are identical to the protections provided statewide in the Iowa Civil Rights Act.

Although Municipal Code provides a procedure for civil rights complaints to be investigated locally, it is not a requirement under state law that local commissions conduct such investigations. Since at least 1994, the City has had an agreement with ICRC for the City to act as an intake office for complaints, and then refer those complaints to the ICRC for investigation and resolution. Since the City has had its own investigation procedure, it has been the City's option whether to investigate complaints locally or refer them to ICRC.

The local investigation process has several challenges. If the alleged discrimination took place outside of Ames, then the City does not have jurisdiction. In contrast, the ICRC has jurisdiction over the entire state. The City's investigators are volunteers, and since complaints are not received on a routine basis, there is not a great deal of institutional knowledge regarding procedures, processes, and skills required to successfully navigate the potential issues that may arise in an investigation. The ICRC investigates its complaints with professional investigators who routinely deal with challenging situations.

According to information provided by ICRC in 2016, 14 of the 26 local commissions in Iowa refer complaints directly to ICRC without any local investigation. Removing the local investigation function from the AHRC will allow Ames residents to continue to file complaints either directly with ICRC or with the City Manager's Office, where they will be referred to ICRC.

With this amendment to the Human Relations Chapter of Municipal Code, the role of AHRC will be clarified to involve studying and attempting to eliminate discrimination, issuing reports, and cooperating with other agencies who share the Commission's goals.

ALTERNATIVES:

1. Approve first reading of an ordinance amending Chapter 14 of the Ames Municipal Code to eliminate the investigation function of the Human Relations Commission.
2. Refer to staff for modifications to the proposed ordinance.
3. Do not approve the ordinance.

CITY MANAGER'S RECOMMENDED ACTION:

The City Council has directed that a change be made to the Human Relations Chapter of Municipal Code to remove the local investigation function of the Commission. This formalizes the process for investigations that has been in place for a number of years. Ames residents will continue to have the ability to file discrimination complaints either directly with the Iowa Civil Rights Commission or by filing a complaint with the City, which will refer the complaint to ICRC for investigation.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving first reading of an ordinance amending Chapter 14 of the Ames Municipal Code to eliminate the investigation function of the Human Relations Commission.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING CHAPTER 14 AND ENACTING A NEW CHAPTER 14 THEREOF, FOR THE PURPOSE OF ELIMINATING THE AMES HUMAN RELATIONS COMMISSION HEARING OFFICERS AND INVESTIGATIVE AND CONCILIATION OFFICERS, REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Chapter 14 and enacting a new Chapter 14 as follows:

**“CHAPTER 14
HUMAN RELATIONS**

Sec. 14.1. PURPOSE OF CHAPTER.

The purpose of this chapter is to implement the provisions of the Iowa Civil Rights Act and to further provide for the general welfare of persons in the City of Ames, Iowa, by establishing a to undertake projects of education to prevent discrimination and to effect cooperative undertakings with the Iowa Civil Rights Commission and to aid in effectuating the purposes of the Iowa Civil Rights Act.

[State Law Ref. Iowa Code Sec. 216.1] (Ord. 3123, 3-26-91; Ord. 3377, 3-5-96)

Sec. 14.2. DEFINITIONS.

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

- (1) "Commission" means the Ames Human Relations Commission created by this chapter.
- (2) "Commissioner" means a member of the commission.
- (3) "Disability" means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of "disability" under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

[State Law ref. Iowa Code Sec. 216]

- (4) "Gender Identity" means a gender-related identity of a person regardless of the person's assigned sex at birth.

- (5) "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to non-members of any organization or association utilizing the place, establishment, or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a public accommodation if the accommodation receives governmental support or subsidy. Public accommodation shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

"Public accommodation" includes each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term "public accommodation".

(Ord. No. 2912, 12-18-84)

(6) "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in this chapter.

(Ord. 3123, 3-26-91)

(7) "Sexual Orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality. "Sexual orientation" does not include participation in acts which are prohibited by law.

(Ord. 3128, 5-28-91; Ord. 3377, 3-5-96)

Sec. 14.3. COMMISSION APPOINTED.

(1) **Commission Appointed.** The Ames Human Relations Commission shall consist of five (5) members appointed by the Mayor with the approval of the City Council. Appointments shall take into consideration the various racial, religious, cultural and social groups and geographical areas within the City of Ames in so far as may be practicable. The term of office shall be three (3) years, and shall begin April 1 of the fiscal year of appointment, except that the Mayor may prescribe a shorter term for any appointment or reappointment in order to stagger terms. Four (4) of the members shall serve 3-year terms, and one (1) of the members shall serve a special 1-year term. Vacancies shall be filled for any unexpired term in the same manner as original appointments. Any member or all members of the Commission may be removed from office at any time by the Mayor with the approval of the City Council, for good cause. No member who has served two (2) full consecutive terms is eligible for reappointment. The Commission shall elect one of their members to be chairperson, and develop their own rules of procedure, not inconsistent with this chapter.

(Ord. No. 3820, 3-08-05; Ord. No. 3943, 2-19-08; Ord. No. 4129, 11-13-12)

[State Law Ref. Iowa Code Sec. 216.3] (Ord. 3377, 3-5-96; Ord. No. 3943, 2-19-08)

Sec. 14.4. COMPENSATION AND EXPENSES.

The members of the Commission shall serve without salary, wages or other compensation provided that they may receive reimbursement for actual and necessary expenses incurred as allowed by the City Council pursuant to such procedures and policies for the reimbursement of expenses as shall be established by the City of Ames from time to time.

[State Law Ref. Iowa Code Sec. 216.4] (Ord. 3377, 3-5-96)

Sec. 14.5. POWERS AND DUTIES.

The Commission shall have the following powers and duties:

(1) To investigate and study the existence, character, causes, and extent of discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools, credit practices, and housing in this city and to attempt the elimination of such discrimination by education.

(2) To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote good will among the various racial, religious, and ethnic groups of the City and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, career and technical programs, or housing because of race, creed, color, sex, national origin, religion, ancestry, disability, sexual orientation or gender identity.

(Ord. 3128, 5-28-91)

(3) To prepare and transmit to the Mayor and City Council from time to time, but not less often than once each year, reports describing its proceedings, and the other work performed by the commission.

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

(Ord. 3128, 5-28-91)

(5) To cooperate, within the limits of any appropriations made for its operations, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, and on the planning and conducting of programs designed to eliminate racial, religious, cultural, and intergroup tensions.

(6) To adopt, publish, amend, and rescind regulations consistent with and necessary for the enforcement of this chapter.

(7) To receive, administer, dispense and account for any funds that may be voluntarily contributed to the commission and any grants that may be awarded the commission for furthering the purposes of this chapter with the approval of the City Council.

(8) To refer a complaint to the Iowa Civil Rights Commission under commission rules.
[State Law Ref. Iowa Code Sec. 216.5] (Ord. 3377, 3-5-96)."

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

John A. Haila, Mayor