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STAFF REPORT

CHAPTER 14 REVISIONS AS RECOMMENDED BY THE AMES HUMAN RELATIONS COMMISSION

September 10, 2013

BACKGROUND:

At the July 2, 2013, Ames Human Relations Commission (AHRC) meeting, the Commission was approached by oneiowa, an organization which supports full equality for lesbian, gay, bisexual and transgender Iowans. Matthew Skuya, Deputy Director of oneiowa, noted that Chapter 14 -Human Relations of the Ames Municipal Code was not consistent with the Iowa Civil Rights Act as it did not list gender identity as a category for discrimination. This area of the Iowa Civil Rights Act was amended in 2007. The City has not undertaken any changes to Chapter 14 since 1996.

Staff to AHRC requested that Chapter 14 received a complete review to ensure that no other areas of the Code were inconsistent with the Iowa Civil Rights Act as well as other State and Federal laws. AHRC recommended that City staff bring back changes to Chapter 14 of the Ames Municipal Code to reflect the State of Iowa Code as soon as possible.

In addition to the changes noted regarding gender identity, the City Attorney's Office also noted that the City Code was missing several sections that were adopted into the Iowa Civil Rights Act, which included a section on wage discrimination (Draft Sec. 14.8) adopted in 2009, a section on Additional Housing Exceptions (Draft Sec. 14.13A.) adopted in 2007, a section on Exceptions for Retirement Plans, Abortion Coverage, Life, Disability, and Health Benefits (Draft Sec. 14.14) adopted in 2006, and a section on Promotion or Transfer (Draft Sec. 14.5) adopted in 1996. Several other lesser housekeeping changes were made to the Chapter, including changing the wording in Sec. 14.5(1) to read Affirmative Action Officer, instead of director. In Sec. 14.5(8) changing the wording to read Mayor and City Council, instead of City Council. In Sec. 14.10 deleting "Chapter 534" because it was repealed from the Iowa Code in 2012. Lastly, as noted above, in Sec. 14.12, adding "sexual orientation" and "gender identity" is subsection 1.a. as it was adopted into the Civil Rights Act in 2007.

At the August 22, 2013, AHRC meeting, the Commission voted unanimously to forward the amendments to Chapter 14 to the City Council for consideration and approval.

STAFF COMMENTS:

The City has typically tried to mirror the Iowa Civil Rights Act under Chapter 14 - Human Relations. The updates as recommended by the AHRC would bring Chapter 14 back in line with the Iowa Civil Rights Act and assist the AHRC in addressing discrimination in the community by expanding their ability to address discrimination based on gender identity. Additionally, it will allow AHRC to investigate claims of discriminatory practices related to wages, promotion or transfer in the area of employment.

Staff is requesting on behalf of AHRC for the City Council to follow the AHRC's recommendation and add these provisions to its Human Relations chapter by directing the City Attorney's Office to prepare the necessary ordinance changes to Chapter 14 - Human Relations to reflect the Iowa Civil Rights Act, including the noted housekeeping items.

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 TO BE CONSISTENT WITH THE IOWA CIVIL RIGHTS ACT; 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 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 provision of the Iowa Civil Rights Act and to further provide for the general welfare of persons in the City of Ames, Iowa, by prohibiting certain discriminatory practices, and to establish a commission for the investigation of complaints of discrimination; and, to undertake projects of education to prevent discrimination; and, to establish procedures for the conciliation of such complaints; and to enforce the provisions hereof.

[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) "Court" means the district court in and for any judicial district of the state of Iowa or any judge of the court if the court is not in session at that time.

- (4) "Covered Multifamily Dwelling" means any of the following:

- (a) A building consisting of four or more dwelling units if the building has one or more elevators.

- (b) The ground floor units of a building consisting of four or more units.

- (5) "Disability" means the physical or mental condition of a person which constitutes a substantial handicap, 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. 216.2]

- (6) "Employee" means any person employed by an employer.

- (7) "Employer" means the state of Iowa or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

- (8) "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or any person holding itself to be equipped to do so.

- (9) "Familial status" means one or more individuals under the age of eighteen domiciled with one of the following:

- (a) A parent or another person having legal custody of the individual or individuals.
- (b) The designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.
- (c) A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

"Familial status" also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of eighteen years.

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

(11) "Labor organization" means any organization which exists for the purpose in whole or in part of collective bargaining, of dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

(12) "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state of Iowa and all political subdivisions and agencies thereof.

(13) "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a public accommodation if the accommodation received 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)

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

(Ord. 3123, 3-26-91)

(15) "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-STAFF-HEARING OFFICERS.

(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)

(2) **Staff Function, Investigation and Conciliation Officers.** With the advice of the Human Relations Commission and with the approval of the City Council, the Mayor shall appoint up to seven (7) persons as Investigation and Conciliation Officers who shall serve as unpaid staff to the Commission. Their term of office,

method of appointment, method for filling vacancies and limitations on eligibility for reappointment shall be the same as prescribed for Commission members.

(Ord. No. 3943, 2-19-08)

(3) **Hearing Officers.** With the advice of the Ames Human Relations Commission and with the approval of the City Council, the Mayor shall appoint a group of persons educated in the law from among whom a hearing officer shall be drawn by lot when needed to make a "determination of probable cause" as required in this chapter, or when deemed advisable by the Commission, to conduct a hearing as provided for herein. There shall be no limit to the number of persons who may be added to said panel, but the number shall not be allowed, by declinations to serve or otherwise, to fall below three. Their term of office, method of appointment, method for filling vacancies and limitations on eligibility for reappointment shall be the same as prescribed for Commission members.

[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, the Investigation and Conciliation Officers and the persons on the hearing officer panel 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) Prescribe the duties of the Affirmative Action Officer under this chapter. The Officer shall be a person appointed by the Ames City Manager and shall serve as the affirmative action officer for the City of Ames.

(2) To receive, investigate, mediate, and finally determine the merits of complaints alleging unfair or discriminatory practices.

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

(4) To seek a temporary injunction against a respondent when it appears that a complainant may suffer irreparable injury as a result of an alleged violation of this chapter. A temporary injunction may only be issued ex parte, if the complaint filed with the commission alleges discrimination in housing. In all other cases a temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard.

(5) To hold hearings upon any complaint made against a person, an employer, an employment agency, or a labor organization, or the employees or members thereof, to subpoena witnesses and compel their attendance at such hearings, to administer oaths and take the testimony of any person under oath, and to compel such person, employer, employment agency, or labor organization, or employees or members thereof to produce for examination any books and papers relating to any matter involved in such complaint. The Commission shall issue subpoenas for witnesses in the same manner and for the same purposes on behalf of the respondent upon request. Such hearings may be held by the commission, by any commissioner, or by any hearing examiner appointed by the commission. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena and the court shall in a proper case issue the subpoena. Refusal to obey such subpoena shall be subject to punishment for contempt.

(6) To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote good will among the various racial, religious, and ethnic groups of the state and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship

and on-the-job training programs, vocational schools, or housing because of race, creed, color, sex, national origin, religion, ancestry, disability, sexual orientation or gender identity.

(Ord. 3128, 5-28-91)

(7) 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, investigations, hearings conducted and the outcome thereof, decisions rendered, and the other work performed by the commission.

(8) To make recommendations to the Mayor and 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)

(9) 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.

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

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

(12) To refer a complaint to the Iowa Civil Rights Commission under commission rules.

(13) To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory housing, real property, or other prohibited practices. The subpoenas and discovery may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in district court.

(14) To utilize volunteers to aid in the conduct of the commission's business including case processing functions such as intake, screening, investigation, and mediation.

[State Law Ref. Iowa Code Sec. 216.5] (Ord. 3377, 3-5-96)

Sec. 14.6. UNFAIR EMPLOYMENT PRACTICES.

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

(a) Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, national origin, religion, disability, sexual orientation **or gender identity** of such applicant or employee, unless based upon the nature of the occupation. If a disabled person is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection.

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

(c) Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, national origin, religion, disability, sexual orientation or gender identity are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation. If a disabled person is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection.

An employer, employment agency, or their employees, servants or agents may offer employment or advertise for employment to only the disabled, when other applicants have available to them, other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such

employment or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex, national origin, sexual orientation or gender identity.

(Ord. 3128, 5-28-91)

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

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

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

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

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

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

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

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

(4) Notwithstanding the provisions of this section, a city, state or federal program designed to benefit a specific age classification which serves a bona fide public purpose shall be permissible.

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

(6) This section shall not apply to:

(a) Any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.

(b) The employment of individuals for work within the home of the employer if the employer or family members reside therein during such employment.

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

(d) Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based on religion, 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.

[State Law Ref. Iowa Code Sec. 216. 6] (Ord. 3128, 5-28-91; Ord. 3377, 3-5-96)

Sec 14.7. UNFAIR PRACTICES-ACCOMMODATIONS OR SERVICES.

(1) It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

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

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

(Ord. 3128, 5-28-91)

(2) This section shall not apply to:

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

(b) The rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of the owner's family reside therein.

[State Law Ref. Iowa Code Sec. 216.7] (Ord. 3377, 3-5-96)

Sec 14.8 ADDITIONAL UNFAIR OR DISCRIMINATORY PRACTICE — WAGE DISCRIMINATION IN EMPLOYMENT.

(1) (a) The general assembly finds that the practice of discriminating against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees does all of the following:

1. Unjustly discriminates against the person receiving the lesser rate.
2. Leads to low employee morale, high turnover, and frequent labor unrest.
3. Discourages employees paid at lesser wage rates from training for higher level jobs.
4. Curtails employment opportunities, decreases employees' mobility, and increases labor costs.
5. Impairs purchasing power and threatens the maintenance of an adequate standard of living by such employees and their families.

6. Prevents optimum utilization of the state's available labor resources.
7. Threatens the well-being of citizens of this state and adversely affects the general welfare.

(b) The general assembly declares that it is the policy of this state to correct and, as rapidly as possible, to eliminate, discriminatory wage practices based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, and disability.

(2) (a) It shall be an unfair or discriminatory practice for any employer or agent of any employer to discriminate against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees who are employed within the same establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. An employer or agent of an employer who is paying wages to an employee at a rate less than the rate paid to other employees in violation of this section shall not remedy the violation by reducing the wage rate of any employee.

(b) For purposes of this subsection, an unfair or discriminatory practice occurs when a discriminatory pay decision or other practice is adopted, when an individual becomes subject to a discriminatory pay decision or other practice, or when an individual is affected by application of a discriminatory pay decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

(3) It shall be an affirmative defense to a claim arising under this section if any of the following applies:

(a) Payment of wages is made pursuant to a seniority system.
(b) Payment of wages is made pursuant to a merit system.
(c) Payment of wages is made pursuant to a system which measures earnings by quantity or quality of production.

(d) Pay differential is based on any other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee.

(4) This section shall not apply to any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted.

[State Law Ref. Iowa Code Sec. 216.6A]

Sec. 14.9. UNFAIR OR DISCRIMINATORY PRACTICES - HOUSING.

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

(1) To refuse to sell, rent, lease, assign or sublease any real property or housing accommodation or part, portion or interest therein, to any person because of the race, color, creed, sex, religion, national origin, disability, familial status, sexual orientation or gender identity of such person.

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

(2) To discriminate against any person because of the person's race, color, creed, sex, religion, national origin, disability, familial status, sexual orientation or gender identity 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.

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

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.

(Ord. 3377, 3-5-96)

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

(Ord. 3128, 5-28-91)

(4) To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, disability, age, national origin, sexual orientation or gender identity of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives or in any similar capacity.

(Ord. 3128, 5-28-91)

[State Law Ref. Iowa Code Sec. 216.8] (Ord. No. 3123, 3-26-91; Ord. 3377, 3-5-96)

Sec. 14.9A. ADDITIONAL UNFAIR OR DISCRIMINATORY PRACTICES - HOUSING.

(1) 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, religion, national origin, disability, familial status, sexual orientation or gender identity.

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

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

1. That buyer or renter.
2. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.
3. A person associated with that buyer or renter.

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

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 purposes of this subsection 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.

In the case of 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 January 1, 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 paragraph (c), subparagraph "3", subparagraph subdivision "c". Investigation of compliance with ANSI A 117.1 may be assisted by any experts that the investigators can gain the assistance of. The City of Ames Inspection Division shall assist investigations when directed to do so by the city manager.

e. Nothing in this subsection 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.

(4) (a) 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, religion, national origin, disability, familial status, sexual orientation or gender identity.

(b) For the purpose of this subsection, "residential real estate related transaction" means any of the following:

1. To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.

2. To sell, broker, or appraise residential real estate.

(5) 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, religion, national origin, disability, familial status, sexual orientation or gender identity.

[State Law Ref. Iowa Code Sec. 216.8A] (Ord. 3377, 3-5-96)

Sec. 14.10. UNFAIR OR DISCRIMINATORY PRACTICES - EDUCATION.

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

(1) Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, extracurricular, research, occupational training or other program or activity except athletic programs;

(2) Denial of comparable opportunity in intramural and interscholastic athletic programs;

(3) Discrimination among persons in employment and the conditions of employment;

(4) On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

For the purpose of this section 'educational institution' includes any preschool, elementary, secondary, or merged area school, 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 (1) any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or (2) any institution from admitting students of only one sex.

[State Law Ref. Iowa Code Sec. 216.9] (Ord. No. 2966, Sec. 1, 1-27-87, Ord. 3128, 5-28-91; Ord. 3377, 3-5-96)

Sec. 14.11. UNFAIR CREDIT PRACTICES.

It shall be an unfair or discriminatory practice for any:

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

(2) Person authorized or licensed to do business in this state pursuant to Chapter 524, 533, 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, familial status, sexual orientation or gender identity.

(3) Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, familial status, sexual orientation or gender identity. 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.

[State Law Ref. Iowa Code Sec. 216.10] (Ord. 3123, 3-26-91; Ord. 3377, 3-5-96)

Sec. 14.12. AIDING OR ABETTING.

It shall be an unfair or discriminatory practice for:

(1) Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this chapter.

(2) Any person to discriminate or retaliate against another person in any of the rights protected against discrimination by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this chapter.

(Ord. 3128, 5-28-91)

[State Law Ref. Iowa Code Sec. 216.11] (Ord. 3377, 3-5-96)

Sec. 14.12A. INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, on account of the person having exercised or enjoyed, or on account of the person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 14.8, 14.8A, or 14.15A.

[State Law Ref. Iowa Code Sec. 216.11A] (Ord. 3377, 3-5-96)

Sec. 14.13. EXCEPTIONS.

The provisions of section 14.8 and 14.8A shall not apply to:

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

(2) The rental or leasing of a dwelling in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations.

(3) The rental or leasing of less than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides therein.

(4) Discrimination on the basis of familial status involving dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program that the commission determines to be consistent with determinations made by the United States secretary of housing and urban development, and housing for older persons.

As used in this subsection, "housing for older persons" means housing communities consisting of dwellings intended for either of the following:

(a) For eighty percent occupancy by at least one person fifty-five 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 fifty-five years of age or older.

(b) For and occupied solely by persons sixty-two years of age or older.

(5) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resides in one of the housing accommodations for which the owner qualifies for the homestead tax credit under section 425.1, Code of Iowa.

The exceptions to the requirements of sections 14.8 and 14.8A provided for dwellings specified in subsections 2, 3, and 5 do not apply to advertising related to those dwellings.

(6) Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a common living area.
[State Law Ref. Iowa Code Sec. 216.12] (Ord. 3377, 3-5-96)

Sec. 14.13A. ADDITIONAL HOUSING EXCEPTION.

Sections 14.8 and 14.8A 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, religion, national origin, disability, familial status, sexual orientation or gender identity in appraising real estate.

[State Law Ref. Iowa Code Sec. 216.12A] (Ord. 3377, 3-5-96)

Sec. 14.14. EXCEPTIONS FOR RETIREMENT PLANS, ABORTION COVERAGE, LIFE, DISABILITY, AND HEALTH BENEFITS.

The provisions of this chapter relating to discrimination because of age do not apply to a retirement plan or benefit system of an employer unless the plan or system is a mere subterfuge adopted for the purpose of evading this chapter.

(1) However, a retirement plan or benefit system shall not require the involuntary retirement of a person under the age of seventy 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 policymaking 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 twenty-seven thousand dollars. This retirement benefit test may be adjusted according to the regulations prescribed by the United States secretary of labor pursuant to Pub. L. No. 95-256, section 3.

(b) The involuntary retirement of a 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) A health insurance program provided by an employer may exclude coverage of abortion, 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.

(3) 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.

[State Law Ref. Iowa Code Sec. 216.13]

Sec. 14.15. PROMOTION OR TRANSFER.

After a person with a disability is employed, the employer shall not be required under this chapter to promote or transfer the person to another job or occupation, unless, prior to the transfer, the person with the disability, by training or experience, is qualified for the job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as part of the agreement.

[State Law Ref. Iowa Code Sec. 216.14]

...

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

Ann H. Campbell, Mayor