

CHAPTER 31

CIVIL RIGHTS COMMISSION

31.01 Declaration of Purpose	31.20 Fair Housing – Discrimination in Provision of Brokerage Services
31.02 Definitions	31.21 Fair Housing – Exceptions for Lawful Source of Income
31.03 Marion Civil Rights Commission	31.22 Fair Housing – Administrative Enforcement; Preliminary Matters
31.04 Powers and Duties	31.23 Fair Housing – Probable Cause Determination and Effect
31.05 Unfair Employment Practices	31.24 Fair Housing – Enforcement by Commission
31.06 Unfair Practices – Public Accommodations	31.25 Fair Housing – Review by Commission; Service of Final Order
31.07 Unfair Credit Practices	31.26 Fair Housing – Judicial Review; Review of Order
31.08 Unfair or Discriminatory Practices – Education	31.27 Fair Housing – Civil Action Elected
31.09 Aiding, Abetting, or Retaliation	31.28 Fair Housing – Civil Proceedings
31.10 Interference, Coercion, or Intimidation	31.29 Fair Housing – Attorney’s Fees
31.11 Sex or Age Provisions Not Applicable to Retirement Plans	31.30 Fair Housing – Conciliation and Persuasion
31.12 Complaint Investigation	31.31 Fair Housing – Failure to Honor Commitment
31.13 Administrative Hearing	31.32 Fair Housing – Confidentiality
31.14 Remedies	31.33 Fair Housing – Cooperation with State and Federal Agencies Administering Fair Housing Laws
31.15 Judicial Review of Commission Action	
31.16 Judicial Review – Enforcement	
31.17 Sixty-Day Administrative Release	
31.18 Fair Housing – General	
31.19 Fair Housing – Discrimination in Residential Real Estate-Related Transactions	

31.01 DECLARATION OF PURPOSE. The purposes of the City in enacting this chapter are:

1. To secure for all individuals within the City freedom from discrimination because of age, color, creed, disability, familial status, gender identity, lawful source of income, including housing subsidies and vouchers, marital status, national origin, race, religion, sex, or sexual orientation in connection with employment, public accommodations, housing, credit, and education; and thereby to protect the personal dignity of these individuals, to ensure their full productive capacities, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the City;
2. To provide for execution within the City of the policies embodied in the Iowa Civil Rights Act of 1965, as amended, in the Federal Civil Rights Act, as amended, the Federal Fair Housing Act, as amended, and in the Americans with Disabilities Act of 1990, as amended, and to promote cooperation between the City and the State and Federal agencies enforcing those acts; and
3. To provide, at the local level, a Civil Rights Commission dedicated to the following: effective enforcement of this chapter; service as a source of information to employers, business persons, employees, laborers, tenants, and other individuals relative to various civil rights

legislation and regulations; and active assistance to prevent and eliminate the effects of discriminatory acts and/or discriminatory practices.

This chapter shall be interpreted according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

31.02 DEFINITIONS. Unless the context otherwise requires:

1. “Assistance animal” means any animal that assists, supports, or provides service to a person with a disability. An assistance animal is not a pet. The term “assistance animal” includes, but is not limited to:

A. Support animals that provide an individual with a disability with emotional support, comfort, therapy, companionship, or therapeutic benefits, promote the individual’s emotional well-being, or by their mere presence and without training, ameliorate one or more identified symptoms or effects of the individual’s mental or emotional disability. Support animals are not required to be certified or trained.

B. Assistive animals that perform or provide a disability-related service, task, or function for an individual with a disability, including, but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing minimal protection or rescue work, pulling a wheelchair, fetching items, alerting an individual to the onset of a seizure, assisting an individual during a seizure, retrieving medicine or the telephone, providing physical support to assist with balance and stability to individuals with mobility disabilities, and assisting individuals, including those with cognitive disabilities, with navigation. Assistive animals are not required to be certified but must either be individually trained to do work or perform or provide a service, function, or a task for the benefit of an individual with a disability or, despite the lack of individual training, be able to work or perform or provide a service, function, or a task for the benefit of an individual with a disability.

2. “Commission” means the Marion Civil Rights Commission created by this chapter.

3. “Commissioner” means a member of the Commission.

4. “Complainant” means that person filing a complaint as provided in this chapter.

5. “Court” means the District Court in and for Linn County, Iowa.

6. “Disability,” with respect to an individual, means:
 - A. A physical or mental impairment that substantially limits one or more major life activities of such individual 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 results, 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 infectious or contagious diseases.
 - (1) As described, a “physical or mental impairment” means: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or (ii) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
 - (2) The phrase “physical or mental impairment” includes, but is not limited to, such contagious and non-contagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.
 - (3) As described, “major life activities” include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working; and also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder,

neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

- B. A record of such an impairment.
- C. Being regarded as having such an impairment, as described:

- (1) An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity.

- (2) This provision shall not apply to impairments that are both transitory and minor. A “transitory impairment” is an impairment with an actual or expected duration of six months or less.

- D. The definition of “disability” shall be construed in accordance with the following:

- (1) In favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

- (2) “Substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

- (3) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

- (4) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

- (5) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

- a. Medication, medical supplies, equipment, appliances, low vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing

aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies.

- b. Use of assistive technology.
- c. Reasonable accommodations or auxiliary aids or services.
- d. Learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. As used in this paragraph, “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error. “Low vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

- 7. “Employee” means any person employed by an employer.
- 8. “Employer” means the City of Marion or any board, commission, or department thereof, or any political subdivision, institution, or school district and every other person who employs employees within the City.
- 9. “Employment agency” means any person undertaking to procure employees or opportunities to work for any other person or persons holding himself/herself or itself to be equipped to do so.
- 10. “Executive Director” means an employee of the Commission, selected by and serving at the will of the Commission as Executive Director, who shall have such duties, powers, and authority as may be conferred upon him/her by the Commission, subject to the provisions of this chapter.
- 11. “Familial status” means one or more individuals under the age of 18 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.

12. “Gender identity” means a person’s actual or perceived gender-related identity, appearance, expression, behavior, or other attributes, regardless of the person’s assigned sex at birth.
13. “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.
14. “Lawful source of income” means any lawful, verifiable source of money paid directly or indirectly to or on behalf of a renter or buyer of housing, including income derived from:
- A. Any lawful profession or occupation.
 - B. Any government or private assistance, subsidy, voucher, grant, or loan program.
 - C. Any gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit.
 - D. Any sale or pledge of property or interest in property.
15. “Marital status” means the state of being single, married, separated, divorced, remarried, or a surviving spouse.
16. “Person” means one or more individuals, partnerships, associations, corporations, labor organizations, mutual companies, joint-stock companies, trusts, unincorporated organizations, legal representatives, trustees, trustees in cases under Title 11 (of the United States Code), receivers, fiduciaries, any other business entity whether for profit or otherwise, and the City of Marion, or any board, commission, department, agency, or other political subdivision or part thereof within the City.
17. “Person charged” or “respondent” means that person or persons who are alleged or found to have committed an act prohibited by this chapter.

[The next page is 154.1]

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

19. “Service animal” means any dog or animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing minimal protection or rescue work, pulling a wheelchair, fetching items, assisting an individual during a seizure, retrieving medicine or the telephone, providing physical support to assist with balance and stability to individuals with mobility disabilities, and assisting individuals, including those with cognitive disabilities, with navigation. The term service animal includes individually trained animals that do work or perform tasks for the benefit of individuals with disabilities, including psychiatric, cognitive, and mental disabilities. A service animal is not a pet.

20. “Sexual orientation” means actual, history of or perceived heterosexuality, homosexuality, or bisexuality. “Sexual orientation” does not include participation in acts which are prohibited. (2-99)

21. “Unfair practice” or “discriminatory practice” means those practices specified as unfair or discriminatory in this chapter. An unfair or discriminatory practice shall be deemed to be a continuing violation of this chapter where such practice is one of a series of acts each of which constitutes an unfair or discriminatory practice in whole or in part, and as otherwise specified in this chapter.

31.03 MARION CIVIL RIGHTS COMMISSION.

1. The Marion Civil Rights Commission shall consist of 11 members appointed by the Mayor with the approval of the City Council. Membership on the Commission shall be broadly representative of the City's population and shall have diverse representation of the City's population and its protected classes.
2. The term of office of each member of the Commission is three years, and members shall continue to serve until reappointed or replaced. A member chosen to fill a vacancy otherwise than by expiration of a term shall be appointed for the unexpired term of the member whom he/she is to succeed. A member of the Commission is eligible for reappointment but shall not serve more than three consecutive three-year terms. Members who miss three consecutive meetings or four meetings within 12 months will be replaced; however, special or unusual circumstances will be considered.
3. The Commission members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties with approval of the Commission and within the limits established in the City budget.
4. The Commission shall annually elect a Chairperson and a Vice Chairperson from among its members. The Chairperson shall serve for no more than three consecutive 12-month periods. The Vice Chairperson shall serve for no more than three consecutive 12-month periods. The election of officers shall be held at the first regularly scheduled meeting after the first of the year.
5. The Commission may name subcommittees which, in its judgment, will aid in effectuating the purpose of this chapter, and may empower them to study the problems of prejudice, intolerance, bigotry, and discrimination in any fields of human relationships within the purview of this chapter. The Commission may, by rule, establish committees to exercise its powers. Officers shall serve in their respective offices for a term of one year or until a successor shall be appointed.
6. The Commission is authorized to employ and dismiss a Commission staff consisting of a full-time paid Executive Director, and to employ such additional staff and supply such facilities as it deems necessary to properly carry out its work. This shall be done within the budget established by the Commission and to be first approved by the City Council before any expenses are incurred.
7. The Commission shall hold at least one regular meeting during each calendar month. A quorum shall consist of a majority of the current members serving. The Chairperson or Vice Chairperson, in the absence of the Chairperson, or any three members may call a special meeting by giving at least three days' notice to every member of the Commission. The notice for a special meeting shall include an agenda and only matters included in that agenda may be discussed at the meeting.

8. The Commission may, pursuant to Commission rules, recommend to the Mayor and City Council that a Commissioner be removed for neglect of duties or malfeasance in office.

9. The Commission may adopt, amend, or rescind such rules as may be necessary for the conduct of its business.

31.04 POWERS AND DUTIES. In the enforcement of this chapter, the Commission shall have the following powers and duties:

1. To appoint and prescribe the duties of Executive Director and such investigators and other employees and agents as the Commission shall deem necessary for the enforcement of this chapter.

2. To initiate, receive, investigate, conciliate, and 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, housing, and education in the 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 petition the District Court to seek a subpoena for books, papers, records and any other material evidence necessary to the investigation of any complaint filed pursuant to this chapter.

6. To hold hearings upon any complaint made against a respondent; 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 to produce for examination any books and papers relating to any matter involved in such complaint. Such hearing may be held by the Commission, a panel of the Commission, or any Commissioner, or any hearing examiner appointed by the Commission. If a witness either fails or refuses to obey a Commission demand, the Commission may direct the City Attorney to file a petition in the name of the Commission in the District Court to issue a subpoena for witnesses in the same manner and for the same purposes on behalf of the respondent, on respondent's request.

7. To issue such publications and reports of investigations and research as in the judgment of the Commission shall tend to promote good will amongst the

various protected classes, including age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation, 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.

8. To prepare and transmit to the Mayor and City Council from time to time, but not less than once a year, reports describing the proceedings, investigations, hearings conducted and the outcome thereof, decisions rendered, and the other work performed by the Commission.

9. To make recommendations to the Mayor and City Council for such further legislation concerning discrimination because age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation as it may deem necessary and desirable.

10. To cooperate, within the limits of any appropriations made for its operation with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, and in the planning and conducting of programs designed to fulfill the declaration of purpose as specified in Section 31.01 of this chapter.

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

12. To hold meetings at intervals of not less than one per month at a time and place to be determined by the Commission.

13. 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 Mayor and City Council.

14. To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory 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.

15. The Commission may delegate any of its functions, duties, and powers to its staff including functions, duties, and powers with respect to investigating, conciliating, determining, certifying, reporting, or otherwise acting as to any work, business or matter under this chapter.

31.05 UNFAIR EMPLOYMENT PRACTICES.

1. It is 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, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation of the applicant or employee, unless based upon the nature of the occupation.

B. Labor organization, or the employees, agents or members thereof, to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation 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, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation.

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, as it relates to tests for the presence of the antibody to the human immunodeficiency virus, do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the Centers 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 there from 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 there from 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 person the duties of employment.

3. This section shall not apply to:
 - A. 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.
 - B. Employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.
 - C. A State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose.
 - D. Age discrimination in a bona fide apprenticeship program if the employee is over 45 years of age.
 - E. Any employer who regularly employs fewer than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.
 - F. The employment of individuals to render personal services to the person of the employer or members of the employer's family.
 - G. 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.

31.06 UNFAIR PRACTICES - PUBLIC ACCOMMODATIONS.

1. Discriminatory Practices. It is an unfair or discriminatory practice for any owner, lessee, sub-lessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

A. To refuse or deny to any person, because of age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation, the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation in the furnishing of such accommodations, advantages, facilities, services, or privileges. A public accommodation shall not

discriminate against a person because of age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation by: (i) providing any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to other members of the general public, except to reasonably accommodate a member of the protected classes who otherwise might be precluded from receiving a benefit, access to, or participation in a program; (ii) subjecting any individual to segregation or separate treatment in any matter related to that individual's receipt of any disposition, service, financial aid, or benefit provided to other members of the general public; (iii) restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other members of the general public; (iv) treating an individual differently from others in determining whether that individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function, or benefit available to other members of the general public; or (v) denying an individual an opportunity to participate in a program through the provision of service or otherwise afford that individual an opportunity to do so which is different from that afforded to other members of the general public.

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

2. Disability Discrimination – Additional Provisions. It shall be an unfair or discriminatory practice for any owner, lessee, sub-lessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

A. To subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

B. To afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

C. To provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

For purposes of Section 2 (A) through (C), the term “individual or class of individuals” refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

D. To fail to afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different to permit the use of a service animal by an individual with a disability.

(1) A public accommodation may ask an individual with a disability to remove a service animal from the premises if:

- a. The animal is out of control and the animal’s handler does not take effective action to control it;
- b. The animal is not housebroken or the animal’s presence or behavior fundamentally alters the nature of the service the public accommodation provides (e.g., repeated barking during a live performance); or
- c. The animal poses a direct threat to the health or safety of others that cannot be eliminated by reasonable modifications.

(2) If a place of accommodation properly excludes a service animal, it shall give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

(3) The work or tasks performed by a service animal shall be directly related to the handler’s disability. A service animal that accompanies an individual with a disability into a place of public accommodation shall be individually trained to do work or perform a

task, housebroken, and under the control of its handler. A service animal shall have a harness, leash, or other tether.

(4) A public accommodation is not responsible for caring for or supervising a service animal.

(5) A public accommodation shall not ask about the nature or extent of a person's disability, but can determine whether an animal qualifies as a service animal. For example, a public accommodation may ask if the animal is required because of a disability; and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified or licensed as a service animal.

(6) Individuals with disabilities who are accompanied by service animals may access all areas of a place of public accommodation where members of the public, program participants, and invitees are allowed to go.

(7) A public accommodation shall not ask or require an individual with a disability to post a deposit, pay a fee or surcharge, or comply with other requirements not generally applicable to other patrons as a condition of permitting a service animal to accompany its handler in a place of public accommodation, even if people accompanied by pets are required to do so. If a public accommodation normally charges its clients or customers for damage that they cause, a customer with a disability may be charged for damage caused by his or her service animal.

E. To fail to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden. For purposes of this paragraph:

(1) "Auxiliary aids and services" means:

a. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

b. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

- c. Acquisition or modification of equipment or devices;
and
- d. Other similar services and actions.

(2) “Undue burden” means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include:

- a. The nature and cost of the action needed under this part;
- b. The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
- c. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
- d. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
- e. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

F. To fail to remove architectural barriers and communication barriers that are structural in nature in facilities constructed for first occupancy on or after a date that is one year after effective date of this code revision, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.

- (1) Examples of steps to remove barriers include, but are not limited to, the following actions:
- a. Installing ramps;
 - b. Making curb cuts in sidewalks and entrances;
 - c. Repositioning shelves;

- d. Rearranging tables, chairs, vending machines, display racks, and other furniture;
- e. Repositioning telephones;
- f. Adding raised markings on elevator control buttons;
- g. Installing flashing alarm lights;
- h. Widening doors;
- i. Installing offset hinges to widen doorways;
- j. Eliminating a turnstile or providing an alternative accessible path;
- k. Installing accessible door hardware;
- l. Installing grab bars in toilet stalls;
- m. Rearranging toilet partitions to increase maneuvering space; Insulating lavatory pipes under sinks to prevent burns;
- n. Installing a raised toilet seat;
- o. Installing a full-length bathroom mirror;
- p. Repositioning the paper towel dispenser in a bathroom;
- q. Creating designated accessible parking spaces;
- r. Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
- s. Removing high pile, low density carpeting; or
- t. Installing vehicle hand controls.

(2) Where the public accommodation can demonstrate that the removal of a barrier under this section is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(3) Barrier removal under this section should be accomplished in accordance with the following order of priorities.

- a. First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.
- b. Second, a public accommodation should take measures to provide access to those areas of a place of public

accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing braided and raised character signage, widening doors, providing visual alarms, and installing ramps.

c. Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

d. Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

If the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

G. To fail to design and/or construct facilities for first occupancy on or after one year following the adoption of the ordinance codified in this section that are readily accessible to and usable by individuals with disabilities, which for the purposes of this section means meeting the requirements of the Americans with Disabilities Act Accessibility Guidelines For Buildings and Facilities (ADAAG), except where the public accommodation can demonstrate that it is structurally impracticable to meet such requirements or it is specifically exempted by law or regulation from complying with the ADAAG. With respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the public accommodation is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the public accommodation shall also make the alterations in such a manner that, to the maximum extent feasible, the

path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

3. Elevators. This section shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider.

4. Accessibility Guidelines Adopted. For the purposes of this section, the City hereby adopts by reference the Americans with Disabilities Act Accessibility Guidelines (Appendix A to 28 CFR Part 36-Standards for Accessible Design). In the event a facility or any part of a facility is subject to more than one accessibility standard or guideline, the building, structure, or site shall comply with the stricter standard or guideline.

5. Definitions. For purposes of this Section 31.06:

A. “Facility” means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

B. “Readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include:

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

- (5) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.
6. Violations. Any violation of this Section 31.06 shall be deemed to be a continuing violation of this chapter from the date a certificate of occupancy is issued for the facility until the date the violation is cured and the unfair or discriminatory practice is ceased.
7. Exceptions. 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 fewer than 4 rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner resides therein.
 - C. Discounts for services or accommodations based upon age.

31.07 UNFAIR CREDIT PRACTICES. It is 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, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation.
2. Persons authorized or licensed to do business in this State pursuant to Chapter 524, 533, 534, 536, or 536A of the 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, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation. This subsection shall not be applied to limit the Fair Housing sections of this chapter or any other provision.
3. Creditor to refuse to offer credit life or health and accident insurance because age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or 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 the Code of Iowa or the United States Code.

The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

31.08 UNFAIR OR DISCRIMINATORY PRACTICES – EDUCATION. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of age, color, creed, disability, familial status, gender identity, marital status, national origin, race, religion, sex, or sexual orientation 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 subjection to discrimination in any academic, extracurricular, research, occupational, training, or other program or activity.
2. Denial of comparable opportunity in intramural and interscholastic athletic programs.
3. Discrimination among persons in employment and the conditions thereof.
4. 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 purposes of this section, “educational institution” includes any preschool, elementary, secondary, or merged area school, area education agency, community college, or 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.

31.09 AIDING, ABETTING, OR RETALIATION. It is 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.
3. Any person to discriminate against another person because of the person's relationship or association with a person protected under this chapter.

31.10 INTERFERENCE, COERCION, OR INTIMIDATION. It is an unfair or discriminatory practice 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 this chapter.

31.11 SEX OR AGE PROVISIONS NOT APPLICABLE TO RETIREMENT PLANS. The provisions of this chapter relating to discrimination because of sex or 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 chapter.

1. However, a retirement plan or benefit system shall not require involuntary retirement of a person under the age of 70 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 65 and has for the 2 prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, non-forfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan of the employer which equals \$27,000. This retirement benefit test may be adjusted according to the regulations prescribed by the United States Secretary of Labor pursuant to Public Law 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.

31.12 COMPLAINT INVESTIGATION. This section applies to all complaints filed under this chapter except for Fair Housing complaints, which are to be processed and adjudicated in accordance with the Fair Housing provisions in this chapter, Sections 31.18 through 31.33.

1. Any person claiming to be aggrieved by a discriminatory or unfair practice may by himself/herself, his/her attorney, or personal representative, as defined by rule, make, sign, and file with the Commission a verified, written complaint which

shall state the name and address of the person, employer, employment agency, or labor organization alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the Commission. The Commission, a Commissioner, or the City Attorney may in like manner, make, sign, and file such complaint.

2. Any place of public accommodation, employer, labor organization, or other person who has any employees or members who refuse or threaten to refuse to comply with the provisions of this chapter may file with the Commission a verified written complaint asking the Commission for assistance to obtain their compliance by conciliation or other remedial action. A claim under this chapter shall not be maintained unless a complaint is filed with the Commission within 300 days after the alleged discriminatory or unfair practice occurred, except for Fair Housing complaints, which shall be filed within one year after the alleged discriminatory or unfair practice occurred or terminated. If the alleged unlawful discriminatory practice or act is of a continuing nature, the date of the occurrence of said alleged unlawful practice shall be deemed to be any date subsequent to the commencement of the alleged unlawful practice up to and including the date upon which the unlawful practice has ceased.

3. The members of the Commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, and persuasion, unless such disclosure is made in connection with the conduct of such investigation. This section shall not prohibit disclosures to the Iowa Civil Rights Commission or similar government agencies conducting investigations involving illegal discriminatory practices.

4. Investigative Procedure.

A. After the filing of a verified complaint, a true copy shall be served within 20 days by certified mail on the person against whom the complaint is filed. Alternative service may be effectuated by personal delivery by the Executive Director or a member of the staff of the Commission appointed by the Executive Director.

B. An authorized member of the Commission staff shall make a prompt investigation of the alleged unfair or discriminatory practices. The investigator shall review all of the evidence and complete the investigation. The investigator shall prepare a written report. The Executive Director shall review the report and make a recommendation of probable cause or no probable cause or other appropriate action to the assigned Commissioner who shall then consider the Executive Director's recommendation and rule on whether probable cause exists for the complaint; the Chairperson shall assign and designate that Commissioner.

C. If it is determined by the assigned Commissioner that no probable cause exists for the complaint, the complaint may be closed with a finding of no probable cause and the complainant and respondent shall be so notified in writing by certified mail.

D. The complainant, within 10 days of receipt of a copy of the determination of no probable cause, may file with the Commission an application for reconsideration of the finding. Upon such application the Chairperson or a member of the Commission designated by the Chairperson, other than the first Commissioner assigned to case shall consider the application for reconsideration. If it is determined that no probable cause exists, the Chairperson or designated member of the Commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the Complainant. If it is determined that probable cause exists or that further investigation is necessary, the staff shall be directed accordingly.

E. If it is determined by the assigned Commissioner that probable cause exists regarding the allegations of the complaint, the Executive Director shall promptly endeavor to eliminate the unfair or discriminatory practice by conference, further conciliation, and persuasion. Nothing in this subsection shall preclude an earlier satisfactory resolution of the complaint, if mutually agreed to by all parties.

F. If the complaint is successfully resolved through further conciliation and persuasion, it shall be formalized and signed by the Chairperson or a designated representative of the Commission, the complainant, and the respondent. The Commission shall furnish both the complainant and the respondent a copy of the terms of the conciliation.

G. At any time in its discretion, the Commission shall investigate whether the terms of the agreement are being complied with by the respondent. If the Commission finds that the terms of the conciliation are not being complied with by the respondent, the Commission shall take appropriate action to ensure compliance.

H. The Commission staff must endeavor to eliminate the discriminatory or unfair practice by conference, further conciliation, and persuasion for a period of 30 days following the initial conciliation meeting between the respondent and the Commission staff after a finding of probable cause. After the expiration of 30 days, the Executive Director may order that the conference, conciliation, and persuasion procedures provided in this section be by-passed when the Executive Director determines the procedures unworkable by reasons of past patterns and practices of the respondent, or a statement by the respondent that the respondent is unwilling to continue with the conciliation. The Executive Director must have the approval of the

Commission Chair or the Chairperson's designated representative before bypassing conciliation, conference, and persuasion procedures. Upon the bypassing of conciliation, the Executive Director shall state in writing to the Commission the reasons for bypassing.

31.13 ADMINISTRATIVE HEARING. If the Commission determines that probable cause exists to believe that a discriminatory practice has occurred and conciliation attempts have failed, the Commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under this chapter. Hearings shall be conducted in accordance with the provisions of this section and the rules promulgated by the Commission.

1. Notice of Hearing. The Commission may issue a notice of hearing. Staff shall send a copy of the determination and notice of hearing to all of the following persons: (i) each respondent; and (ii) each aggrieved person on whose behalf the complaint was filed. The notice shall include:
 - A. A statement of the time, place, and nature of the hearing;
 - B. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - C. A reference to the particular sections of this chapter and rules involved; and
 - D. 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. Thereafter, upon application, a more definite and detailed statement shall be furnished.
2. Rights of Parties. At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses and obtain the issuance of subpoenas under Section 31.04. Any aggrieved person may intervene as a party in the proceeding. Iowa Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in Linn County District Court.
3. Expedited Discovery and Hearing.
 - A. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.
 - B. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

4. Resolution of Charge. Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.
5. Hearings, Findings, and Conclusions and Order.
 - A. The administrative law judge shall commence the hearing under this section no later than 120 days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the determination, the administrative law judge shall notify the Commission, the aggrieved person on whose behalf the charge was filed, and the respondent in writing of the reasons for not doing so.
 - B. The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Commission, the aggrieved person on whose behalf the charge was filed, and the respondent in writing of the reasons for not doing so.
 - C. If the administrative law judge finds that a respondent has engaged in a discriminatory practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent.
 - D. Other relief the Commission or Administrative Law Judge considers to be appropriate, including monetary damages, fines and penalties, may be given.
 - E. In the case of an order with respect to a discriminatory practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Commission shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed 30 days after such order is in substance affirmed upon such review):
 - (1) Send copies of the findings of fact, conclusion of law, and the order, to that governmental agency; and
 - (2) Recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).
 - F. If the administrative law judge finds that the respondent has not engaged in a discriminatory practice, as the case may be, such

administrative law judge shall enter an order dismissing the charge. The Commission shall make public disclosure of each such dismissal.

G. An administrative law judge may not continue administrative proceedings regarding any alleged discriminatory practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law, seeking relief with respect to that discriminatory practice.

6. Review by Commission; Service of Final Order.

A. The Commission may review any finding, conclusion or order issued under this section. Such review shall be completed not later than 30 days after the finding, conclusion or order is so issued; otherwise the finding, conclusion or order becomes final.

B. The Commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

7. Judicial Review; Review of Order. Any party aggrieved by a final order for relief under this Chapter granting or denying in whole or in part the relief sought may obtain review of such order by filing a petition for review not later than 30 days after the order is issued in Linn County District Court.

31.14 REMEDIES.

1. If, upon taking into consideration all of the evidence at a hearing, the Commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the Commission shall issue an order denying relief and stating the findings of fact and conclusions of the Commission, and shall cause a copy of the order dismissing the complaint to be served by certified mail on the complainant and respondent.

2. If, upon taking into consideration all of the evidence at a hearing, the Commission determines that the respondent has engaged in a discriminatory or unfair practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the Commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the Commission deems proper.

A. For the purposes of this subsection and pursuant to the provisions of this chapter, “remedial action” may include any equitable relief that the Commission considers appropriate, but is not limited to the following:

- (1) Granting temporary, preliminary, or permanent relief;
- (2) Hiring, reinstatement or upgrading of employees with or without pay, interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable;
- (3) Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of individuals to such programs;
- (4) Admission of individuals to a public accommodation or an educational institution;
- (5) Providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method;
- (6) Making facilities readily accessible to and usable by individuals with disabilities in new construction, and alterations, or through barrier removal or other activities;
- (7) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;
- (8) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice;
- (9) Reporting as to the manner of compliance;
- (10) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the Commission and inclusion of notices in advertising material; or
- (11) Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice which damages shall include but are not limited to actual damages, court costs, and reasonable attorney fees.
- (12) Other relief the Commission or Administrative Law Judge considers to be appropriate, including monetary damages, fines and penalties.

B. In addition to the remedies provided in the preceding provision of this subsection, the Commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice

and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this chapter as follows:

(1) In the case of a respondent operating by virtue of a license issued by the State of Iowa or the City of Marion, or any board, commission, department, agency, or other political subdivision or part thereof within the City, if the Commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by any officer or executive agent acting within the scope of the officer's or agent's employment, the Commission shall so certify to the licensing agency. Unless the Commission finding of a discriminatory or unfair practice is reversed in the course of judicial review the finding of discrimination is binding on the licensing agency. If a certification is made pursuant to this subsection, the licensing agency may initiate licensee disciplinary procedures.

(2) In the case of a respondent who is found by the Commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the State of Iowa or City of Marion, or any board, commission, department, agency, or other political subdivision or part thereof within the City, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of the officer's or agent's employment, the Commission shall so certify to the contracting agency. Unless the Commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

(3) Upon receiving a certification made under this subsection, a contracting agency 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 the provisions of this chapter, and assist the State of Iowa and the City of Marion, and any board, commission, department, agency, or other political subdivision or part thereof within the City to refrain from entering into further contracts.

C. The election of an affirmative action order under paragraph B of this subsection shall not bar the election of affirmative remedies provided in paragraph A of this subsection.

3. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair 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 chapter, 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 in which it is filed, upon a 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 the 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. Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the Commission shall take appropriate action to assure compliance.

31.15 JUDICIAL REVIEW OF COMMISSION ACTION.

1. A person or party who has exhausted all adequate administrative remedies before the Commission and who is aggrieved or adversely affected by any final Commission action is entitled to judicial review thereof under this section. A preliminary, procedural or intermediate Commission action is immediately reviewable if all adequate Commission remedies have been exhausted and review of the final Commission action would not provide an adequate remedy.

2. Proceedings for judicial review shall be instituted by filing a petition in the Iowa District Court in and for Linn County within 30 days after the Commission action complained of. For purposes of the time limit for filing the petition for judicial review under this section, the issuance of a final decision of the Commission under this chapter occurs on the date notice of the decision is mailed by certified mail to the parties. Within 10 days after the filing of a petition for judicial review, file stamped copies of the petition shall be mailed by the Petitioner to all parties named in the petition and, if the petition involves review of Commission action following public hearing, all parties of record in that case before the Commission. Such mailings shall be jurisdictional and shall be addressed to the parties at their last known mailing address. Proof of mailing shall be by affidavit. Any party of record in a case before the Commission wishing to intervene and participate in the review proceeding thereon must file an appearance within 45 days from the time that the petition was filed.

3. The petition for review shall name the Commission as respondent and shall contain a concise statement of:

A. The nature of the Commission action which is the subject of the petition;

- B. The particular Commission action appealed from;
 - C. The grounds upon which relief is sought; and
 - D. The relief sought.
4. The filing of the petition for review does not itself stay execution or enforcement of any Commission action. Upon application the Commission or the reviewing court may, in appropriate cases, order such a stay pending the outcome of the judicial review proceedings.
5. Within 30 days after filing of the petition, or within further time allowed by the court, the Commission shall transmit to the reviewing court the original or a certified copy of the entire record of any proceeding before the Commission which may be the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a proceeding may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for additional costs. The court may require or permit subsequent corrections or additions to the record. In proceedings for judicial review of Commission action the court may hear and consider such evidence as it deems appropriate.
6. In proceedings for judicial review of Commission action following public hearing, the court shall not itself hear any further evidence with respect to those issues of fact whose determination was entrusted by this chapter to the Commission in that proceeding. Before the date set for hearing a petition for judicial review of Commission action following a public hearing application may be made to the court for leave to present evidence in addition to that found in the record of the case. If it is shown to the satisfaction of the court that the additional evidence is material and that there was good reason for failure to present it in the public hearing before the Commission, the court may order that the additional evidence be taken before the Commission upon conditions determined by the court. The Commission may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court and mail copies of the new findings or decisions to all parties.
7. The court may affirm, modify, or set aside the Commission action, in whole or in part, or remand to the Commission for further proceedings; and enforce such order to the extent that such order is affirmed or modified. The court shall reverse, modify, or grant any other appropriate relief from the Commission action, equitable or legal and including declaratory relief, if substantial rights of the petitioner have been prejudiced because the Commission action is:
- A. In violation of constitutional or statutory provisions or the provisions of this chapter;
 - B. In excess of the authority of the Commission;
 - C. In violation of Commission rule;

- D. Made upon unlawful procedures;
 - E. Affected by other error of law;
 - F. In a proceeding for review of Commission action following public hearing unsupported by substantial evidence in the record made before the Commission when that record is viewed as a whole; or
 - G. Unreasonable, arbitrary or capricious, or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.
8. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.
9. The judicial review provisions of this chapter shall be the exclusive means by which a person or party aggrieved or adversely affected by Commission actions may seek judicial review of such action. However, nothing in this chapter shall abridge or deny any person or party who is aggrieved or adversely affected by any Commission action the right to seek relief from such action in the courts at a time and in a manner authorized by the laws of the State of Iowa.

31.16 JUDICIAL REVIEW – ENFORCEMENT.

1. The Commission may obtain an order of court for the enforcement of Commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the Iowa District Court in and for Linn County.
2. 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 respondent. Thereupon the Commission shall file with the court a transcript of the record of the hearing before it. The court shall have 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.
3. 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.
4. Any party to the enforcement proceeding may move the court to remit the case to the Commission in the interest of justice for the purpose of introducing additional specified and material evidence and seeking findings thereon, providing such party shall show reasonable grounds for the failure to introduce such evidence before the Commission.

5. In the enforcement proceeding the court shall determine its order on the same basis as it would in a proceeding reviewing Commission action under Section 31.15.
6. The Commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the Commission's order.
7. Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for printing.
8. If no proceeding to obtain judicial review is instituted within 30 days from the service of any order of the Commission under Section 31.13 of this chapter, 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 City, and the Commission finding of fact and order shall be conclusive in connection with any petition for enforcement.

31.17 SIXTY-DAY ADMINISTRATIVE RELEASE.

1. A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the Commission in accordance with Section 31.12. 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:
 - A. The complainant has timely filed the complaint with the Commission as provided in Section 31.12; and
 - B. The complaint has been on file with the Commission for at least 60 days and the Commission has issued a release to the Complainant pursuant to paragraph C of this subsection.
 - C. Upon a request by the complainant, and after the expiration of 60 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 by the Commissioner charged with that duty under Section 31.12, subsection 4, a conciliation agreement has been executed under Section 31.12, the Commission has served notice of hearing upon the respondent pursuant to Section 31.13, subsection 1, or the complaint is closed as an administrative closure and two years have elapsed since the issuance date of the closure. Notwithstanding Section 31.13, subsection 5, a party may obtain a copy of all documents contained in a

case file where the Commission has issued a release to the complainant pursuant to this subsection.

2. An action authorized under this section is barred unless commenced within 90 days after issuance by the Commission of a release under paragraph C of subsection 1. If a complainant obtains a release from the Commission under said paragraph, the Commission shall be barred from further action on that complaint.
3. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.
4. The District Court may grant any relief in an action under this section which is authorized by Section 31.14, subsection 2, to be issued by the Commission. The District Court may also award the respondent reasonable attorney's fees and court costs when the court finds that the complainant's action was frivolous.
5. It is the legislative intent of this chapter that every complaint be at least preliminarily screened during the first 60 days.

This section does not authorize administrative closure if an investigation is warranted. In addition, this section shall not be interpreted so as to require a complainant to file a complaint with the Commission before filing a civil action based on violations of the Fair Housing sections of this chapter.

31.18 FAIR HOUSING – GENERAL.[†]

1. Definitions. The definitions in 31.02 are incorporated herein by reference and, as used in the Fair Housing sections:
 - A. “Aggrieved person” includes any person who:
 - (1) Claims to have been injured by a discriminatory housing practice; or
 - (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.
 - B. “Complainant” means the person who filed a complaint under Section 31.22(1) of this chapter.
 - C. “Conciliation” means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission.

[†] EDITOR’S NOTE: Sections 31.18 through 31.33 of this chapter are herein referred to collectively as “the Fair Housing sections of this chapter.”

D. “Conciliation agreement” means a written agreement setting forth the resolution of the issues in conciliation.

E. “Discriminatory housing practice” means an act that is unlawful under Sections 31.18(2), 31.19, 31.20, 31.09 and 31.10 of this chapter.

F. “Dwelling” means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure or portion thereof.

G. “Family” includes a single individual.

H. “Prevailing party” has the same meaning as such term has in Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

I. “Respondent” means:

(1) The person or other entity accused in a complaint of an unfair housing practice; and

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under Section 31.22 of this chapter.

J. “Secretary” means the U.S. Secretary of Housing and Urban Development.

K. “State” means the State of Iowa and any of its political subdivisions.

L. “To rent” includes to lease, sublease, to let, and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

2. Prohibitions/Unfair or Discriminatory Practices – Housing. It is an unfair or discriminatory practice for any person, owner of rights to housing or real property, or a 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, architects, builders, developers, agents, or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will – collectively referred to in this chapter as a “housing provider”:

A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or

facilities in connection therewith, because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

C. To make, print, or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation or an intention to make any such preference, limitation or discrimination.

D. To represent to any person because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

F. To discriminate against an individual who is receiving or has a Federal, State or local housing subsidy, including rental assistance or Section 8 vouchers, because the individual is such a recipient or because of any requirement of such rental assistance or housing subsidy or voucher program, subject to the exemptions in Section 31.21 of this chapter; a housing provider:

(1) Shall consider, and may verify, any lawful source of income or occupation in determining qualifications for rental or sale of a dwelling.

(2) Shall not be required to rent or sell to any participant in a housing subsidy program merely because the individual has the subsidy. This subsection does not create a preference for persons with housing subsidies over those without subsidies.

(3) Shall not refuse to accept or participate in a government housing subsidy program, except as provided elsewhere in this section, and must consider and evaluate individuals who participate in these programs along with other individuals and applicants.

(4) May refuse to consider income derived from any criminal activity.

(5) May determine the ability of any potential buyer or renter to pay a purchase price or pay rent by:

a. Verifying, in a commercially reasonable manner, the source and amount of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs on the same basis as payments to be made directly by the potential buyer or renter.

b. Evaluating, in a commercially reasonable manner, the prospective stability, security, and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs.

(6) May refuse to lease or sell a dwelling to a potential or current renter or buyer who is relying on a Section 8 voucher or subsidy for payment of part or all of the rent or sale price for a dwelling if and when the Marion Housing Services Office or its designee determines that:

a. The dwelling fails to meet Federal Housing Quality Standards in connection with the Section 8 or subsidy program; or

b. The rent for the dwelling exceeds the Fair Market Rent authorized by the U.S. Department of Housing and Urban Development or the Marion Housing Services Office in connection with the Section 8 or subsidy program.

(7) Shall cooperate with the Marion Housing Services Office, HUD and the buyer or renter to execute all documents necessary to apply for participation in the housing subsidy or voucher program and to enable payment of housing subsidies or rental assistance payments.

G. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of: (i) that buyer or renter; or (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (iii) any person associated with that buyer or renter; or to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because

of a disability of: (x) that person; (y) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (z) any person associated with that person. For purposes of this paragraph, discrimination includes any one of the following:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or

(2) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. A housing provider shall modify its policies, practices, or procedures to permit an individual with a disability to use, own, live with or be accompanied by an assistance animal when necessary to afford that individual equal opportunity to use and enjoy a dwelling; when considering a request from, or providing a reasonable accommodation to, an individual with a disability that involves an assistance animal, a housing provider shall not:

a. Ask or require an individual with a disability to post a deposit, pay a fee or surcharge, or comply with other requirements not generally applicable to other applicants, tenants or owners, even if people who live with or are accompanied by pets are required do so; or

b. Require documentation, such as proof that the animal has been certified or licensed as an assistance animal; or

c. Require that a support animal have any training; however, a housing provider may inquire whether an assistive animal is either: (i) individually trained to do work or perform or provide a service, function or a task for the benefit of an individual with a disability; or (ii) despite the lack of individual training, is able to work or perform or provide a service, function or a task for the benefit of an individual with a disability; or

d. Require the assistance animal to wear or carry any special harness, collar, vest, emblem or other means of identifying it as an assistive animal.

An individual with a disability may be charged for damages caused by his or her assistance animal if the housing provider normally charges pet owners or handlers for damage caused by their pets.

(3) In connection with the design and/or construction of covered multifamily dwellings for first occupancy on or after one year after the effective date of the ordinance codified in this section, a failure to design and/or construct those dwellings in such a manner that:

a. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;

b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

c. All premises within such dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

H. 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 A117.1”) suffices to satisfy the requirements of paragraph G(3)(c) of this subsection.

I. As used in this section, the term “covered multifamily dwellings” means:

(1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of 4 or more units.

J. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

K. Any violation of paragraph G(3) of this subsection shall be deemed to be a continuing violation of this chapter from the date a certificate of

occupancy is issued for the covered multifamily dwelling until the date the violation is cured and the unfair or discriminatory practice is ceased.

3. Exemptions. The provisions of paragraphs A, B, D, E, F, and G of subsection 2 of this section shall not apply to:

A. Any single-family house sold or rented by an owner provided that:

(1) The private individual owner does not own more than three such single-family houses at any one time; and

(2) In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a 24-month period; and

(3) The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at one time; and

(4) There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and

(5) There is no publication, posting or mailing, after notice, of any advertisement or written notice in violation of paragraph C of subsection 2 of this Section 31.18. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

B. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. The renting or leasing of a dwelling in a building which contains dwellings for not more than two families living independently of each other, if the owner resides in one of the dwellings.

D. The rental or leasing of fewer than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides in the dwelling.

4. For purposes of the Fair Housing sections of this chapter, a person shall be deemed to be in the business of selling or renting dwellings if:
 - A. The person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - B. The person has, within the preceding 12 months, participated as agent, other than in the sale of the person's own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - C. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by five or more families.
5. Nothing in this section shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation. Nor shall anything in this section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.
6. Nothing in the Fair Housing sections of this chapter limits the applicability of the City's Housing Ordinance regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons.
 - A. As used in this subsection "housing for older persons" means housing:
 - (1) Provided under any State or Federal program that the Secretary of the Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which require at least the following factors:

- a. At least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
- b. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

B. Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of the date of enactment of this chapter who do not meet the age requirements of subparagraphs (2) and (3) of paragraph A of this subsection, provided that new occupants of such housing meet the age requirements of said subparagraphs.

(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subparagraphs (2) and (3) of paragraph A of this subsection.

7. Nothing in this section prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) or Chapter 124 of the Iowa Code.

8. Additional Housing Exception. Sections 31.18 (2) and (4) do not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation in appraising real estate.

31.19 FAIR HOUSING – DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

1. In General. It is unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

2. Definition. As used in this section, the term “residential real estate-related transaction” means any of the following:

A. The making or purchasing of loans or providing other financial assistance:

- (1) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (2) Secured by residential real estate.
- B. The selling, brokering or appraising of residential property.
3. Appraisal Exemption. Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

This section shall not be limited by Section 31.07(2).

31.20 FAIR HOUSING – DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES. It is unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership or participation, on account of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

31.21 FAIR HOUSING – EXCEPTIONS FOR LAWFUL SOURCE OF INCOME. The protection against lawful source of income discrimination shall not prohibit a person from:

1. Refusing to consider income derived from any criminal activity; or
2. Determining the ability of any potential buyer or renter to pay a purchase price or pay rent by:
 - A. Verifying, in a commercially reasonable manner, the source and amount of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs on the same basis as payments to be made directly by the potential buyer or renter
 - B. Evaluating, in a commercially reasonable manner, the prospective stability, security and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs.

31.22 FAIR HOUSING – ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS. An individual wishing to file a complaint with the Commission must file within one year after an alleged discriminatory housing practice has occurred or terminated. Alternatively, such an individual may elect, in lieu of an administrative proceeding under the Fair Housing sections of this chapter, to have the claims asserted in the complaint decided in a civil action with the District Court. As per subsection 5 of this section, if the Commission perceives a need for prompt judicial action, the Commission and complainant may file jointly.

1. Complaints and Answers.

A. An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging such discriminatory housing practice. The Commission or a Commissioner may also file such a complaint.

B. Such complaints shall be in writing and shall contain such information and be in such form as the Commission requires.

C. The Commission may also investigate housing practices to determine whether a complaint should be brought under this section.

D. Upon the filing of such complaint:

(1) The Commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under the Fair Housing sections of this chapter.

(2) The Commission shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph H of this subsection, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this section, together with a copy of the original complaint.

(3) Each respondent may file, not later than 10 days after receipt of notice from the Commission, an answer to such complaint.

(4) The Commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint, unless it is impracticable to do so.

(5) The Commission shall commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint.

E. If the Commission is unable to complete the investigation within 100 days after the filing of the complaint, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

F. Within one year of the date of receipt of a complaint alleging a discriminatory housing or real estate practice, the commission shall take final administrative action with respect to that complaint unless it is impracticable to do so. If the Commission is unable to make final disposition of the case within the one-year period, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

G. Complaints and answers shall be under oath or affirmation, and may be reasonable and fairly amended at any time.

H. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice. Such notice, in addition to meeting the requirements of paragraph A of this subsection 1, shall explain the basis for the Commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

I. A claim under this chapter shall not be maintained unless a complaint is filed with the Commission within one year after the alleged discriminatory or unfair practice occurred or was terminated. If the alleged unlawful discriminatory practice or act is of a continuing nature, the date of the occurrence of said alleged unlawful practice shall be deemed to be any date subsequent to the commencement of the alleged unlawful practice up to and including the date upon which the unlawful practice has ceased.

2. Investigation Report and Conciliation.

A. Beginning with the filing of a complaint, the Commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

B. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Commission.

C. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

D. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this section.

E. At the end of each investigation under this section, the Commission shall prepare a final investigative report containing:

- (1) The names and dates of contacts and witnesses;
- (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (3) A summary description of other pertinent records;
- (4) A summary of witness statements; and
- (5) Answers to interrogatories.

A final report under this paragraph may be amended if additional evidence is later discovered.

3. **Failure to Comply with Conciliation Agreement.** Whenever the Commission has probable cause to believe that a respondent has breached a conciliation agreement, the Commission shall pursue all available judicial remedies provided by law which, in the Commission's opinion, will best and most effectively carry out the conciliation agreement, and they may recommend that a civil action be filed for the enforcement of such agreement. Probable cause, as used in the Fair Housing sections of this chapter, is to be interpreted as reasonable cause under the Federal Fair Housing Act and the regulations in 24 C.F.R. 103, which is a lower standard and less difficult to achieve than the probable cause standard used in this chapter. If the Commission determines that, based on the totality of factual circumstances known at the time of review, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall find probable cause.

4. **Prohibitions and Requirements with Respect to Disclosure of Information.**

A. Nothing said or done in the course of conciliation under this section may be made public or used as evidence in a subsequent proceeding under the Fair Housing provisions of this chapter without the written consent of the persons concerned.

B. Notwithstanding paragraph A above, the Commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Commission investigation, information derived from an investigation and any final investigative report relating to that investigation.

5. **Prompt Judicial Action.** If the Commission reasonably concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of the Fair Housing sections of this chapter, the Commission may commence a civil action in accordance with the Iowa Rules of Civil Procedure and this chapter. Commencement of judicial action under this subsection or under subsection 3 shall not stay any proceedings which may have been commenced under the Fair Housing sections of this chapter.

31.23 FAIR HOUSING – PROBABLE CAUSE DETERMINATION AND EFFECT.

1. Investigative Determinations. After a complaint has been filed, the Executive Director shall designate an investigator to make a prompt investigation of the complaint. The investigator shall review all of the evidence and complete the investigation. The investigator shall prepare a written report making a recommendation of probable cause or no probable cause or other appropriate action to the assigned Commissioner.
2. Commissioner's Determination. The assigned Commissioner shall find that there is either probable cause or no probable cause to believe that discrimination exists regarding a complaint, or, under the appropriate circumstances, that the complaint has been satisfactorily adjusted or successfully conciliated, or the complaint should be administratively closed. The assigned commissioner will promptly notify commission staff of the finding.
3. Both the complainant and the respondent shall be notified of the decision in writing by certified mail within fifteen (15) days of the investigating commissioner's decision.
4. If the Commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the Commission shall immediately issue a probable cause determination unless the Commission determines that the legality of a zoning or land use law or ordinance is involved, in which case the Commission shall refer the matter promptly to the office of the City Attorney of the City of Marion for appropriate action.
5. A probable cause determination must:
 - A. Consist of a short and plain statement of the facts on which the Commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur;
 - B. Be based on the final investigative report; and
 - C. Need not be limited to the facts or grounds alleged in the complaint.
6. Not later than 20 days after the Commission issues a cause determination, unless it is impracticable to do, the Commission shall send a copy of the determination with information as to how to make an election under Section 31.24 to all of the following persons:
 - A. Each respondent; and
 - B. Each aggrieved person on whose behalf the complaint was filed.
7. The Commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under

Federal or State law seeking relief with respect to the discriminatory housing or real estate practice.

8. Effect of Probable Cause Determination. A finding of probable cause regarding a complaint alleging a discriminatory housing or real estate practice commences the running of the period during which an aggrieved person on whose behalf a complaint was filed, a complainant, or a respondent may, pursuant to Section 31.24, elect to have the charges asserted in the complaint decided in a civil action in district court. If an election is made, the Commission shall file a civil action on behalf of the aggrieved person in district court. The Commission shall be represented by the City Attorney. If no election is made, then the Commission must schedule a hearing on the charges in the complaint.

9. Effect of No Probable Cause Determination. If the Commission determines there is “no probable cause” regarding a complaint alleging a discriminatory housing or real estate practice, the Commission must:

- A. Issue a short and plain written statement of the facts upon which the no probable cause determination was based;
- B. Promptly dismiss the complaint;
- C. Notify the aggrieved person(s) and the respondent(s) of the dismissal (including the written statement of facts) by certified mail or personal service; and
- D. Make public disclosure of the dismissal. If the finding is not reconsidered, the Commission may take no further action to process that complaint except as may be necessary to carry out the Commission’s administrative functions.

31.24 FAIR HOUSING – ENFORCEMENT BY COMMISSION.

1. Election of Judicial Determination. When a probable cause determination has been issued, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that complaint decided in a civil action under Section 31.27 in lieu of a hearing under subsection 6 of this section,. The election must be made not later than 20 days after such service. The person making such election shall give notice of doing so to the Commission and to all other complainants and respondents to whom the complaint relates.

2. Administrative Law Judge Hearing in Absence of Election. If an election is not made under subsection 1 of this section, with respect to a complaint, the Commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under Section 31.22. The Commission shall delegate the conduct of a hearing under this section to an administrative law judge appointed by the Commission.

3. Rights of Parties. At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses and obtain the issuance of subpoenas under Section 31.04(14). Any aggrieved person may intervene as a party in the proceeding. The Iowa Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in Linn County District Court.
4. Expedited Discovery and Hearing.
 - A. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.
 - B. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.
5. Resolution. Any resolution before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.
6. Hearings, Findings and Conclusions and Order.
 - A. The administrative law judge shall commence the hearing under this section no later than 120 days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the determination, the administrative law judge shall notify the Commission, the aggrieved person on whose behalf the complaint was filed, and the respondent in writing of the reasons for not doing so.
 - B. The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Commission, the aggrieved person on whose behalf the complaint was filed, and the respondent in writing of the reasons for not doing so.
 - C. If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by Code of Iowa Chapter 216.15A.

D. No such order shall affect any contract, sale, encumbrance or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrance or tenant without actual notice of the complaint filed under the Fair Housing sections of this chapter.

E. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Commission shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed 30 days after such order is in substance affirmed upon such review):

(1) Send copies of the findings of fact, conclusion of law, and the order, to that governmental agency; and

(2) Recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

F. If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the complaint. The Commission shall make public disclosure of each such dismissal.

G. An administrative law judge may not continue administrative proceedings under the Fair Housing sections of this chapter regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a Federal or State law, seeking relief with respect to that discriminatory housing practice.

31.25 FAIR HOUSING – REVIEW BY COMMISSION; SERVICE OF FINAL ORDER.

1. The Commission may review any finding, conclusion or order issued under Section 31.24. Such review shall be completed not later than 30 days after the finding, conclusion or order is so issued; otherwise the finding, conclusion or order becomes final.

2. The Commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

31.26 FAIR HOUSING – JUDICIAL REVIEW; REVIEW OF ORDER. Any party aggrieved by a final order for relief under the Fair Housing sections of this chapter granting or denying in whole or in part the relief sought may obtain review of such order

by filing a petition for review not later than 30 days after the order is issued in Linn County District Court according to Section 31.15 of this chapter.

31.27 FAIR HOUSING – CIVIL ACTION ELECTED.

1. A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the charges asserted in the complaint decided in a civil action as provided herein.

A. The election must be made not later than 20 days after the date of receipt by the electing person of service under Section 31.24(1), or, in the case of the Commission, not later than 20 days after the date of such service.

B. The person making the election shall give notice to the Commission and to all other complainants and respondents to whom the election relates.

C. The election to have the charges of a complaint decided in a civil action as provided here is available only if it is alleged that there has been a violation of the Fair Housing sections of this chapter.

2. An aggrieved person may, as provided by Code of Iowa, Chapter 216.16A, file a civil action in District Court not later than two years after the occurrence or the termination of an alleged discriminatory housing or real estate practice or the breach of a conciliation agreement entered into in Section 31.22 or whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach.

A. The two-year period does not include any time during which a public hearing under Section 31.24 is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

B. An aggrieved person may file an action under this section whether or not a discriminatory housing or real estate complaint has been filed under Section 31.22 and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

C. Except an aggrieved person shall not file an action under this subsection with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the Commission if the Commission has begun a hearing on the record under the Fair Housing sections of this chapter with respect to the charge.

D. If the Commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this section with respect to the alleged discriminatory practice that

forms the basis for the complaint except to enforce the terms of the agreement.

31.28 FAIR HOUSING – CIVIL PROCEEDINGS.

1. Additional civil proceedings are available in the area of housing as follows:
 - A. If timely election is made under Section 31.24, the parties are entitled to all rights, protections and remedies provided by Iowa Code Chapter 216.17A.
 - B. An aggrieved person may intervene in the action.
 - C. If the District Court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the District Court may grant any relief that a court may grant in a civil action under Code of Iowa Chapter 216.17A.
 - D. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the District Court as provided by Code of Iowa Chapter 216.17A shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the District Court.
2. A Commission order under Section 31.13 and Section 31.22, and a Commission order that has been substantially affirmed by judicial review, do not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this section.
3. If the Commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Commission, not later than 30 days after the date of issuance of the order, shall do all of the following:
 - A. Send copies of the findings and the order to the governmental agency;
 - B. Recommend to the governmental agency appropriate disciplinary action.
4. If the Commission issues an order against a respondent against whom another order was issued within the preceding five years under Section 31.13 and Section 31.22, the Commission shall send a copy of each order under that section to the State Attorney General.
5. On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the District Court must appoint an attorney for the person.

6. In an action under this section, if the District Court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the District Court may, as provided by Code of Iowa, Chapter 216.17A, award or issue to the plaintiff one or more of the following:
 - A. Actual and punitive damages;
 - B. Reasonable attorney's fees;
 - C. Court costs;
 - D. Subject to subsection 7 of this section, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
7. Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under Section 31.22 or a civil action under this section.
8. In an action under this section, the District Court may, as provided by Code of Iowa Chapter 216.17A, do any of the following:
 - A. Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to assure the full enjoyment of the housing rights granted by this chapter;
 - B. Order other appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs;
 - C. To vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by Code of Iowa Chapter 216.17A as follows:
 - (1) \$55,000.00 for a first violation,
 - (2) \$110,000.00 for a second or subsequent violation.
9. A person may intervene in an action under this section if the person is any of the following:
 - A. An aggrieved person to the discriminatory housing or real estate practice;
 - B. A party to a conciliation agreement concerning the discriminatory housing or real estate practice.

10. A court in a civil action brought under the Fair Housing sections of this chapter or the Commission in an administrative hearing under Section 31.13 or Section 31.22 may award reasonable attorney's fees to the prevailing party.

31.29 FAIR HOUSING – ATTORNEY'S FEES. In any administrative proceeding brought under the Fair Housing sections of this chapter, or any court proceeding arising therefrom, or any civil action under the Fair Housing provisions of this chapter, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the Commission, a reasonable attorney's fee and costs. The Commission shall be liable for such fees and costs to the extent provided by U.S.C. section 504 of Title 5 or by U.S.C. section 2412 of Title 28.

31.30 FAIR HOUSING – CONCILIATION AND PERSUASION. Section 31.22(2) requires conciliation at the time a complaint is filed. In addition, immediately after a finding of probable cause, or sooner, if the complainant and respondent consent, the staff and the Executive Director shall endeavor to eliminate the illegal discriminatory practice by conciliation and persuasion. If the complaint is successfully resolved to the satisfaction of the Commission, complainant and respondent through conferences, conciliation and persuasion, it shall be formalized in a binding written agreement signed by a representative of the Commission, complainant and respondent and the Commission shall furnish both the complainant and respondent with a copy of terms of the conciliation.

31.31 FAIR HOUSING – FAILURE TO HONOR COMMITMENT. The Commission may investigate a conciliated complaint at a later date to assure that the respondent is complying with the terms of the conciliation. In any case where the respondent has made commitments in the conciliation and the Commission finds that the commitments have not been kept, it may open all of its files, previous complaints and proceedings involving the respondent for public inspection and proceed with such further steps as it finds appropriate, including initiation of a proceeding in Linn County District Court to effectuate the purposes of this chapter.

31.32 FAIR HOUSING – CONFIDENTIALITY.

1. In the event that a complaint is successfully conciliated or it is found that no discrimination was practiced, the names of the parties to the complaint and all proceedings with regard to such parties and the place or places of alleged discrimination shall be and remain confidential unless otherwise agreed by mutual consent of the parties; provided, however, that the terms of the conciliation may be published. This section shall not prohibit disclosure made in connection with the conduct of an investigation or any disclosure to the Iowa Civil Rights Commission or a similar government agency conducting an investigation involving illegal discriminatory practices.

2. The members of the commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavor to eliminate such illegal discriminatory practice by conciliation or persuasion except when such disclosure is made in connection with the conduct of the investigation. The identity of individuals interviewed shall remain confidential except as the disclosure of their identity becomes necessary at the time of public hearing.
3. In the event a complaint is not successfully conciliated and a determination has been made to proceed to public hearing, the Executive Director shall promptly forward to the respondent the names and addresses of those persons who shall be called as witnesses at such public hearing.

31.33 FAIR HOUSING – COOPERATION WITH STATE AND FEDERAL AGENCIES ADMINISTERING FAIR HOUSING LAWS.

1. The Commission may cooperate with state and federal agencies charged with the administration of State and Federal fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and in furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or Federal agencies.
2. Nothing in the Fair Housing sections of this chapter shall be construed to afford the classes protected under this section fewer or lesser rights or remedies than those afforded under the Federal Fair Housing Amendments Act of 1998 and its implementing regulations. To the extent provisions in the Fair Housing sections of this chapter afford greater or different rights and remedies than those afforded by Federal law and State law, however, they shall be interpreted and construed to expand those rights and remedies.

(Chapter 31 - Ord. 11-19 – Nov. 11 Supp.)

