**Guide to Proposed Amendments to**

**Municipal Code Chapter 69:**

**The Cedar Rapids Civil Rights Ordinance**

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**Submitted by the Cedar Rapids Civil Rights Commission**

**Nancylee Ziese, Chair**

**Karl Cassell, Executive Director**

**Commissioners**

**Leland Freie Mitchell Levin Bret Nilles**

**Barbara Gay Indira Mysore Keith Rippy**

**Salma Igram Laura O’Leary Ruth White**

**Prepared by the University of Iowa Clinical Law Programs:**

**Katrina Schaefer**

**Student Legal Intern**

**Nick Stephens**

**Student Legal Intern**

**Len Sandler**

**Clinical Law Professor**

**Background**

In 2007, the Cedar Rapids Civil Rights Commission began a thorough process to review, analyze, and update the local civil rights ordinance. The Commission's overarching mission has been to further the city's vision of making Cedar Rapids a vibrant urban hometown, and a beacon for people and businesses invested in building a greater community for the next generation. Four years later, the Commission is pleased to present to the Mayor and City Council a proposal to amend Municipal Code Chapter 69 that will bring Cedar Rapids another step closer to fulfilling this vision and promoting inclusion, dignity, and fairness.

The proposed ordinance will bring us into compliance with state law and implement changes that are required by HUD for the Commission to continue receiving federal funds. It includes a number of other important changes that strengthen substantive protections and streamline local administration and enforcement. The amendments fill coverage gaps and bolster protections; ensure that children and adults with disabilities can enter, use, and enjoy public accommodations, apartments and other facilities; and make safe and affordable housing more available to families with non-wage income. Finally, it clarifies the rights and responsibilities of persons subject to the code, as well as the responsibilities of the Commission and its staff in the investigation and adjudication of complaints.

In developing the amendments, the Commission, aided by the University of Iowa Clinical Law Programs, examined and compared laws and best practices from across the country. It heard and responded to feedback from public focus groups and stakeholders, including landlords, real estate agents, disability advocates, businesses, public officials, and agency staff. It submitted the ordinance for review by the Department of Housing and Urban Development and received the approval required to maintain local enforcement capabilities and funding. The City Attorney's Office also reviewed the proposed changes and provided comment to the Commission.

On September 21, 2011, the Commission voted to endorse and forward the amended code to the Mayor and City Council for consideration and approval. The Commission believes that the City of Cedar Rapids has been on the forefront of protecting people who live, work and play here. It therefore asks the Mayor and City Council to continue that strong tradition of distinguishing Cedar Rapids as an inclusive community that refuses to accept discrimination and ensures fair treatment of all people by adopting the amendments to the municipal code.

This briefing paper describes by subject matter some of the more significant changes to the code.

**Extended Coverage and Protections**

The current Chapter 69 provides many protections; however, it leaves several “gaps” that run afoul of state law, send mixed messages, or produce inconsistent coverage and enforcement. The code forbids discrimination because of age, color, creed, familial status, marital status, mental or physical disability, national origin, race, religion, sex, or sexual orientation. It covers credit, education, employment, housing and public accommodations – but it does not provide uniform or across-the-board coverage. For example, it is currently not unlawful to discriminate in credit transactions because of mental disability or in employment because of familial status or marital status.

To fill these gaps, the amendments add gender identity and lawful source of income as protected classes and extend coverage to all protected class members in all covered activities, except lawful source of income discrimination, which applies only to housing. The revised code prohibits discrimination against individuals based on their association or relationship to a person in a protected class, and adds intimidation and retaliation to the list of prohibited practices, in part to comply with state law.

Extending protections provides greater consistency and signals to leaders and people in the public and private sector that Cedar Rapids does not abide or condone discrimination in any form. The amendments put out the welcome mat for new businesses, employees, and families who are considering moving here.

The following table illustrates how the coverage gaps are filled:

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| **Covered Activities** | **Newly Added Protected Classes** | **Newly Added Prohibited Practices** |
| Credit | Gender Identity and Mental Disability | Association and Retaliation |
| Education | Familial Status and Gender Identity | Association and Retaliation |
| Employment | Familial Status, Gender Identity, and Marital Status | Association and Retaliation |
| Housing | Gender Identity, Marital Status, and Lawful Source of Income | Retaliation |
| Public Accommodations | Age, Familial Status, Gender Identity, and Marital Status | Association and Retaliation |

**Lawful Source of Income**

Imagine yourself suddenly becoming unemployed, disabled, or a single parent, or returning home from military service in Afghanistan. Imagine that in your search for housing, landlords or sellers refuse to consider or accept your veteran’s benefits, social security disability benefits, pension, alimony, or child support, leaving you unable to find a decent place to live because of your non-wage income. Unfortunately, people with sources of income other than employment often encounter these situations when they look for places to live. It can be difficult for families struggling to make ends meet, persons with disabilities, and elderly persons to find a landlord who will look past those characteristics and treat them just like any other applicant.

In order to promote fairness and the availability of safe and affordable housing in Cedar Rapids, the proposed ordinance prohibits lawful source of income discrimination in housing. The code applies to any lawful, verifiable source of money paid directly or indirectly to or on behalf of a renter or buyer of housing. At its core, the ordinance will simply require covered housing providers to consider all applicants equally and to apply a fair, even hand when screening applicants regardless of their *source* of income.

Landlords and sellers will still be able to utilize customary screening practices, eligibility criteria and income formulas, conduct credit checks, background checks, and reject unqualified applicants, so long as these criteria are applied uniformly. Not all housing providers are covered by the proposed code. For instance, certain individual owners of single-family houses or small multi-family dwellings who reside or resided in the property will be exempt from many of the fair housing protections, including lawful source of income, so long as an agent such as a real estate broker is not used to facilitate the sale or rental of the unit.

**Section 8 Housing Choice Program Vouchers are specifically excluded from the definition of lawful source of income, leaving landlords and sellers free to decline to participate in the Section 8 program or accept vouchers.**

Local Adoption of Americans With Disabilities Act Provisions and Accessibility Standards

One hallmark of a livable and thriving city and neighborhood is the opportunity for residents and visitors of different abilities to participate fully in social, educational, and business activities. A significant problem identified by Commission staff and disability advocates is the failure of private establishments and government offices to remove architectural and communication barriers, make reasonable and necessary modifications to policies, practices and procedures, or provide auxiliary aids and services to persons with disabilities.

As a result, many adults and children with disabilities cannot enter or use establishments that predate the enactment of accessibility codes or guidelines. Public accommodations, for example, are sometimes unaware of their legal obligations, refuse to modify “no-pets” rules or other policies, or fail to provide equipment or interpreters to allow people entry, use or enjoyment of a broad range of services, programs and facilities.

The amendments incorporate several Americans with Disabilities Act provisions into Chapter 69 to permit and enhance local education, compliance, and enforcement. Businesses are already subject to ADA requirements, but adopting the standards locally should reduce the need for filing expensive, time-consuming and resource-draining federal complaints and lawsuits. Public accommodations would have to furnish services in the most integrated setting, take modest, affirmative steps to provide equal access for persons with disabilities, remove architectural and communication barriers in existing buildings when it does not involve significant difficulty, and build new or alter existing facilities to meet the 2010 ADA Standards for Accessible Design.

Failure to Design or Construct Minimally Accessible Facilities and Multifamily Dwellings

Federal accessibility standards have been on the books for decades, yet public accommodations and apartments are still being built that do not provide minimum accessibility features such as wider doors, an accessible path into and through the premises, light switches and outlets mounted within easy reach, and a usable bathroom.

Renters or buyers often do not encounter or discover these barriers until years after the unit or facility is built or sold. Why is that important? Because the Iowa Supreme Court has ruled that the statute of limitations for filing these claims runs from the date the last unit is sold, or by extension, was certified for occupancy, not when the disabled person encounters the barrier. Take the example of a soldier who returns from Iraq disabled and tries to rent a unit built three years previously. The disabled veteran has no claim for damages or remedy against those who designed or built the unit – and may have to pay for retrofits, curb ramps and other features out-of-pocket.

The court ruling said the failure to design or construct to code is a *single* act of discrimination even though the effects of the discrimination linger throughout the lifetime of the building. The amendments classify the failure to design or construct an accessible building as a *continuing* violation that lasts until the building or facility is compliant and the violation is cured. A similar provision is included in the public accommodations section.

This section applies only to buildings and facilities designed or constructed beginning one year after the effective date of the amendments.

Animals That Assist, Support or Provide A Service for Persons with Disabilities

A growing number of children and adults with disabilities benefit from animals that assist, support, or perform tasks or services for them. And they often encounter difficulty when trying to rent an apartment, dine at a restaurant, attend a movie, or seek medical care or legal assistance. During recent conferences, landlords, business owners, realtors, officials, and advocates said they were confused about how to respond when approached by a person with a disability accompanied by a dog, cat, snake, chimp or other animal. Audience members expressed concern about liability because different, but similar-sounding rules, apply to animals in public accommodations and housing.

For the first time, the code includes definitions and sets out the rights and responsibilities of persons with disabilities, housing providers, and private and public entities. By providing greater detail and simplifying rules, the revised code educates and eliminates uncertainty about which animals can enter public and private premises. The public accommodations and fair housing sections have different provisions because the ADA-based rules cover trained animals, not just dogs and miniature horses, used in public, while HUD rules apply to trained and untrained animals that live with a person with a disability. HUD advised us that Cedar Rapids is the first jurisdiction to have assistance animal provisions approved under its federal substantial equivalency standards.

Protection Against Associational Discrimination, Retaliation, and Intimidation

Discrimination takes many forms. Persons who are related to or associated with an individual in a protected class sometimes bear the brunt of unfair and discriminatory practices. They are denied or offered lesser service, insurance coverage, benefits or other opportunities. The fair housing section now includes protections against associational discrimination. The amendments would prohibit associational discrimination in all covered activities.

People who file complaints or lawfully oppose discriminatory acts can also be targets for threats, intimidation, and reprisal. The revised code adds retaliation as a prohibited practice to protect individuals from being fired, demoted, or subjected to other adverse actions for vindicating their rights.

Administration and Enforcement

The revised code clarifies the duties of Commissioners, the Executive Director, staff, and other individuals with regard to the complaint process, including filing, investigations, cause determinations, dispute resolution, adjudications, and appeals. The Fair Housing section’s complaint and adjudication process has been extensively revised to meet HUD’s requirements.

New Deadlines for Filing Complaints

To comply with changes to state law, the revised ordinance extends the deadline for filing an administrative complaint to 300 days for credit, education, employment, and public accommodation complaints, and to one year for housing complaints to comply with federal law.