

DRESS CODES, ADMITTANCE POLICIES, AND PUBLIC ACCOMMODATION DISCRIMINATION

August 2016

Iowa City's Human Rights Ordinance prohibits discrimination by any business or individual that owns, leases, rents, operates, manages or in any manner controls a public accommodation. This includes discrimination based on: Age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.

A public accommodation is any service, product, or facility which is made available to the general public. Examples include bars, nightclubs, restaurants, and retail stores.

It is a violation to withhold, deny, curtail, limit, or discriminate concerning the full use of a public accommodation based on any protected status listed above. Discriminatory conduct includes denying admittance, using different terms of admittance, harassment or differential treatment and advertising. There are limited exceptions based on religion, age or disability.

Dress codes and admittance policies may violate the Human Rights Ordinance if used to deny, limit, or create different terms of admittance based on a protected status or if it has a disparate impact on people in a protected status without proof of business necessity.

Reasonable policies for appearance and conduct are permitted, but they must be designed and applied in a non-discriminatory manner. If the policy is more likely to limit service to people in a protected status, it must be justified by business necessity. To prevent problems:

- Patrons should be notified of any such rules by signage or other mass communication.
- Staff should not be allowed to engage in slurs, ridicule, and other verbal or physical conduct toward a patron relating to the person's protected status.
- Policies should be applied consistently to all potential patrons and actual patrons.
- Policies should not be based on attire associated with any particular race, religion or ethnicity.
- Regulate inappropriate conduct or behavior and not attire you negatively associate with a particular race, religion or ethnicity.
- Policies should be applied in a gender-neutral manner.
- Policies should be objective not subjective.
- Know the law.
- If service is refused to anyone, a detailed record should be kept (for at least 1 year but preferably 2 years) of who was refused, when, by whom and why.
- Participate in unlawful discrimination trainings and implicit bias trainings biannually or require for new hires. Implicit bias tests are available online and free. See <https://implicit.harvard.edu/implicit/takeatest.html>.
- Contact the Human Rights Office if you have questions at 356-5022/356-5015 or at humanrights@iowa-city.org.

Potential penalties for violations of the Human Rights Ordinance include: fines per incident paid to the injured party, damages and attorney fees paid to the complaining party, an injunction ordering specific action to eliminate discriminatory practices, the posting of notice in conspicuous places of the business alerting the public of the discriminatory finding or any other relief that the



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administrative law judge finds to be appropriate. Discriminatory conduct may also violate state or federal laws. A finding of discrimination could affect the continued licensure of a business.

See below for the selected ordinance and regulation provisions.

A person who claims to have been denied full use of a public accommodation based on a protected status may file a discrimination complaint with the Human Rights Commission. Commission staff (who are both licensed attorneys) investigate and rule on each discrimination complaint through a neutral process which gives complainants and respondents the opportunity to present evidence and legal arguments to support their positions.

City Code 2-1-1: DEFINITIONS

PUBLIC ACCOMMODATION: Each and every place, establishment or facility of whatever kind, nature or class that caters or offers services, facilities or goods to the general public for a fee or charge. Each and every place, establishment or facility that caters or offers services, facilities or goods to the general public gratuitously shall be deemed a public accommodation if the accommodation receives any substantial governmental support or subsidy. Public accommodation shall not mean any bona fide private club or other place, establishment or facility which is by its nature distinctly private, except that, when such distinctly private place, establishment or facility caters or offers services, facilities or goods to the general public for a fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

City Code 2-3-2: PUBLIC ACCOMMODATION; EXCEPTIONS:

- A. It shall be unlawful for any person to deny any other person the full and equal enjoyment of the goods, services, facilities, privileges, advantages of any place of public accommodation because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- B. It shall be unlawful to directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons is unwelcome, objectionable or not solicited because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- C. This section shall not apply to 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.
- D. Public accommodations may be designated specifically for the elderly and disabled. However, public accommodations may not be restricted among the elderly and disabled on the basis of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- E. It shall not be unlawful for a public accommodation to take any action otherwise prohibited by this section where age is a bona fide factor or qualification based on health, safety or developmental differences between age groups. In order to establish that the exception applies, a place of public accommodation must show the restriction or policy is necessary to protect the health, safety, or developmental differences of persons based on age alone. Developmental differences of persons based on age means the social, emotional, physical and intellectual development of a person based on the chronological age of a person.
- F. Nothing in this section shall prohibit restrictions regarding the consumption of alcoholic beverages by those under the legal drinking age or the presence of persons under the legal drinking age in places of public accommodation where alcoholic beverages are served.
- G. This section shall not apply to discounts for services or accommodations based upon age.

This information has been provided as a courtesy of City of Iowa City Human Rights Department. This guidance is not, and should not be construed as, legal advice. Please contact your attorney with any legal questions.