

ORDINANCE NO. 5377

**AN ORDINANCE TO AMEND THE RAPID CITY HUMAN RELATIONS
COMMISSION BY AMENDING CHAPTER 2.64 OF THE
RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City has previously adopted an ordinance that establishes the Human Relations Commission; and

WHEREAS, the City Council deems that it is in the City's best interest to amend the language of the ordinance to reflect subsequent changes to the State statute;

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 2.64.010 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.010 Declaration of policy–Purpose.

It is the public policy of the city and the purpose of this chapter:

A. ~~To acknowledge that~~ discriminatory practices based on race, color, sex, creed, religion, ancestry, disability, familial status, or national origin with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services, or any of them, tend to create and intensify conditions of poverty, ill health, unrest, lawlessness and vice ~~and which~~ which adversely affect the public health, safety, order, convenience and general welfare; ~~the rights, privileges and opportunities threatened by the discriminatory practices are declared to be civil rights;~~

B. ~~To declare as civil rights~~ recognize the rights of all persons, without regard to race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to have equal opportunities with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services;

C. ~~To prevent and prohibit,~~ investigate, and mediate any and all discriminatory practices based on race, color, sex, creed, religion, ancestry, disability, familial status, or national origin with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services;

D. To protect all persons from unfounded charges of discriminatory practices; and

E. To effectuate the foregoing policy by means of public information and education, mediation and conciliation, ~~and enforcement.~~

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.020 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.020 Definitions.

For the purposes of this chapter, the following words and phrases shall ~~have the meanings respectively ascribed to them as follows:~~

A. ***COMPLAINT COMPLAINANT.*** A person on whose behalf a complaint alleging unlawful discrimination has been filed.

B. ***DISCRIMINATION.*** Any act or attempted act which because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin results in the unequal treatment or separation or segregation of any person, or denies, prevents, limits or otherwise adversely affects or if accomplished would deny, prevent, limit or otherwise adversely affect, the benefit or enjoyment by any person of employment, membership in a labor organization, ownership or occupancy of real property, a public accommodation, a public service or an educational institution.

C. ***EDUCATIONAL INSTITUTION.*** Any university, college or school operating within the city, including any school, institution or organization for vocational training, but the term shall not apply to the students of, or the education provided by, any school maintained and operated by a religious corporation, or association solely for the benefit of its own membership.

D. ***EMPLOY.*** To use or be entitled to the use and benefit of the services of a person as an employee.

E. ***EMPLOYER.*** Any person within the city who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the city, but the term “employer” shall not include any person with respect to the hiring or employment of a household domestic servant, or any religious corporation, association or society with respect to the hiring or employment of individuals of a particular religion, when religion shall be a bona fide occupational qualification for employment, provided such selection is not based on race, color, ancestry or national origin.

F. ***EMPLOYMENT.*** The state of being employed as an employee by an employer.

G. ***EMPLOYMENT AGENCY.*** Any person regularly undertaking, with or without compensation, to procure for employees opportunities to work for any employer and includes any agent of such a person.

H. ***HIRE.*** To engage or contract for, or attempt to engage or contract for, the services of any person as an employee.

I. ***LABOR ORGANIZATION.*** Any person, employee representation committee, or plan in which employees participate, and which exists wholly or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment and shall include any conference, general committee, joint or system board or joint Council.

J. **LAWYER.** A person duly authorized and licensed by the state to engage in the practice of law.

K. **PUBLIC ACCOMMODATIONS.** The services and facilities of any and all places of business within the city engaged generally in the provision of services or goods to the public or soliciting generally the public patronage, including, without limitation, theaters, hotels, motels, restaurants, taverns, barbershops, beauty shops, insurance companies, lending organizations, financial institutions and carriers.

L. **PUBLIC SERVICES.** The services or facilities provided within the city to the general public.

M. **REAL ESTATE BROKER/REAL ESTATE SALESMAN.** A real estate broker and a real estate salesperson, as defined by state law.

N. **REAL PROPERTY.** Any right, title, interest in or to the possession, ownership, enjoyment or occupancy of any parcel of land, any building situated thereon or any portion of a building in the city.

O. **RESPONDENT.** A person against whom a complaint alleging unlawful discrimination has been filed or issued.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.030 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.030 Unlawful acts.

The following are declared to be unlawful discrimination:

A. For an employer, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to fail or refuse to hire, to discharge an employee or to accord adverse, unlawful or unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge or any term or condition of employment;

B. For an employment agency, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to accord adverse, unlawful or unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge, or any term or condition of employment;

C. For any labor organization, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to deny full and equal membership rights to an applicant for membership or to a member, to expel, suspend or otherwise discipline a member or to accord adverse unlawful or unequal treatment to any person or employee with respect to

application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge or any term or condition of employment;

D. For any person having any interest in real property, any real estate broker, or any real estate agent, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to fail or refuse to sell, rent, assign or otherwise transfer any real property to any other person, or to accord adverse, unlawful, or unequal treatment to any person with respect to the acquisition, occupancy, use or employment of any real property;

E. For any person engaged in the provision of public accommodations, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to fail or refuse to provide to any person access to the use of and benefit from the services and facilities of such public accommodations; or to accord adverse, unlawful or unequal treatment to any person with respect to the availability of the services and facilities, the price or other consideration thereof, the scope and quality thereof, or the terms and conditions under which the same are made available, including terms and conditions relating to the credit, payment, warranties, delivery, installation and repair;

F. For any person engaged in the provision of public services, by reason of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to fail or refuse to provide to any person access to the use and benefit thereof, or the terms and conditions under which the same are made available, including terms and conditions relating to the credit, payment, warranties, delivery, installation and repair;

G. For any person, because of race, color, sex, creed, religion, ancestry, disability, familial status, or national origin, to conceal or attempt to conceal any unlawful discrimination, to aid, abet, compel, coerce, incite, induce or attempt to induce, another person to discriminate or by any means, trick, artifice, advertisement or sign, or by use of any form of application, or by making any record or inquiry, or by any device whatsoever to bring about or facilitate discrimination, or to engage in or threaten to engage in any reprisal, economic or otherwise, against any person by reason of the latter's filing a complaint or testifying or assisting in the observance and support of the purposes and provisions of this chapter,

H. For any person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property, to discriminate against any person or group of persons, because of the race, color, sex, creed, religion, ancestry, disability, familial status, or national origin of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing the financial assistance, or in the rates, terms, conditions or extension of services in connection therewith; and

I. Wherever religious organizations or bodies are exempt from any of the provisions of this chapter such exemption shall apply only to religious qualifications for employment or residence in church owned or operated property, and the organizations shall not be exempt from

any provisions of this chapter relating to discrimination based upon race, color, sex, ancestry, disability, familial status, or national origin.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.040 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.040 ~~Responsibilities and duties of city employees~~ Claim against city, officials, employees, agents and servants.

~~All officials, agents, employees and servants of the city, elected or appointed, whether serving with or without compensation, shall observe the terms and provisions of this chapter and shall, except as expressly prohibited by law, respond to any and all requests by the Commission for information and for access to data and records for the purpose of enabling the Commission to carry out its responsibilities under this chapter. The failure of any such official, agent, employee or servant of the city to comply with any provision of this chapter relating to any matter within the scope of his or her official duties shall be deemed a violation of this chapter. Any and all complaints alleging unlawful discrimination made against the City of Rapid City, its officials, employees, agents and servants shall be referred by the Commission to the State's Commission of Human Rights.~~

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.060 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.060 ~~Commission-Members-Composition-Compensation.~~

~~The Commission shall be composed of 14 7 members, ~~of which 12 members will~~ all of whom shall be legal residents of the city ~~or individuals whose primary source of income is from within the city,~~ and all of whom shall serve without pay and shall be appointed pursuant to § 2.64.070. ~~Minorities shall be represented to the extent of not less than the percent of population the group reflected in the most recent census of the city. Due regard shall be given to representation of minorities on the Commission. In addition to the preceding, 1 person shall be appointed as a voting member by the commander of Ellsworth Air Force Base and, in addition, 1 member of the Common Council appointed by the Council shall be a voting member. The Mayor shall serve as an ex officio member.~~~~

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.070 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.070 ~~Commission-Members-Appointment- Terms.~~

The Mayor, with the approval of the Common Council shall appoint each member of the Commission for a term of 3 years; provided that, upon organization of the Commission, 4 3 members shall be appointed for a 3-year term, 4- 2 members for a 2-year term and 4 2 members

for a 1-year term. Thereafter, appointment shall be made as they expire for the full term of 3 years. ~~A.~~ All terms of office shall expire on July 1. However, any person whose term has expired ~~not terminated for cause~~ shall continue to serve until the appointment and qualification of a successor.

~~B.—The Mayor shall submit to the Legal and Finance Committee of the Common Council the names and resume of qualifications of all appointees at least 2 weeks in advance of any appointment.~~

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.100 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.100 Commission—Purposes and powers.

~~A.~~ The Commission shall may investigate any and all discriminatory practices based on sex, race, color, creed, religion, ancestry, disability, familial status, or national origin with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services ~~and to effectuate the foregoing purposes the Commission shall have the following powers:~~

~~A.B.~~ The Commission may act to disseminate information, to engage in and cooperate with programs of research and education, to cooperate with persons or groups interested in similar objectives, to conduct public meetings, to mediate and conciliate the instances of alleged discrimination, and to approve stipulations, consent orders and agreed settlements, and refer matters to state's ~~Human Relations Commission~~ of Human Rights or any other local, state or federal agency or department of government.

~~B.—In matters mediated or conciliated, the Commission may issue cease and desist orders provided all parties have stipulated or consent in writing to the mediation or conciliation by the Commission.~~

~~C.—In the hearing of verified complaints the Commission shall have the power and authority to subpoena and examine witnesses, administer oaths, take testimony and require the production for examination of relative books or papers and to take such other affirmative action as in the judgment of the Commission will effectuate its purposes. For the purpose of this subsection, affirmative action shall include, but not be limited to housing accommodations requiring the respondent to rent, sell or lease housing to a complainant or the award of actual damages; hiring, reinstatement or upgrading of employees, with or without backpay; the referring of applicants for employment by any respondent employment agency; the admittance or restoration to membership by any respondent labor organization; the admission to or continuation in enrollment in an apprenticeship program, on the job training program, the posting of notices, and the making of reports as to the manner of compliance, as in the judgment of the Commission shall effectuate the purpose of this chapter.~~

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.120 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

2.64.120 Commission–Reporting requirements.

The Commission shall make a report to the Common Council on or before January 1, 1974, 2009, and every 6 months thereafter, and at such other times as the Council may direct.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.130 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is amended to read as follows:

~~2.64.130 Commission Establishment of central office, telephone or agency for filing of complaints.~~

~~The Commission shall may establish a central office, telephone or other agency as it deems proper for the filing of complaints.~~

2.64.130 Commission has exclusive authority.

The Human Relations Commission created by this chapter shall have the exclusive authority to investigate and mediate allegations of violations of Section 2.64.030. The Commission may refer any complaints it receives to the appropriate state or federal agency for further action or investigation either in its discretion or where required by this ordinance. Investigation, mediation or referral to the appropriate state or federal agency by the Commission shall be the sole remedies for violations of Section 2.64.030.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 2.64.140 of Chapter 2.64 of the Rapid City Municipal Code be and hereby is added to read as follows:

2.64.140 Procedure.

The following procedure will be followed by the Commission:

A. Upon receipt of a formal written complaint, the Commission shall meet within thirty (30) days.

B. The Commission forwards complaint to the alleged violator and requests a response within 30 days.

C. If no response is received from the alleged violator, the Commission shall direct the preparation of its own findings and follow the requirements of subsections H through I of this section.

D. Upon receipt of a response, the Commission shall review the complaint and response and determine whether there is probable cause to support the allegations contained in the complaint.

E. If the Commission determines there is probable cause to support the allegations contained in the complaint, the Commission shall set a time for mediation between the parties and shall notify the parties of its determination and the time and place of the mediation.

F. If the mediation results in an agreement between the parties, the agreement shall be reduced to writing, signed by both parties and be adopted by the Commission.

G. If no agreement is reached through the mediation process or if the respondent declines to participate in mediation, the Commission shall direct the preparation of its own findings on the complaint.

H. The Commission shall review the findings and approve, amend, or reject the findings.

I. Except in the case of a settlement, upon approval of the Commission's findings, the original complaint, along with the Commission's findings shall be forwarded to the South Dakota Human Relations Commission.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: