



Human Relations Commission Agenda

7:00 p.m. Regular Meeting
Thursday, February 7, 2019
City Hall: Large Conference Room
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Adoption of the Agenda**
3. **Approval of the Minutes**
 - a. January 3, 2019
4. **Visitors to be Heard**
5. **Old Business**
 - a. Approve final version of complaint form
 - b. Approve final version of respondent form
 - c. Potential changes to HRC Ordinance
 - d. Update on HRC logo
 - e. Email address
6. **New Business**
 - a. Review of Poster designs
7. **Adjourn**

Access the Human Relations Commission Agenda on the web – www.vermillion.us

Addressing the Commission: Persons addressing the Council shall be recognized. Please raise your hand to be recognized and state your name and address.

a. Items Not on the Agenda Members of the public may speak under Visitors to Be Heard on any topic NOT on the agenda. Remarks are limited to 5 minutes and no decision will be made at this time.

b. Agenda Items: Public testimony will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes may speak one time for 5 minutes on each agenda item. Public testimony will then be closed and the topic will be given to the governing body for possible action. At this point, only commission members and staff may discuss the current agenda item unless a commission member moves to allow another person to speak and there is unanimous consent from the commission. Questions from commission members, however, may be directed to the public through the presiding officer at any time.

Meeting Assistance: The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

As a courtesy to others, we ask that cellular phones and pagers be turned off during the meeting.

Unapproved Minutes
Human Relations Commission
Thursday January 3, 2019 Regular Meeting

The regular meeting of the Human Relations Commission was called to order in the Large Conference Room at City Hall on January 3, 2019 at 7:00 p.m.

1. Roll Call

Present: Daniel Sundberg, Calvin Petersen, Quinn Thornton, Travis Letellier, Lamont Sellers, Addison McCauley, Shannon Cole

Absent: Mark Daniels, Marina Sereda

Staff present: John Prescott, City Manager
James Purdy, Assistant City Manager

2. Adoption of the Agenda

Commissioner Sellers motions to approve the agenda, seconded by Commissioner Petersen. Motion carried.

3. Minutes

a. October 6, 2018 regular meeting.

b. October 8, 2018 special meeting.

Commissioner Petersen motions to approve the minutes, seconded by Commissioner Sellers. Motion carried.

4. Visitors to be Heard

None

5. Old Business

a. Drop-box at City Hall for complaints

5a. Chair McCauley asked if the City would be willing to have a drop box put in City Hall for complaints.

John Prescott, City Manager, stated that he would prefer to wait and see if the need for a drop box develops. John noted that to his knowledge neither the Human Relations Commissions in Rapid City and Brookings have ever heard a complaint.

After a brief discussion the Commission determined that the current options available to the public for filing complaints are sufficient.

6. New Business

a. Discussions regarding jurisdiction

b. Poster Design

c. Review of templates/forms

6a. Chair McCauley asked whether it is the complainant's place of residence or the location the alleged discrimination took place that determines whether or not the Vermillion Human Relations Commission has jurisdiction to hear a complaint.

John Prescott, City Manager, stated that he believes jurisdiction will be established based on the location that the alleged discrimination took place. John also stated that if any questions arise regarding jurisdiction that the City Attorney would be available to assist.

6b. Commissioner Petersen stated that he believes a poster would help advertise the Commission to the public.

Shannon Cole, Commission advisor, led a discussion regarding the Commission needing to establish a brand. Shannon stated that good branding starts with a good logo, and that she would be happy to create a logo based around the City's primary logo. City staff will look into providing Shannon with a copy of the original image used to create the City's logo.

The Commission then exchanged various ideas regarding what the poster could potentially look like. Commissioner Sellers stated that it would be easier to view sample posters rather than having a discussion. It was decided that next meeting some members of the group will bring poster designs for consideration.

Commissioner Petersen motioned to table the discussion of poster designs until the next meeting, seconded by Commissioner Thornton. Motion carried.

6c. Chair McCauley presented updated copies of templates/forms for the Commission to review. Shannon Cole, Commission Advisor, suggested that footnotes including the form name and page number be added. There was also a discussion regarding splitting the respondent form into two different pages.

The Commission then discussed how much information would be disclosed to the respondent, and at which stage in the complaint process. The commission decided that it would best for that decision to be on a case-by-case basis.

The Commission also discussed question number nine on the prospective intake/complaint form that was presented. Several Commissioners suggested that the question be removed. John Prescott, City Manager, stated that he would like the question to be amended to include language clarifying the role of the Commission. It was determined that City Staff will add language to that affect, and present an updated version of the form at the next meeting.

The subcommittee report form and the final determination form were approved without revisions. At the next meeting City Staff will present a final version of the complaint/intake and respondent form for approval. The Commission will also discuss proposed changes to the VHRC Ordinance and review poster designs submitted for consideration.

7. Adjourn

Moved by Commissioner Petersen to adjourn, seconded by Commissioner Sellers. Motion carried at 8:35 p.m.

Vermillion Human Relations Commission

Lamont Sellers, Secretary

Vermillion Human Relations Commission Complaint Questionnaire

1. Your Information (Complainant)

Name: _____
First Middle Initial Last

Address: _____ Apt. No. : _____

City: _____ State: _____ Zip: _____

Daytime Phone: _____

Email: _____

Employer: _____

2. Name of Other Party (Respondent)

Please provide as much information as you can.

Name: _____
First Middle Initial Last

Address: _____ Apt No. : _____

City: _____ State: _____ Zip: _____

Daytime Phone: _____

Email: _____

3. Has the alleged discrimination taken place within Vermillion city limits?

Yes No

Has the alleged discrimination taken place within the past 180 days?

Yes No

Any verified complaint filed with the Commission must be filed within 180 calendar days after the last occurrence of an alleged discriminatory or unfair practice. The Commission will still hear any complaint after 180 days has passed, but for record keeping and referral purposes only.

4. Date(s) of Alleged Discrimination Action:

Beginning Date: _____

Ending Date: _____

5. Describe the action taken by the Other Party against you: Use as much detail as possible: witnesses, other victims, location, etc. Attach additional sheets if necessary.

6. Basis of Complaint: Check the category or categories that best describe the basis for your claim of discrimination. If none of the following apply, please check "Other". Only provide accompanying information if it is relevant to your case.

Race

What is your race? _____

Age

What is your age? _____

Sex

What is your gender? _____

National Origin

What is your national origin? _____

Religion

What is your religion? _____

Familial Status

What is your familial status? _____

Disability

What is your disability? _____

Other

Explain other: _____

(Including but not limited to: Sexual Orientation, Gender Identity, Marital Status, Military or Veteran Status)

It is the policy of the City that discriminatory practices based on marital status, military or veteran status, gender identity, or sexual orientation, while not prohibited by state law, constitute unfair practices which adversely affect people. The Commission, through public information promotion and as permitted by § 32.50, will seek to improve human relations and eliminate such unfair practices. Accordingly, discriminatory practices based on marital status, military or veteran status, gender identity, or sexual orientation will not be investigated or be the subject of complaint resolution procedure until permitted by state law. However, such acts may be brought to the attention of the Commission by a complainant for determining probable cause exists that an act of discrimination took place, which is consistent with the provisions of § 32.51 for record keeping and referral purposes only.

7. Reason for Action(s) as stated by the Other Party: Use as much detail as possible: dates, witnesses, other victims, location, etc. Attach additional sheets if necessary.

Were you given a copy of the rules and policies?

Yes No

Is there a written or verbal policy that covers the action taken against you?

Yes No

If yes, Please describe it below

8. What remedy are you seeking? (The Commission may only make a referral to an appropriate state or other regulatory bodies and relevant resources that may help to remedy the matter.)

The Vermillion Human Relations Commission does not charge any fees for its services. The Commission cannot endorse or recommend any particular attorney.

I, the Complainant as indicated above, solemnly declare and affirm that this information is, to the best of my knowledge, true and correct.

Signature

Date

You may submit your claim in the following ways: hand in this form to the City Manager's Office at City Hall, email to vhrc@cityofvermillion.com, or mail to:

City of Vermillion
Human Relations Commission
25 Center Street
Vermillion, SD 57069

If you require additional assistance or accommodations in any aspect of this process, please contact the City of Vermillion at 605-677-7050.

DRAFT



10 Human Relations Commission
25 Center Street • Vermillion, SD 57069
Ph: 605.677.7050 • Fax: 605.677.5461
vhrc@cityofvermillion.com
www.vermillion.us

Dear _____:

You are receiving this notice because a formal complaint has been made by ____ against you.

[Brief description of complaint]

This complaint will be reviewed by the Vermillion Human Relations Commission, in accordance with §§32.40-32.60 in the Vermillion, South Dakota Code of Ordinances.

No decision has been made as to the actions to be taken in respect of this complaint. Please complete the form below. You may also be given an opportunity to explain your version of events at a formal exploratory meeting that may be held in the future.

Please Note: In accordance with §32.54 (B) of the Vermillion, South Dakota Code of Ordinances, you must submit the attached respondent form within 14 days from day of delivery or else forfeit your right to be heard by the Vermillion Human Relations Commission with regard to this complaint.

PART 1: PERSONAL INFORMATION

Name:	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>
Address:		Today's Date:	

PART 2: RESPONSE

A. DESCRIPTION. Indicate below your response. Be sure to address specifically the issues raised in the complaint. Use as much detail as possible: witnesses, other victims, location, etc. Attach additional sheets if necessary.

DRAFT

PART 3: CERTIFICATION

I, the Respondent as indicated above, hereby solemnly declare and affirm that all information submitted on this Grievance Response Form is true and complete to the best of my knowledge and belief.

Respondent's Signature:	Date:
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Please return this form to:

You may submit your claim in the following ways: hand in this form to the City Manager's Office at City Hall, email to vhrc@cityofvermillion.com, or mail to:

City of Vermillion
Human Relations Commission
25 Center Street
Vermillion, SD 57069

If you require additional assistance or accommodations in any aspect of this process, please contact the City of Vermillion at 605-677-7050.

Sincerely,

The Vermillion Human Relations Commission

ORDINANCE 1377

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE III, ADMINISTRATION; CHAPTER 32, CITY ORGANIZATIONS TO CREATE, PROVIDE THE STRUCTURE FOR AND RESPONSIBILITIES OF A HUMAN RELATIONS COMMISSION.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that the Code of Ordinances Title III, Administration; Chapter 32, City Organizations add the following sections:

VERMILLION HUMAN RELATIONS COMMISSION

§ 32.40 CREATION AND PURPOSE.

(A) The City of Vermillion, South Dakota hereby establishes the Vermillion Human Relations Commission.

(B) The purpose of the Commission is to (1) promote human and civil rights for all citizens and visitors of the City, disseminate information, conduct public meetings, and engage and cooperate with persons in groups interested in similar objectives, and (2) receive and address complaints alleging any discriminatory or unfair 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 services, or public accommodations with such investigation and inquiry as may reasonably appear necessary.

§ 32.41 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADA. The Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq.

CITY ATTORNEY. The duly appointed attorney for the City of Vermillion or such person designated by the City Attorney.

THE COMMISSION. The Vermillion Human Relations Commission.

COMPLAINANT. A person for whom, or on whose behalf, a verified complaint alleging unlawful discrimination has been filed or issued.

DISABILITY. A physical or mental impairment of a person resulting from disease, injury, congenital condition of birth or functional disorder which substantially limits one or more of the person's major life functions; a record of having an impairment; or being regarded as having an impairment which:

(A) For purposes of §32.49 (A) through (C), inclusive, is unrelated to an individual's ability to perform the major duties of a particular job or position, or is unrelated to an individual's qualifications for employment or promotion;

(B) For purposes of §32.49 (D) and (H) is unrelated to an individual's ability to acquire, rent, or maintain property; and

(C) For purposes of §32.49 (E) and (F) is unrelated to an individual's ability to utilize and benefit from opportunities, programs, and facilities of accommodations and services.

This term does not include current illegal use of or addiction to marijuana as defined in subdivision 22-42-1(7) or a controlled substance as defined in subdivision 22-42-1(1).

DISCRIMINATORY OR UNFAIR PRACTICE. Any unlawful act or attempted unlawful act which, because of sex, race, color, creed, religion, ancestry, disability, national origin or familial status, 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, a labor union membership, housing accommodations, property rights, education, public accommodations, and public services. ***DISCRIMINATORY OR UNFAIR PRACTICE*** as defined above is unlawful and is a violation of this subchapter. In addition, it is the policy of the City that discriminatory practices based on marital status, military or veteran status, gender identity, or sexual orientation, while not prohibited by state law, constitute unfair practices which adversely affect people. The Commission, through public information promotion and as permitted by §32.50, will seek to improve human relations and eliminate such unfair practices. Accordingly, discriminatory practices based on marital status, military or veteran status, gender identity, or sexual orientation will not be investigated or be the subject of complaint resolution procedure until permitted by state law. However, such acts may be brought to the attention of the Commission by a complainant in the form of a verified complaint, which is consistent with the provisions of § 32.51 for record keeping and referral purposes.

DOCUMENTS. Any and all records of communication that contain or relay information received by the Commission, including, but not limited to, paper records and digital records.

EDUCATIONAL INSTITUTION. Any public or private institution of education and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, and any business, nursing, professional, secretarial, technical, or vocational school, and includes any agent of such institutions.

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

EMPLOYEE. Any person who perform services for any employer for compensation, whether in the form of wages, salary, commission or otherwise.

EMPLOYER. Any person within the State of South Dakota 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 State of South Dakota.

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

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

FAMILIAL STATUS. The relationship of individuals by birth, adoption, or guardianship who are domiciled together. A family is one or more individuals under the age of 18 domiciled with their parent, legal custodian or person granted custody with permission of the parent or custodian. This definition includes a person who is pregnant or is in the process of securing custody of a person under the age of 18 years. Discrimination on basis of familial status applies to housing accommodations only.

FILE. To submit a verified complaint or verified answer to the Commission, the respondent, or any court of competent jurisdiction.

GENDER IDENTITY OR EXPRESSION. A term meaning a gender-related identity, appearance, expression or behavior of an individual regardless of the individual's assigned sex at birth.

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

LABOR ORGANIZATION. Any person, employee representation committee, plan in which employees participate, or other organization 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.

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

MARITAL STATUS. The state of being married, single, divorced, separated or widowed.

MILITARY STATUS. Any person who is presently a member of the armed forces of the United States on active duty, in the military ground, naval or air service of the United States on active duty.

PERSON. One or more individuals, partnerships, associations, limited liability companies, corporations, unincorporated organizations, mutual companies, joint stock companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers, labor organizations, public bodies, public corporations, and the state and all political subdivisions and agencies thereof.

PROBABLE CAUSE. In accordance with SDCL 20-13-1.1, for purposes of findings under this subchapter, **PROBABLE CAUSE** is defined as a determination that it is more likely than not that the charging party and members of class, or both, were discriminated against based on a violation of this subchapter. The likelihood that discrimination occurred is assessed based upon

evidence that establishes a prima facie case, and if the respondent has provided a viable defense, whether there is evidence of pretext.

PUBLIC ACCOMMODATIONS. Any 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, charge, or gratuitously. Public accommodation does not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the general public for fee or charge or gratuitously, it shall be deemed a public accommodation during such period of use.

PUBLIC SERVICE. Any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the State of South Dakota, any political subdivision thereof, or any other public corporation.

REAL ESTATE BROKER OR REAL ESTATE SALESPERSON. A real estate broker and a real estate salesperson as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-47.

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 the building in the City of Vermillion.

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

SEXUAL HARASSMENT. A form of sex discrimination. Sexual harassment may take the form of deliberate or repeated comments, questions, representations or physical contacts of a sexual nature which are unwelcome to the recipient. Sexual harassment may also take the form of conduct that has the purpose or effect of creating an intimidating, hostile or offensive environment.

SEXUAL ORIENTATION. A term describing a person's attraction to members of the same sex and/or a different sex, usually defined as lesbian, gay, bisexual, heterosexual, or asexual.

VERIFIED ANSWER. A written response to a verified complaint, signed and verified by the respondent under oath.

VERIFIED COMPLAINT. A written allegation of discriminatory or unfair practice, signed and verified by the complainant under oath.

VETERAN. Any person who served honorably on active duty in the armed forces of the United States.

§ 32.42 DECLARATION OF POLICIES AND PURPOSES THEREOF.

It is the public policy of the City and the purpose of this subchapter:

(A) That discriminatory practices or unfair practices based on race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services, or any of them, tend to adversely affect the public health, safety, order, convenience, and general welfare;

(B) To declare as civil rights the rights of all persons to the fullest extent of their capacities, and without regard to race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, equal opportunities with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services;

(C) To prevent, prohibit, and eliminate to the extent permitted by this subchapter, any and all discriminatory or unfair practices based on race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, or public services;

(D) To protect, to the extent permitted by this subchapter, all persons from unfounded charges of discriminatory or unfair practices; and

(E) To effectuate this policy by means of public information promotion, alternative dispute resolution procedure, and resource referral as prescribed by this subchapter.

§ 32.43 COMPOSITION OF THE COMMISSION.

The Commission shall consist of seven (7) members, all of which shall be residents of the City of Vermillion for no less than six (6) months, and shall be appointed by the Mayor, subject to approval by the City Council. In selecting members, due regard shall be given to representation of minority groups on the Commission. One (1) member of the Commission appointed shall, to the extent available, be a student enrolled in a post-secondary educational institution. If a student member is not available, the seat shall remain vacant until such time that a student member becomes available.

§ 32.44 TERM OF OFFICE; OFFICERS; COMPENSATION.

(A) All members of the Commission shall serve for terms of three (3) years, except the student member who shall serve a term of one (1) year. Nothing shall preclude a Commission member from serving consecutive terms.

(B) At inception of the Commission, the terms shall be staggered with two (2) members serving three (3) year terms, two (2) members serving two (2) year terms, and three (3) members, including the student member, serving a one (1) year term.

(C) The Commission shall designate from among its membership a Chairperson, Vice-Chairperson, and such other officers and subcommittees as it may deem reasonably appropriate and necessary.

(D) All members of the Commission shall serve without compensation.

§ 32.45 VACANCIES.

If a vacancy on the Commission occurs prior to the expiration of a member's term, of May, then the vacancy may be filled by appointment for the remainder of the vacated term. All terms commence and expire on the first Monday in May. If a member is absent from three (3) consecutive regular meetings without authorization from the Commission, the member's seat may be considered vacant, and a new member may be appointed for the remainder of the vacated term.

§ 32.46 MEETINGS.

The Commission shall meet at such times and places as may be determined by such Commission.

§ 32.47 QUORUM/RULES AND REGULATIONS.

(A) A majority of the voting members of the Commission then holding a current appointment shall constitute a quorum for the transaction of all business.

(B) The Commission shall adopt suitable rules and regulations for the conduct of its operations and the effectuation of the purposes of this subchapter which are consistent with the powers and duties outlined within this subchapter.

§ 32.48 RESPONSIBILITIES AND DUTIES OF CITY EMPLOYEES.

All officials, Commissioners, agents, employees, and servants of the City, elected and appointed, including civil service employees, and whether serving with or without compensation, shall observe the terms and provisions of this subchapter, and shall, except as expressly prohibited by law, and once approved at the discretion the City Manager, respond promptly to any and all reasonable 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 subchapter. The failure of any official, Commissioner, agent, employee, or servant of the City to comply with any provision of this subchapter relating to any matter within the scope of his or her official duties, unless lawfully directed to do so by the City Manager, shall be deemed a violation of this subchapter.

§ 32.49 SPECIFIC DISCRIMINATORY OR UNFAIR PRACTICES.

(A) For an employer, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, 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, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, to accord adverse, unlawful, or unequal treatment to any person in connection with any application for employment, any referral, or any request for assistance in procurement of employees, or to accept any listing of employment on that basis;

(C) For any labor organization, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, 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 with respect to his or her hiring, apprenticeship, training, tenure, compensation, upgrading, layoff, or any term or condition of employment;

(D) Owner of rights to housing or real property, or any person acting for an owner, with or without compensation, including any person licensed as a real estate broker or salesman, attorney, auctioneer, agent, or representative by power of attorney or appointment, or to any person acting under court order, trust, or will, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, 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, and enjoyment of any real property. The provisions of this section do not apply to rooms or units in dwellings that contain living quarters for no more than two families living independently of each other, if the owner maintains and occupies one of the living quarters as his or her residence.

(1) For the purposes of determining discrimination based on familial status, a family shall be interpreted as one or more individuals under the age of 18 who are domiciled with their parent, legal custodian, or person granted custody with permission of the parent or custodian. This definition includes a person who is pregnant or in the process of securing custody of a person under the age of 18. Discrimination based on familial status applies to housing accommodations only.

(2) The provisions of this section as they refer to familial status do not apply to residences publicized as specifically designated for older or disabled residents if:

a) A state or federal program has designated the residence for the elderly;

b) The residences are intended for, and solely occupied by, persons 62 years of age or older; or

c) Facilities and services for the residence are designed to meet the needs of the elderly, and at least 80 percent of the units are occupied, or intended to be occupied, by one or more persons 55 years of age or older.

(3) It is an unfair or discriminatory practice to design or construct for first occupancy any multi-family dwelling with more than four (4) units for sale, rent, lease, assignment, sublease, or transfer that does not enable accessibility to ground floor common areas and usability of ground floor housing units by disabled persons or by wheelchairs. If the building has elevators, all housing units and common areas shall be usable by disabled persons and persons in wheelchairs. The accommodations may include widened doors, lowered electrical switches and outlets, lowered environmental controls, grab bars or reinforcements, and/or kitchens and bathrooms usable by the disabled. Nothing in this provision may be construed to require prior approval of plans for construction by the Commission.

(4) It is also discriminatory to refuse to permit, at the expense of the disabled person, reasonable modifications of existing property that may be necessary to afford full enjoyment of the property. The landlord may, where it is reasonable to do so, condition permission for re-modification on the renter's agreeing to restore the premises to the condition that existed prior to the modification at the conclusion of renter's tenancy, reasonable wear and tear excepted.

(E) For any person engaged in the provision of public accommodations, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, to fail or refuse to provide to any person access to the use of and benefit from the services and facilities of those 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 therefor, the scope and quality thereof, or the terms and conditions under which such are made available, including terms and conditions relating to credit, payment, warranties, delivery, installation, and repair;

(F) For any person engaged in the provision of public services, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, to fail or refuse to provide to any person access to the use and benefit thereof, or the terms and conditions under which such are made available;

(G) For any person, because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation, directly or indirectly, to conceal any unlawful discrimination; to aid, abet, compel, coerce, incite, or induce another person to discriminate; to, by any means, trick, mislead, advertise, or sign, any person to use any form of application, make any record or inquiry, or use any device or artifice whatsoever to bring about or facilitate discrimination; or to engage in, or threaten to engage in, any reprisal, economic or otherwise, against any person because of the

latter's filing a charge, testifying, or assisting in the observance and support of the purposes and provisions of this subchapter;

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

(I) Wherever religious organizations or bodies are exempt from any of the provisions of this subchapter, the exemption shall apply only to religious qualifications for employment or residence in church-owned or church-operated property, and the organizations shall not be exempt from any provisions of this subchapter relating to discrimination based upon race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, or sexual orientation;

(J) Nothing in this subchapter requires the following people to modify property in any way, incur any additional expenses, or exercise a higher degree of care for persons having a disability than for a person who does not have a disability nor does this subchapter relieve any person of any obligations generally imposed on all persons, regardless of any disability, in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including, but not limited to, financial obligations of the lease, agreement, or contract:

(1) Employer;

(2) Provider of public accommodations;

(3) Provider of public services;

(4) Person selling, renting, or leasing real property;

(5) Person acting on behalf of any of the persons listed in subsections (J)(1)-(4) above, with or without compensation, including but not limited to any person licensed as a real estate broker or salesman, attorney, auctioneer, agent, or representative by power of attorney or appointment; and

(6) Person acting under court order, trust, or will.

§ 32.50 SUBSTANTIVE AND PROCEDURAL AUTHORITY AND DUTIES.

The authority and duties of the Commission shall be to:

(A) Promote human and civil rights for all citizens and visitors of the City;

(B) Promote a mutual understanding and respect among all racial, religious, and nationality groups and work to discourage and, to the extent permitted by this subchapter, prevent discriminatory practices against any such group;

(C) Attempt to foster, through community effort or otherwise, goodwill, cooperation, and equality;

(D) Study and determine the existence, character, causes, and extent of discrimination in employment, housing accommodations, property rights, education, public accommodations, and public services in the City, and discrimination based on age, disability, marital status, military or veteran status, familial status, ethnicity, religion, sexual orientation, and gender identity. The study and determination of discrimination is based on a broad understanding of civil and human rights as embodied in the 1964 Civil Rights Act as amended, which includes race, color, religion, gender, and country of origin;

(E) Seek to prevent and eliminate stereotyping and discrimination because of race, color, sex, creed, religion, ancestry, national origin, familial status, disability, marital status, military or veteran status, gender identity, and sexual orientation by means of public information promotion, alternative dispute resolution procedures, and referral, and to utilize all the powers set forth in this subchapter to carry into execution the provisions of this subchapter;

(F) Receive verified complaints alleging discrimination and conduct inquiries as reasonably necessary to find the facts with respect thereto. Inquiries can only be initiated upon the receipt of a verified complaint and shall be limited to means, actions, and tactics which are not inconsistent with the provisions of this subchapter, and to the allegations contained in the verified complaint;

(G) Conduct public meetings, and gather and disseminate information to governmental agencies and to the public;

(H) Utilize the records and services of municipal, state, and federal governmental departments and agencies to the extent permitted by law and by the provisions of this subchapter, and pursuant to agreement with departments and agencies may raise matters for preliminary inquiry and referral;

(I) Furnish to any appropriate state or federal agency having jurisdiction in the premises a transcript of the findings in and about any case which the Commission has investigated and a court of competent jurisdiction may inquire;

(J) Request the cooperation of various racial, religious, and ethnic groups, community, civil, labor, and business organizations, student organizations, fraternal and benevolent associations, veterans' organizations, and other groups in informational campaigns and programs devoted to promoting diversity celebration and emphasizing the need for eliminating group tensions, prejudices, intolerance, bigotry, and unlawful discrimination;

(K) Cooperate with federal, state, and city agencies in developing programs showing the contributions of the various groups to the culture and traditions of our City and nation, the

menace of prejudice, intolerance, bigotry, stereotyping, and unlawful discrimination, and the need for mutual respect;

(L) Advise the Mayor, City Council members, City Manager, and the respective departments of the City concerning matters consistent with the purposes and powers of the Commission;

(M) Recommend ordinances and other legislation pertinent to the purposes of protection of human rights;

(N) Promote or conduct informational programs, and disseminate information in furtherance of the purposes and policies of the Commission; and

(O) Hear and inquire into verified complaints alleging discrimination regarding the City of Vermillion in accordance with the procedures set forth in this subchapter. Pursuant to state law, there is presently no legal authority to investigate verified complaints alleging discrimination because of marital status, military or veteran status, gender identity, or sexual orientation. Accordingly, until state law authorizes municipalities, pursuant to SDCL 20-12-4, to investigate discriminatory practices based on marital status, military or veteran status, gender identity, or sexual orientation, these discriminating practices cannot be investigated by the Commission. However, such acts may be brought to the attention of the Commission by a complainant in the form of a verified complaint, which is not inconsistent with the provisions outlined in §32.51, for record and referral purposes. The Commission shall have no regulatory enforcement powers which are inconsistent with the provisions of this subchapter.

§ 32.51 FILING A VERIFIED COMPLAINT.

(A) Any person claiming to be aggrieved by a discriminatory practice may file with the Commission a verified complaint which shall state the name and address of each person complained against (respondent[s]) and shall set forth the pertinent facts as known to the complainant.

(B) Any verified complaint filed with the Commission under this subchapter shall be filed within one hundred and eighty (180) calendar days after the last occurrence of an alleged discriminatory or unfair practice.

§ 32.52 SERVICE OF RESPONDENT AND VERIFIED ANSWER.

Promptly upon the filing of any verified complaint with the Commission, the Commission shall serve a copy thereof, by personal service or registered or certified mail, unto the respondent. The respondent shall file a verified answer thereto within ten (10) business days after receipt thereof or within any period of extension granted by the Commission Chairperson. The verified complaint and verified answer shall remain confidential documents until such time as the matter is referred to either a court of competent jurisdiction or to the State Commission of Human Rights.

§ 32.53 DISMISSAL OF COMPLAINT.

(A) The dismissal of a verified complaint may be ordered by the Commission if:

(1) The Commission determines in good faith that the allegations of discrimination are not well founded, or that the supporting facts presented do not amount to probable cause to investigate further;

(2) The Commission determines that the verified complaint has been abandoned or withdrawn by the complainant;

(3) The Commission determines that the verified complaint has been abandoned or withdrawn or because the City is not authorized by state law to investigate it;

(4) The complainant fails to state a claim upon which relief can be granted;

(5) The Commission determines in good faith that the unlawful act or practice complained of has been satisfactorily eliminated and that further proceedings are unnecessary; or

(6) The allegations complained of are being processed or have been addressed to the satisfaction of the Commission by another agency or by a court of competent jurisdiction.

(B) Upon the determination to dismiss a verified complaint, the Commission shall within five (5) business days, serve notice of the determination and reasoning upon the complainant and respondent by personal service or registered or certified mail.

§ 32.54 DETERMINATION OF PROBABLE CAUSE AND REFERRAL.

(A) The Commission shall proceed in good faith to investigate a verified complaint and verified answer to determine whether there is probable cause to support the allegations of discriminatory or unfair practice. The investigative information and materials are confidential until determination of probable cause or lack of probable cause.

(B) If the respondent does not wish to file a verified answer to the verified complaint, probable cause shall be determined with regard to the information available to the Commission.

(C) The Commission may request the complainant and the respondent to appear before the Commission for a pre-determination conference if deemed necessary by the Commission.

(D) If the Commission determines there is no probable cause to support whether the allegations of discrimination are well founded, the Commission shall dismiss the verified complaint and promptly notify both parties via personal service or registered or certified mail along with the reasons for the dismissal. If probable cause is found to support the allegations, the Commission shall promptly transmit the determination of probable cause along with the reasons for the determination to both the complainant and respondent via personal service or registered or certified mail. Additionally, referrals to appropriate state regulatory bodies and other relevant

resources that may help to remedy the matter may also be sent along with the determination of probable cause, if any. Both the complainant and respondent shall be permitted to inspect any documents not prepared by the Commission in the files of the Commission that are relevant to the determination of probable cause.

(E) The Commission shall keep for record any and all documents, or copies thereof, regarding an allegation of discrimination asserted in a verified complaint filed with the Commission.

§ 32.55 CONSULTING WITH THE CITY ATTORNEY.

(A) The Commission may employ the services of the City Attorney for the purpose of consultation.

(B) The Commission must obtain the City Manager's approval before contacting the City Attorney any time the Commission desires to request consultation services from the City Attorney regarding any inquiry.

(C) The Commission shall only request to employ the consultation services of the City Attorney when the Commission members believe that it is necessary for the just and competent effectuation of their duty to determine probable cause regarding a specified matter, or specified matters, within a verified complaint that has been filed with the Commission.

(D) The Commission shall keep for record both the reason for contacting the City Attorney and the notes produced from the consultation.

§ 32.56 TRANSFER AFTER PROBABLE CAUSE DETERMINATION.

If the matter before the Commission is not resolved informally, either party must elect to assert their claims in circuit court in order to have them determined. If such election does not occur within 20 days following notice of probable cause determination, the matter shall be dismissed by the Commission.

§ 32.57 TRANSFER OF COMPLAINTS TO STATE COMMISSION.

Upon the filing of any verified complaint, the parties to the verified complaint shall be notified that any party thereto may, within 15 days, demand as a matter of right that the matter be transferred to the State Commission of Human Rights, which shall process the verified complaint under the provisions of SDCL Ch. 20-13. Immediately upon receipt of notice of a party's demand to transfer the verified complaint under this provision, the Commission shall forward the verified complaint to the State Division of Human Rights and shall thereafter have no further jurisdiction with regard to the verified complaint.

Statutory reference:

Similar provision, see SDCL § 20-12-9

§ 32.58 RIGHTS OF PARTIES NOT ABRIDGED.

Nothing contained in this ordinance shall be construed to limit or abridge other rights of the complainant to pursue other appropriate and available remedies at law or equity.

§ 32.59 APPLICATION TO OTHER DISABILITIES.

The Commission, to the extent permitted by law, is authorized to apply any portion of this subchapter which it may deem applicable to deal with discriminatory actions and practices against individuals or groups disadvantaged by reason of physical or mental disability, and not otherwise within the purview of this subchapter.

§ 32.60 SEVERABILITY CLAUSE.

If any clause, sentence, paragraph, or part of this ordinance, for the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder of this ordinance or the application thereof to other persons or circumstances.

Dated at Vermillion, South Dakota this 18th day of June, 2018.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY John E. Powell
John E. (Jack) Powell, Mayor

ATTEST:

BY Michael D Carlson
Michael D Carlson, Finance Officer

First Reading: June 4, 2018
Second Reading: June 18, 2018
Published: June 29, 2018
Effective: July 19, 2018



**Your City!
Your Rights!**

Our Purpose

- Promote Human and Civil Rights
- Disseminate Information
- Conduct Public Meetings
- Receive and Address Complaints

Visit our Website: _____

Follow us on Facebook:

Email Us: _____

Human Rights Commission

The Commission promotes human and civil rights for all citizens and visitors of the City. Contact the Commission if you have if you have concerns about unfair practices based on sex, race, color, creed, religion, ancestry, disability, family status, or national origin, with respect to employment, labor union membership, housing accommodations, property rights, education, public services, or public accommodations.

**HRC Meetings are Every First
Thursday of the Month in the
City Hall.**





**TO PROMOTE HUMAN AND CIVIL RIGHTS FOR
ALL CITIZENS AND VISITORS OF VERMILLION**

The Human Relations Commission accepts many speaking opportunities throughout the year. For more information or to schedule an event please, contact the Human Relations Commission at VHRC@cityofvermillion.com.

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