

## Key to draft amendments and edits:

Green underline indicates new language added.

~~Red strikethrough~~ indicates language proposed for removal.

## Article XV. Human Rights

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**Sec. 2-430.1. Short title.**

This Article shall be known and referred to as the Charlottesville Human Rights Ordinance.

**Sec. 2-430.2. Definitions.**

- (a) Terms used in this ordinance to describe prohibited discrimination in employment shall have the meanings as ascribed to them under Virginia Human Rights Act. Va. Code §§ 2.2-3900- 3909., Va. Code § 15.2-965 as it relates to “Gender identity” “Military status” “Religion” and “Sexual orientation”, and 42 U.S.C. §§ 1981-2000h-6., as amended.
- (b) Terms used in this ordinance to describe prohibited discrimination in housing shall have the meanings as ascribed to them under the Virginia Human Rights Act, Va. Code §§ 2.2-3900- 3909., Va. Code § 15.2-965 as it relates to “Gender identity” “Military status” “Religion” “Sexual orientation”, and Virginia Fair Housing Law, Va. Code § 36-96.1:1., and 42 U.S.C. § 3602, as amended.
- (c) Terms used in this ordinance to describe prohibited discrimination in public accommodations, credit, and private education shall have the meanings as ascribed to them under the Virginia Human Rights Act., Va. Code §§ 2.2-3900-3909. and Va. Code § 15.2-965. as it relates to “Gender identity” “Military status” “Religion” and “Sexual orientation, and for public accommodation under 42 U.S.C. § 2000a., as amended.
- (d) The term “jurisdictional” as used in this ordinance shall mean that an allegation of discrimination is timely, the person who experienced harm is the person bringing forth the allegation and falls within a covered group under this ordinance, the respondent falls within a covered group under this ordinance, the alleged discriminatory act is covered by this ordinance, and the alleged discriminatory act took place within the geographical boundary of the City of Charlottesville and/or the alleged respondent is registered within the corporate jurisdiction of the City of Charlottesville.
- (e) The term “inquiry” as used in this ordinance shall mean an incoming contact requesting services provided to an individual by the Office of Human Rights and/or an individual allegation of discrimination that falls outside the jurisdiction of the Human Rights Commission and Office of Human Rights, as defined by this ordinance.
- (f) The term “complaint” as used in this ordinance shall mean a timely filing of a jurisdictional allegation of unlawful discrimination, as defined by this ordinance.
- (g) The phrase “alternative dispute resolution” as used in this ordinance shall mean an attempt to resolve a complaint through informal dialogue, mediation, or conciliation.

**Sec. 2-431. Unlawful discrimination prohibited generally.**

Pursuant to Va. Code Ann. § 2.2-3900. and § 15.2-965., it is the policy of the City of Charlottesville to:

- (a) Safeguard all individuals within the City from unlawful discrimination in employment, housing, public accommodation, private education, and credit.
- (b) Preserve the public safety, health, and general welfare for the City of Charlottesville;
- (c) Further the interests, rights, and privileges of individuals within the City; and

(d) Protect citizens of the City against unfounded charges of unlawful discrimination.

**Sec. 2-431.1. Unlawful employment discrimination prohibited.**

It shall be unlawful and a violation of this ordinance for any person, partnership, corporation, or other entity to engage in discrimination in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability. The prohibited actions in this section shall include and have the meanings ascribed to them in Virginia Human Rights Act, Va. Code §§ 2.2-3900-3909., Va. Code § 15.2-965 and 42 U.S.C. §§ 1981-2000h-6., as amended.

**Sec. 2-431.2. Unlawful housing discrimination prohibited.**

In accordance with 42 U.S.C. § 3604, 42 U.S.C. § 3605, and 42 U.S.C. § 3606, it shall be unlawful and a violation of this article for any person, partnership, corporation, or other entity:

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.
- (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.
- (c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability, or an intention to make any such preference, limitation, or discrimination.
- (d) To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.
- (f) Furthermore, it shall be unlawful and a violation of this article for any person, partnership, corporation or other entity:
  - (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of the following:
    - (A) that buyer or renter;

- (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  - (C) any person associated with that buyer or renter.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
- (A) that person; or
  - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  - (C) any person associated with that person.
- (3) For purposes of this subsection, discrimination includes:
- (A) a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
  - (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
  - (C) in connection with the design and construction of covered multifamily dwellings for a failure to design and construct those dwellings in such a manner that:
    - (i) the public use and common use portions of such dwellings are readily accessible to and usable by people with disabilities;
    - (ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by people with disabilities requiring the use of wheelchairs; and
    - (iii) all premises within such dwellings contain the following features of adaptive design:
      - a. an accessible route into and through the dwelling;
      - b. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
      - c. reinforcements in bathroom walls to allow later installation of grab bars; and
      - d. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of Sec. 2-431.2.(3).(C).(iii).

(A) As used in this subsection, the term “covered multifamily dwellings” means:

- (i) buildings consisting of 4 or more units if such buildings have one or more elevators; and
- (ii) ground floor units in other buildings consisting of 4 or more units.

(5) Nothing in this ordinance shall be construed to invalidate or limit any state or federal law or City ordinance that requires dwellings to be designed and constructed in a manner that affords people with disabilities greater access than is required by this subchapter.

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

(7) In general, it shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.

(8) As used in this section, the term “residential real estate-related transaction” means any of the following:

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

- (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- (ii) secured by residential real estate.

(B) The selling, brokering, or appraising of residential real property.

(9) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.

(g) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against an individual in the terms or conditions of such access, membership, or participation, on account of race, color, religion, national origin, sex, elderliness, familial status, source of funds, marital status, sexual orientation, gender identity, military status, or disability.

**Sec. 2-431.3. Unlawful public accommodation, credit, and private education discrimination prohibited.**

It shall be unlawful and a violation of this article for any person, partnership, corporation, or other entity to engage in discrimination in public accommodations, credit, and private education on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military

status, or disability. The prohibited actions in this section shall include and have the meanings ascribed to them in Virginia Human Rights Act, Va. Code §§ 2.2-3900-3909., Va. Code § 15.2-965 as it relates to “Gender identity” “Military status” “Religion” “Sexual orientation”, and 42 U.S.C. §§ 1981-2000h-6., as amended.

### **Sec. 2-432. Human Rights Commission.**

- (a) ~~There is hereby created in the City of Charlottesville a Human Rights Commission (“Commission”), the members of which shall be appointed by the City Council. Effective March 1, 2022, the appointed membership of the Commission shall consist of nine (9) members. The Commission membership shall be broadly representative of the City’s demographic composition, with consideration of racial, gender (including gender identity, transgender status, and sexual orientation), religious, ethnic, disabled, socio-economic, geographic neighborhood, and age groups; with priority given to City residents and to applicants with significant and demonstrable ties to the City. At least two members will have professional expertise in employment or housing discrimination, have personal experience with employment or housing discrimination, or identify as a member of a group that experiences discrimination. Of the members first appointed, at least three shall be appointed for terms of three years, at least three shall be appointed for terms of two years, and at least three shall be appointed for terms of one year. Thereafter members shall be appointed for terms of three years each. Any vacancy shall be filled by the City Council for the unexpired portion of a term. Following notice to the member, any member of the Commission may be removed for good cause by a majority vote of City Council.~~ There is hereby created in the City of Charlottesville a Human Rights Commission (“Commission”), the members of which shall be appointed by the City Council. The Commission shall consist of nine (9) members, all of whom shall possess significant and demonstrable ties to the city. In making appointments, the City Council shall seek individuals who demonstrate integrity, sound judgment, and a commitment to promoting equal opportunity and addressing discrimination within the community. The Council shall also consider applicants’ personal or professional experience relevant to the work of the Commission, including experience related to employment or housing discrimination. Of the members first appointed, at least three shall be appointed for terms of three years, at least three shall be appointed for terms of two years, and at least three shall be appointed for terms of one year. Thereafter, members shall be appointed for terms of three years each. Any vacancy shall be filled by the City Council for the unexpired portion of a term. Following notice to the member, any member of the Commission may be removed for good cause by a majority vote of City Council.
- (b) The Commission shall elect from its members a chair, a vice-chair, and such other officers as the Commission may deem appropriate.
- (c) Members of the Commission shall serve without compensation, but funds may be appropriated in the City’s annual budget for reasonable and necessary expenses to be incurred by Commission in the conduct of its prescribed functions.
- (d) All meetings of the Commission shall be advertised in advance and in the manner required by law and shall be open to the public except for meetings lawfully closed pursuant to the Virginia Freedom of Information Act. The Commission may adopt bylaws and procedures to govern the conduct of its meetings; provided, however, that at the beginning and at the

end of each of its public meetings the Commission will receive public comment in accordance with City Council's adopted "Rules for Public Participation."

- (e) The Commission may, in its discretion, delegate any of its duties or responsibilities hereunder to a panel of not less than three Commissioners.
- (f) There shall be a full-time Director of the Commission, who shall be appointed by the City Manager with the advice and consent of the Commission and who shall serve full time in that capacity. A candidate proposed for appointment as the Director must demonstrate significant prior professional experience performing one or more of the activities or roles described in the code of the City of Charlottesville, Chapter 2, Article XV. The Director shall be responsible for and report to the Commission on the day-to-day operational conduct of the Human Rights Commission. The Director shall report directly to the Deputy City Manager for Social Equity for administrative and fiscal matters. The City Manager shall delegate to the Director the authority to employ such additional staff as authorized and funded by the City Council to allow the Commission to effectively fulfill its obligations under this Ordinance. In the absence of a Director, the City Manager shall transfer the Director's duties to qualified professional staff within the City to ensure the continuity of services provided by the Human Rights Commission and Office of Human Rights.
- (g) The City Council shall establish policies and procedures for the performance by the Commission of the roles, duties and responsibilities set forth within this article ("operating procedures"). All City departments, boards and commissions shall cooperate with and assist the Commission, including the provision of information in response to reasonable requests from the Commission.
- (h) Legal counsel shall be provided to the Commission and its staff through the Office of the City Attorney. The City Council hereby authorizes retention of outside counsel for the prosecution of civil action regarding a finding of reasonable cause under this ordinance, upon recommendation of the City Attorney.
- (i) The Commission shall make quarterly reports to the City Council concerning the operation of the Commission and the status of the Commission's performance of the duties, responsibilities and roles set forth within this article. One of the required quarterly reports shall be an annual report. The schedule for submission of these reports, and the required contents of the reports, shall be as specified within the Commission's operating procedures.

### **Sec. 2-433. Role of the Human Rights Commission.**

The role of the Human Rights Commission, with support from the Office of Human Rights, is to act as a strong advocate for justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights. The Commission will:

- (a) Assist individuals who believe they are the victim of an act of unlawful discrimination within the jurisdiction of the City;
- (b) Collaborate with the public and private sectors to provide awareness, education and guidance on methods to prevent and eliminate discrimination citywide;
  - (1) The Commission shall serve as a forum for the discussion of human rights issues

and be responsible for conducting ongoing efforts to engage community members in an open, honest, and creative dialogue regarding issues of equity and opportunity, including but not limited to issues considered by the City's Dialogue on Race initiative.

- (2) The Commission shall conduct or engage in educational and informational programs for the promotion of mutual understanding, reconciliation, and respect between all classes of individuals protected by this ordinance and the larger Charlottesville community.
- (c) Identify and review systemic issues, policies, and practices of the City of Charlottesville and advise its boards, commissions, and other public agencies within the City on issues related to human rights;
- (1) Such policies, practices, and systems may include those of an institutional nature that:
    - (A) May be unlawful discriminatory practices; or
    - (B) May not constitute unlawful discriminatory practices but nevertheless produce disparities that adversely impact individuals in accordance with the protected classes identified within this ordinance.
  - (2) Any review undertaken pursuant to this section may be initiated at the request of any other public or private entity, or by the Commission on its own initiative.
  - (3) The Commission may conduct its own research and review of existing studies and literature, collaborate with other research organizations, organize public focus groups, and hold such hearings as may be necessary to identify policies, practices and systems as referenced above. For each such identified policy, practice or system, the goal of the Commission will be to formulate recommendations and to propose to City Council concrete, actionable reforms that will eliminate discriminatory practices or the adverse effects of lawful other practices. The Commission will report the status of its ongoing project(s) or review(s) to City Council within its quarterly and annual reports.
- (d) Seek a Fair Employment Practices Agency (FEPA) workshare agreement with the Equal Employment Opportunity Commission (EEOC) and a Fair Housing Assistance Program (FHAP) workshare agreement with the Department of Housing and Urban Development (HUD) to conduct investigations of employment and housing discrimination on their behalf and enter into such agreement(s) subject to approval of City Council upon a finding that the agreement(s) would be in the best interest of the City;
- (e) Make recommendations regarding the City's annual legislative program, with an emphasis on enabling legislation that may be needed to implement programs and policies that will address discrimination; and
- (f) Prepare policy or procedure recommendations to City Council which the Commission believes are necessary for the performance of the roles, duties, and responsibilities assigned to the Commission within this article, and for modifications of operating procedures approved by City Council.

#### **Sec. 2-434. Office of Human Rights.**

- (a) There is hereby created in the City of Charlottesville an Office of Human Rights (“Office”), which is a division of the City Manager’s Office.
- (b) The Director of the Human Rights Commission will be responsible for, and report to the Commission on, the day-to-day operational conduct of the Office of Human Rights.
- (c) The Director may hire additional staff, as approved by the City Manager and funded by City Council, to fulfill the roles designated within this ordinance. Such staff shall report to the Director.

#### **Sec. 2-435. Role of the Office of Human Rights.**

The role of the Office of Human Rights is to:

- (a) Provide administrative support to the Human Rights Commission;
- (b) Receive individual inquiries and complaints of discrimination within the jurisdiction of the City of Charlottesville; and attempt to resolve such complaints through alternative dispute resolution, and/or by investigating investigate and issuing issue findings on whether there is reasonable cause to believe a violation of this ordinance has occurred; and/or provide referrals to appropriate services for inquiries that do not involve a jurisdictional complaint of discrimination;
  - (1) ~~Provide referrals to appropriate services for inquiries that do not involve a jurisdictional complaint of discrimination.~~
- (c) Conduct community outreach related to human rights. Such outreach may include:
  - (1) Providing information to the public regarding the services provided by the Office of Human Rights and the Human Rights Commission;
  - (2) Hosting or participating in educational events for the purpose of raising public awareness around issues of human rights, discrimination, and/or equity;
  - (3) Facilitating, leading, or participating in collaborative meetings and events with community partners for the purpose of addressing issues of human rights, discrimination, and/or equity.

#### **Sec. 2-436. Reserved.**

#### **Sec. 2-437.1. Investigation of individual employment discrimination complaints and issuance of findings.**

- (a) Complaints and answers
  - (1) The Director shall develop and implement a central intake procedure to be used by the Office of Human Rights for receiving and processing individual inquiries that allege an unlawful, discriminatory employment practice.
  - (2) Upon the receipt of such inquiry, the Director or other designated professional staff shall conduct an initial assessment to determine if the inquiry is

jurisdictional. The inquiry may be dismissed by the Director without further action if it is non-jurisdictional.

- (3) If the inquiry is not dismissed, any person claiming to be aggrieved by an unlawful discriminatory employment practice may file a complaint in writing with the Office of Human Rights not more than 180 calendar days following the alleged discriminatory act. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.
- (4) For complaints alleging an unlawful discriminatory employment practice within the jurisdiction of the City, the Director or other designated professional staff are authorized to undertake further action as detailed in Sec. 2- 437.1.(b).
- (5) For inquiries alleging an unlawful discriminatory employment practice that falls outside the jurisdiction of the City, the Director or other designated professional staff shall dismiss the inquiry as non-jurisdictional and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (6) If the City of Charlottesville is the named respondent in an inquiry of employment discrimination received by Office of Human Rights, the Director or other designated professional staff shall dismiss the inquiry as non-jurisdictional and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (7) If a current or former City of Charlottesville Human Rights Commissioner is a party to an inquiry of employment discrimination received by the Office of Human Rights, and the case is jurisdictional, the Director may attempt to resolve the complaint through alternative dispute resolution. If the complaint cannot be resolved through alternative dispute resolution, the Director shall administratively close the case and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (8) Upon the filing of a complaint of discrimination, the Director shall serve notice of the complaint on the complainant and each respondent named therein. Said notice shall be served in a timely manner specifying the allegation, citing the evidence that supports further action, advising all parties of the time limits and choice of forums under this ordinance, and indicating the action to be taken.

(b) Further action

- (1) Further action for employment discrimination complaints, as authorized by this ordinance, may include informal dialogue, mediation, and/or investigation of the complaint.
- (2) It shall be the responsibility of the aggrieved individual to provide current and updated contact information to the Office of Human Rights from the date of filing through the completion of any further action.
- (3) If, during the process of informal dialogue, mediation, or investigation, the complainant does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30)

calendar days, the Director shall serve written notice of pending case closure on the complainant stating that the case ~~will~~ shall be administratively closed if the complainant does not respond within thirty (30) calendar days of the date the written notice is issued.

- (A) If the complainant responds to the notice of pending case closure within thirty (30) calendar days of the date the notice was issued, the case shall remain open.
- (B) If the complainant does not respond within thirty (30) calendar days of the date the notice was issued, or if the complainant responds within the thirty (30) calendar-day timeframe but does not respond to subsequent communication or requests for information for another thirty (30) calendar-day period, the case shall be administratively closed without further notice.

- (4) The complainant may, following the administrative closure of the case, re-file the complaint at a future date, provided that the complaint is filed within one hundred and eighty (180) calendar days of the alleged discriminatory event detailed in the original complaint.
- (5) If, during the process of informal dialogue, mediation, or investigation, the respondent does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30) calendar days, the Director may serve written notice on the respondent that the investigation may proceed without the requested information and that a determination on the case shall be rendered upon completion of the investigation.

(c) Alternative dispute resolution

- (1) During the period beginning with the filing of such complaint and ending with the rendering of a determination or a dismissal by the Director, the Director shall, to the extent feasible, engage in informal dialogue or mediation with respect to such complaint.
- (2) The Director shall propose an initial meeting between the parties for the purpose of exploring alternative dispute resolution of the complaint through voluntary informal dialogue or mediation.
  - (A) For the purposes of this section, informal dialogue shall refer to a voluntary meeting between the complainant and respondent to explore resolution that does not result in a written settlement agreement.
  - (B) For the purposes of this section, mediation shall refer to a facilitated dialogue resulting in a written settlement agreement between the respondent and complainant.
- (3) Nothing herein shall be interpreted as requiring any party to participate in informal dialogue, mediation, or any other resolution efforts.
- (4) Materials used and communications made during informal dialogue or mediation concerning a complaint of unlawful discrimination shall be confidential and shall

not be disclosed to the public by the Director, the Commission, or Office of Human Rights staff unless disclosure is authorized in writing by all parties to the dispute.

- (5) If informal dialogue is concluded, the complaint shall be considered resolved upon the complainant's written or verbal withdrawal of the complaint.
- (6) If the mediation is concluded to the satisfaction of both parties, the complaint shall be considered resolved upon the parties' execution of a written settlement agreement. Unless all parties agree otherwise, the execution of a written agreement is solely for the purpose of settling a disputed claim and does not constitute an admission by any party that the law or this ordinance has been violated. No further action on the initial complaint shall be taken by the Commission or the Office of Human Rights staff once the agreement is executed.
- (7) If informal dialogue or mediation is not successful, the Director or designee shall conduct an investigation.

(d) Investigation

- (1) Upon the filing of a complaint under this section, the Director shall assign an Investigator to make an investigation of the alleged discriminatory practice for the purpose of rendering a written determination as to whether there is reasonable cause to believe a violation of this ordinance occurred and the facts supporting such determination.
- (2) The Investigator shall complete such investigation within one hundred and eighty (180) calendar days after the filing of the complaint unless it is impracticable to do so. If the Investigator is unable to complete the investigation within one hundred and eighty (180) calendar days after the filing of the complaint, the Director shall notify the complainant and respondent in writing of the reasons for not doing so.
- (3) Statements received by the Investigator from the complainant, respondents, and witnesses as part of an investigation shall be under oath or affirmation and may be reasonably and fairly amended at any time.
- (4) When conducting an investigation of a complaint filed under this ordinance, the Investigator shall have the right to interview any person who may have any information which may further the investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons shall be interviewed under oath. The Director or designated subordinates shall have the authority to collect, inspect, and copy records under this ordinance.
- (5) If during an investigation any person refuses to comply with a request by the Director or Office staff to produce data, information, documents, or other tangible evidence or refuses to appear as a witness for the gathering of evidence necessary to determine whether a violation of this ordinance has occurred, the Director, after a good faith effort to obtain such evidence or attendance of witnesses, may petition a court of appropriate jurisdiction for a subpoena against any such person refusing to produce such evidence or refusing to appear as a witness, and such

court may, upon good cause shown, cause the subpoena to be issued.

- (A) Said subpoenas and requests for information may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or requests for information were ordered or served as part of a civil action in the Commonwealth of Virginia.
- (B) For purposes of this section, “person” includes any individual, partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent thereof.
- (C) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued.
- (D) Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.
- (E) Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may petition the Charlottesville Circuit Court to quash the subpoena.
- (F) In case of refusal or neglect to obey a subpoena, the Director may petition for its enforcement in the Circuit Court of the City of Charlottesville. The Circuit Court of the City of Charlottesville will be requested to give these cases priority on the court docket.

(6) Upon the conclusion of the investigation, the Investigator shall prepare an investigative report for submission to the Director.

(e) Reasonable cause determination and effect

- (1) Upon completion of an investigation and submission of the investigative report, the Director shall render a written determination of whether there is reasonable cause to believe a violation of this ordinance has been committed and the facts supporting such determination. The written determination shall promptly be served on the parties.
- (2) If the Director determines that there is reasonable cause to believe that a violation of this ordinance has been committed, the Director shall immediately endeavor to eliminate any alleged unlawful discriminatory practice through informal dialogue or mediation.
- (3) If the complaint cannot be resolved through informal dialogue or mediation, the Director shall proceed with the preparation of materials for consideration by the Commission for the purpose of holding a vote on whether to conduct a public administrative hearing on the complaint.
- (4) Such materials shall include a copy of the written determination with the names and identifying information of the complainant, respondent, respondent’s agents,

and any witnesses redacted.

- (5) Upon request by the Commission, the Director shall provide a copy of the full investigative report with the names and identifying information of the complainant, respondent, respondent's agents, and any witnesses redacted.
- (6) If the Director determines that there is ~~no insufficient~~ reasonable cause to believe a violation of this ordinance has been committed, the Director shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) calendar days of receipt of the notice of dismissal, the complainant ~~files with the Commission a request for a~~ contacts the Office of Human Rights to request a review of the determination of the Director through the Commission's public administrative appeal hearing process.

(f) Contracted services

- (1) In order to fulfill the requirements of this section, the City Manager or their designee is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discrimination under this section for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is reasonable cause to believe a violation of this ordinance has occurred, conducting informal dialogues or mediations of complaints, and advising the Director of the Commission of the results of any investigation, informal dialogue, or mediation of complaints.

**Sec. 2-437.2. Investigation of individual housing discrimination complaints and issuance of findings.**

(a) Complaints and Answers (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. § 115.204)

- (1) The Director shall develop and implement a central intake procedure to be used by the Office of Human Rights for receiving and processing individual inquiries that allege an unlawful, discriminatory housing practice.
- (2) Upon the receipt of such inquiry, the Director or other designated professional staff shall conduct an initial assessment to determine if the inquiry is jurisdictional. The inquiry may be dismissed by the Director without further action if it is non-jurisdictional.
- (3) If the inquiry is not dismissed, any person claiming to be aggrieved by an unlawful discriminatory housing practice may file a complaint in writing with the Office of Human Rights not more than one year (365 calendar days) following the alleged discriminatory act. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.
- (4) Where the Commission identifies a systemic, discriminatory housing practice, the Commission may, upon majority vote of its members, request that the Director file a complaint of housing discrimination in situations where there is no named complainant. The Director, on the Director's own initiative, may also file such a complaint.
- (5) The Director may also investigate housing practices to determine whether a

complaint should be brought under this section.

- (6) If the City of Charlottesville is the named respondent in an inquiry of housing discrimination received by Office of Human Rights, the Director shall dismiss the inquiry as non-jurisdictional and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (7) If a current or former City of Charlottesville Human Rights Commissioner is a party to an inquiry of housing discrimination received by the Office of Human Rights, and the case is jurisdictional, the Director may attempt to resolve the complaint through alternative dispute resolution. If the complaint cannot be resolved through alternative dispute resolution, the Director shall administratively close the case and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (8) Upon the filing of such a complaint,
  - (A) The Director shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this ordinance.
  - (B) The Director shall, not later than ten (10) calendar days after such filing or the identification of an additional respondent, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this ordinance, together with a copy of the original complaint.
  - (C) Each respondent may file, not later than ten (10) calendar days after receipt of notice from the Director, an answer to such complaint.
  - (D) The Office of Human Rights shall commence proceedings with respect to the complaint before the end of the thirtieth (30th) calendar day after receipt of the complaint.
- (9) Complaints and answers shall be under oath or affirmation and may be reasonably and fairly amended at any time.
- (10) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice to such person, from the Director. Such notice shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.
- (11) Under this section, if the City has entered a FHAP workshare agreement, all decision-making authority with respect to acceptance and investigation of a complaint, approval of a conciliation agreement, dismissal of a complaint, final administrative disposition of a complaint, and/or decision-making regarding whether a particular matter will or will not be pursued shall be held by staff of the Office of Human Rights. If the City has not entered a FHAP workshare agreement, the City Manager or their designee is authorized to delegate such decision-making authorities to any objective, neutral third party qualified to assess allegations of discrimination under this section. The third party shall advise the Director of the Commission of

the results of any delegated decision-making.

(b) Further action

- (1) Further action for housing discrimination complaints, as authorized by this ordinance, may include informal dialogue, mediation, conciliation, and/or investigation of the complaint.
- (2) It shall be the responsibility of the aggrieved individual to provide current and updated contact information to the Office of Human Rights from the date of filing through the completion of any further action.
- (3) If, during the process of informal dialogue, mediation, conciliation or investigation, the complainant does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30) calendar days, the Director shall serve written notice of pending case closure on the complainant stating that the case ~~will~~ shall be administratively closed if the complainant does not respond within thirty (30) calendar days of the date the written notice is issued.
  - (A) If the complainant responds to the notice of pending case closure within thirty (30) calendar days of the date the notice was issued, the case shall remain open.
  - (B) If the complainant does not respond within thirty (30) calendar days of the date the notice was issued, or if the complainant responds within the thirty (30) calendar-day timeframe but does not respond to subsequent communication or requests for information for another thirty (30) calendar-day period, the case shall be administratively closed without further notice.
- (4) The complainant may, following the administrative closure of the case, re-file the complaint at a future date, provided that the complaint is filed within three hundred sixty-five (365) calendar days of the alleged discriminatory event detailed in the original complaint.
- (5) If, during the process of informal dialogue, mediation, conciliation, or investigation, the respondent does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30) calendar days, the Director may serve written notice on the respondent that the investigation may proceed without the requested information and that a determination on the case shall be rendered upon completion of the investigation.

(c) Alternative dispute resolution (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)

- (1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Director, the Director shall, to the extent feasible, engage in informal dialogue, mediation, or conciliation with respect to such complaint.
  - (A) For the purposes of this section, informal dialogue shall refer to a voluntary meeting between the complainant and respondent to explore resolution that does not result in a written settlement agreement.

- (B) For the purposes of this section, mediation shall refer to a facilitated dialogue resulting in a written settlement agreement between the respondent and complainant.
  - (C) For the purposes of the section, conciliation shall refer to a facilitated dialogue resulting in a written settlement agreement between the respondent, complainant, and the City, and such agreement shall be subject to approval by the Director.
- (2) The Director shall propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary informal dialogue, mediation, or conciliation.
  - (3) Nothing herein shall be interpreted as requiring any party to participate in informal dialogue, mediation, conciliation, or any other resolution efforts.
  - (4) Materials used and communications made during informal dialogue, mediation, or conciliation concerning a complaint of unlawful discrimination shall be confidential and shall not be disclosed to the public by the Director, the Commission, or Office of Human Rights staff unless disclosure is authorized in writing by all parties to the dispute.
  - (5) If informal dialogue is concluded to the satisfaction of the complainant, the complaint will be considered resolved upon the complainant's written or verbal withdrawal of the complaint.
  - (6) If the mediation or conciliation is concluded to the satisfaction of both parties, the complaint will be considered resolved upon the parties' execution of a written settlement agreement. Unless all parties agree otherwise, the execution of a written agreement is solely for the purpose of settling a disputed claim and does not constitute an admission by any party that the law or this ordinance has been violated. No further action on the initial complaint will be taken by the Commission or the Office of Human Rights staff once the agreement is executed.
  - (7) If informal dialogue, mediation, or conciliation is not successful, the Director or designee shall conduct an investigation.
  - (8) Concurrent with the investigation or after release of the investigative report, a conciliation agreement arising out of such complaint shall be an agreement between the respondent, the complainant, and the City of Charlottesville, and shall be subject to approval by the Director.
    - (A) Each conciliation agreement shall be made public unless the parties otherwise agree and the Director determines that disclosure is not required to further the purposes of this Ordinance.
    - (B) Notwithstanding the foregoing requirements for mutual agreement to publication of a conciliation agreement, the City of Charlottesville may provide a copy of the conciliation agreement as otherwise required by operation of law.
- (d) Failure to comply with conciliation agreement (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)

(1) Whenever the Director has reasonable cause to believe that a respondent has breached a conciliation agreement, the Director shall refer the matter to the City Attorney's Office for enforcement. The City Attorney is authorized by City Council to take such action as is necessary to enforce the agreement, including the hiring of an Attorney to enforce the rights granted under this ordinance in a Court of competent jurisdiction at the City's sole expense.

(e) Investigation (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)

(1) Upon the filing of a complaint under this section, the Director shall assign an Investigator to make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) calendar days after the filing of the complaint, unless it is impracticable to do so.

(2) If the Investigator is unable to complete the investigation within one hundred (100) calendar days after the filing of the complaint, the Director shall notify the complainant and respondent in writing of the reasons for not doing so.

(3) Statements received by the Investigator from the complainant, respondents, and witnesses as part of an investigation shall be under oath or affirmation and may be reasonably and fairly amended at any time.

(4) When conducting an investigation of a complaint filed under this ordinance, the Investigator shall have the right to interview any person who may have any information which may further the investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons shall be interviewed under oath. The Director or designated subordinates shall have the authority to collect, inspect, and copy records under this ordinance.

(5) In accordance with 42 U.S.C. §3611, if during an investigation any person refuses to comply with a request by the Director or Office staff to produce data, information, documents, or other tangible evidence or refuses to appear as a witness for the gathering of evidence necessary to determine whether a violation of this ordinance has occurred, the Director, after a good faith effort to obtain such evidence or attendance of witnesses, may petition a court of appropriate jurisdiction for a subpoena against any such person refusing to produce such evidence or refusing to appear as a witness, and such court may, upon good cause shown, cause the subpoena to be issued.

(A) Said subpoenas and requests for information may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or requests for information were ordered or served as part of a civil action in the Commonwealth of Virginia.

(B) For purposes of this section, "person" includes any individual, partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent thereof.

- (C) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued.
  - (D) Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.
  - (E) Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may petition the Charlottesville Circuit Court to quash the subpoena.
  - (F) In case of refusal or neglect to obey a subpoena, the Director may petition for its enforcement in the Circuit Court of the City of Charlottesville. The Circuit Court of the City of Charlottesville will be requested to give these cases priority on the court docket.
- (6) At the end of each investigation under this section, the Investigator shall prepare a final investigative report containing:
- (A) the names and dates of contacts with witnesses;
  - (B) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
  - (C) a summary description of other pertinent records;
  - (D) a summary of witness statements; and
  - (E) answers to questions submitted during the course of the investigation, where applicable.
- (7) A final report under this paragraph may be amended if additional evidence is later discovered.
- (f) Prohibitions and requirements with respect to disclosure of information (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)
- (1) Nothing said or done in the course of conciliation under this subchapter may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the parties to the conciliation.
  - (2) Notwithstanding Sec. 2-440., the Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the investigation, information derived from an investigation and any final investigative report relating to that investigation, such information shall be redacted to exclude any personal identifying information protected from disclosure by state or federal law.
- (g) Prompt judicial action (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)
- (1) If the Director, in consultation with the City Attorney, concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this subchapter, the Director may refer the matter to the City Attorney with a request for appropriate temporary or preliminary relief pending final

disposition of the complaint under this section. Upon receipt of authorization from the City Manager, the City Attorney shall promptly commence and maintain such an action, as needed. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the authority granted by a Court of competent jurisdiction. The commencement of a civil action under this subsection does not affect the initiation or continuation of further action, as authorized by the Director under this ordinance.

- (2) Whenever the Director, in consultation with the City Attorney, has reason to believe that a basis may exist for the commencement of proceedings against any respondent by any governmental licensing or supervisory authorities, the Director shall transmit the information upon which such belief is based to the City Attorney or to such other agency or authority with appropriate jurisdiction.
- (h) Reasonable cause determination and effect (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. §115.204)
- (1) The Director shall, within one hundred (100) calendar days after the filing of the complaint, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Director has approved a conciliation agreement with respect to the complaint. If the Director is unable to make the determination within one hundred (100) calendar days after the filing of the complaint, the Director shall notify the complainant and respondent in writing of the reasons for not doing so.
    - (A) The Commission and/or Office shall make a final administrative disposition of a complaint filed under this section within one year (365 calendar days) of the date of receipt of a complaint, unless it is impracticable to do so. If the Commission and/or Office is unable to do so, it shall notify the parties, in writing, of the reasons for not doing so.
  - (2) If the Director determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director shall, unless a resolution has been reached through informal dialogue, mediation, or conciliation, immediately render a determination on behalf of the aggrieved person.
  - (3) If the Director, in consultation with the City Attorney, renders a determination of reasonable cause on behalf of the aggrieved person, the Director shall issue a charge on behalf of the aggrieved person for further civil action proceedings. Such charge:
    - (A) shall consist of a short and plain statement of the facts upon which the Director has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;
    - (B) shall be based on the final investigative report; and
    - (C) need not be limited to the facts or grounds alleged in the complaint filed under Sec. 2-437.2.(a).
  - (4) If the Director, in consultation with the City Attorney, determines that the matter involves the legality of any State or local zoning or other land use law or ordinance,

the Director shall immediately refer the matter to the City Attorney with a recommendation for appropriate civil action instead of issuing such charge.

- (5) If the Director determines that there is ~~no insufficient~~ reasonable cause to believe a violation of this ordinance has been committed, the Director shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) calendar days of receipt of the notice of dismissal, the complainant ~~files with the Commission a request for a~~ contacts the Office of Human Rights to request a review of the determination of the Director through the Commission's public administrative appeal hearing process.
  - (6) The Director may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.
- (i) Service of copies of charge (in accordance with 42 U.S.C. § 3610 and 24 C.F.R. § 115.204)
    - (1) After the Director issues a charge under this section, the Director shall cause a copy thereof, together with information as to how to make an election of judicial determination under this ordinance and the effect of such an election, to be served:
      - (A) on each respondent named in such charge, together with a notice of opportunity for a public administrative hearing by the Commission, under section 2-439.1 of this ordinance, at a time and place specified in the notice, unless that election is made; and
      - (B) on each aggrieved person on whose behalf the complaint was filed.
  - (j) Election of judicial determination (in accordance with 42 U.S.C. § 3612)
    - (1) When a charge is filed under section 2-437.2. of this ordinance, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action in lieu of a public administrative hearing by the Commission under Sec. 2-439.1. The election must be made not later than twenty (20) calendar days after the receipt by the electing person of service of copies of the charge or, in the case of the Director, not later than twenty (20) calendar days after such service. The person making such election shall give notice of doing so to the Director and to all other complainants and respondents to whom the charge relates.
  - (k) Civil action for enforcement when a charge is issued or election is made for such civil action (in accordance with 42 U.S.C. § 3612)
    - (1) If an election of judicial determination is made, the City Attorney shall commence and maintain a civil action on behalf of the aggrieved person in a Court of competent jurisdiction seeking relief to this subsection, not later than thirty (30) calendar days after the authorization or election is made.
      - (A) For the purposes of pursuing a civil action under this section, the City Attorney is authorized to contract qualified legal counsel on behalf of the City at the City's sole expense.

- (2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.
  - (3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief with respect to such discriminatory housing practice in a civil action under 42 U.S.C. § 3613. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under 42 U.S.C. § 3613 shall also accrue to that aggrieved person in a civil action under this subsection.
- (l) Civil action by private persons (in accordance with 42 U.S.C. § 3613)
- (1) An aggrieved person, regardless of the status of the complaint, may commence a civil action in a Court of competent jurisdiction within the City of Charlottesville not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this subchapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.
  - (2) The computation of such 2-year period shall not include any time during which an administrative proceeding under this subchapter was pending with respect to a complaint or charge under this subchapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.
  - (3) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under Sec. 2-437.2.(a) of this ordinance and without regard to the status of any such complaint, but if the Director has obtained a mediation or conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (m) Relief which may be granted (in accordance with 42 U.S.C. § 3612 and 24 C.F.R. § 115.204)
- (1) In a civil action under this ordinance, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).
    - (A) Such relief may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent:
      - (i) in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
      - (ii) in an amount not exceeding \$25,000 if the respondent has been

adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(iii) in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge; except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

- (2) In a civil action, the court, in its discretion, may allow the prevailing party, other than the City of Charlottesville, a reasonable attorney's fee and costs.
- (3) Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Director or civil action under this subchapter.

(n) Intervention by the City

- (1) Upon timely application, the City may intervene in a private civil action if the City certifies that the case is of general, public importance. Upon such intervention, the City may obtain such relief as would be available to the City under 42 U.S.C. § 3614 in a civil action to which such section applies.

(o) Contracted services

- (1) In order to fulfill the requirements of this section, if the City has entered into a FHAP workshare agreement, the City Manager or their designee is authorized to contract on behalf of the City with any objective, neutral third party for the purpose of conducting informal dialogue or mediation with respect to resolution of complaints and advising the Director of the Commission of the results of such proceedings.
- (2) In order to fulfill the requirements of this section, if the City has not entered into a FHAP workshare agreement, the City Manager or their designee is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discrimination under this section for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is reasonable cause to believe a violation of this ordinance has occurred, conducting informal dialogues, mediations, or conciliations of complaints, and advising the Director of the Commission of the results of any investigation, informal dialogue, mediation, or conciliation of complaints.

**Sec. 2-437.3. Investigation of individual public accommodation, credit, or private education discrimination complaints and issuance of findings.**

(a) Complaints and answers

- (1) The Director shall develop and implement a central intake procedure to be used by the Office of Human Rights for receiving and processing individual inquiries that allege an unlawful, discriminatory public accommodation, credit, or private education practice.
- (2) Upon the receipt of such inquiry, the Director or other designated professional staff shall conduct an initial assessment to determine if the inquiry is jurisdictional. The inquiry may be dismissed by the Director without further action if it is non-jurisdictional.
- (3) If the inquiry is not dismissed, any person claiming to be aggrieved by an unlawful, discriminatory public accommodation, credit, or private education practice may file a complaint in writing with the Office of Human Rights not more than 180 calendar days following the alleged discriminatory act. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.
- (4) For complaints alleging an unlawful, discriminatory public accommodation, credit, or private education practice within the jurisdiction of the City, the Director or other designated professional staff are authorized to undertake further action as detailed in Sec. 2- 437.3.(b).
- (5) For inquiries alleging an unlawful, discriminatory public accommodation, credit, or private education practice that falls outside the jurisdiction of the City, the Director or other designated professional staff shall dismiss the inquiry as non-jurisdictional and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (6) If the City of Charlottesville is the named respondent in an inquiry of public accommodation, credit, or private education discrimination received by Office of Human Rights, the Director or other designated professional staff shall dismiss the inquiry as non-jurisdictional and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (7) If a current or former City of Charlottesville Human Rights Commissioner is a party to an inquiry of public accommodation, credit, or private education discrimination received by the Office of Human Rights, and the case is jurisdictional, the Director may attempt to resolve the complaint through alternative dispute resolution. If the complaint cannot be resolved through alternative dispute resolution, the Director shall administratively close the case and inform the aggrieved individual of the option to file with an appropriate state or federal agency.
- (8) Upon the filing of a complaint of discrimination, the Director shall serve notice of the complaint on the complainant and each respondent named therein. Said notice shall be served in a timely manner and specify the allegation, citing the

evidence that supports further action, advising all parties of the time limits and choice of forums under this ordinance, and indicating the action to be taken.

(b) Further action

- (1) Further action for public accommodation, credit, or private education discrimination complaints, as authorized by this ordinance, may include informal dialogue, and/or investigation of the complaint.
- (2) It shall be the responsibility of the aggrieved individual to provide current and updated contact information to the Office of Human Rights from the date of filing through the completion of any further action.
- (3) If, during the process of informal dialogue, mediation, or investigation, the complainant does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30) calendar days, the Director shall serve written notice of pending case closure on the complainant stating that the case ~~will~~ shall be administratively closed if the complainant does not respond within thirty (30) calendar days of the date the written notice is issued.
  - (A) If the complainant responds to the notice of pending case closure within thirty (30) calendar days of the date the notice was issued, the case shall remain open.
  - (B) If the complainant does not respond within thirty (30) calendar days of the date the notice was issued, or if the complainant responds within the thirty (30) calendar-day timeframe but does not respond to subsequent communication or requests for information for another thirty (30) calendar-day period, the case shall be administratively closed without further notice.
- (4) The complainant may, following the administrative closure of the case, re-file the complaint at a future date, provided that the complaint is filed within one hundred and eighty (180) calendar days of the alleged discriminatory event detailed in the original complaint.
- (5) If, during the process of informal dialogue, mediation or investigation, the respondent does not respond to communication or requests for information from the ~~Investigator~~ Office of Human Rights for a period of thirty (30) calendar days, the Director may serve written notice on the respondent that the investigation may proceed without the requested information and that a determination on the case shall be rendered upon completion of the investigation.

(c) Alternative dispute resolution

- (1) During the period beginning with the filing of such complaint and ending with the rendering of a determination or a dismissal by the Director, the Director shall, to the extent feasible, engage in informal dialogue or mediation with respect to such complaint.
- (2) The Director shall propose an initial meeting between the parties for the purpose of exploring alternative dispute resolution of the complaint through voluntary

informal dialogue or mediation.

(A) For the purposes of this section, informal dialogue shall refer to a voluntary meeting between the complainant and respondent to explore resolution that does not result in a written settlement agreement.

(B) For the purposes of this section, mediation shall refer to a facilitated dialogue resulting in a written settlement agreement between the respondent and complainant.

- (3) Nothing herein shall be interpreted as requiring any party to participate in informal dialogue, mediation, or any other resolution efforts.
- (4) Materials used and communications made during informal dialogue or mediation concerning a complaint of unlawful discrimination shall be confidential and shall not be disclosed to the public by the Director, the Commission, or Office of Human Rights staff unless disclosure is authorized in writing by all parties to the dispute.
- (5) If informal dialogue is concluded, the complaint shall be considered resolved upon the complainant's written or verbal withdrawal of the complaint.
- (6) If the mediation is concluded to the satisfaction of both parties, the complaint shall be considered resolved upon the parties' execution of a written settlement agreement. Unless all parties agree otherwise, the execution of a written agreement is solely for the purpose of settling a disputed claim and does not constitute an admission by any party that the law or this ordinance has been violated. No further action on the initial complaint shall be taken by the Commission or the Office of Human Rights staff once the agreement is executed.
- (7) If informal dialogue or mediation is not successful, the Director or designee shall conduct an investigation.

(d) Investigation

- (1) Upon the filing of a complaint under this section, the Director shall assign an Investigator to make an investigation of the alleged discriminatory practice for the purpose of rendering a written determination as to whether there is reasonable cause to believe a violation of this ordinance occurred and the facts supporting such determination.
- (2) The Investigator shall complete such investigation within one hundred and eighty (180) calendar days after the filing of the complaint unless it is impracticable to do so. If the Investigator is unable to complete the investigation within one hundred and eighty (180) calendar days after the filing of the complaint, the Director shall notify the complainant and respondent in writing of the reasons for not doing so.
- (3) Statements received by the Investigator from the complainant, respondents, and witnesses as part of an investigation shall be under oath or affirmation and may be reasonably and fairly amended at any time.
- (4) When conducting an investigation of a complaint filed under this ordinance, the

Investigator shall have the right to interview any person who may have any information which may further the investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons shall be interviewed under oath. The Director or designated subordinates shall have the authority to collect, inspect, and copy records under this ordinance.

- (5) If during an investigation any person refuses to comply with a request by the Director or Office staff to produce data, information, documents, or other tangible evidence or refuses to appear as a witness for the gathering of evidence necessary to determine whether a violation of this ordinance has occurred, the Director, after a good faith effort to obtain such evidence or attendance of witnesses, may petition a court of appropriate jurisdiction for a subpoena against any such person refusing to produce such evidence or refusing to appear as a witness, and such court may, upon good cause shown, cause the subpoena to be issued.
    - (A) Said subpoenas and requests for information may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or requests for information were ordered or served as part of a civil action in the Commonwealth of Virginia.
    - (B) For purposes of this section, "person" includes any individual, partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent thereof.
    - (C) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued.
    - (D) Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.
    - (E) Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may petition the Charlottesville Circuit Court to quash the subpoena.
    - (F) In case of refusal or neglect to obey a subpoena, the Director may petition for its enforcement in the Circuit Court of the City of Charlottesville. The Circuit Court of the City of Charlottesville will be requested to give these cases priority on the court docket.
  - (6) Upon the conclusion of the investigation, the Investigator shall prepare an investigative report for submission to the Director.
- (e) Reasonable cause determination and effect
- (1) Upon completion of an investigation and submission of the investigative report, the Director shall render a written determination of whether there is reasonable cause to believe a violation of this ordinance has been committed and the facts

supporting such determination. The written determination shall promptly be served on the parties.

- (2) If the Director determines that there is reasonable cause to believe that a violation of this ordinance has been committed, the Director shall immediately endeavor to eliminate any alleged unlawful discriminatory practice through informal dialogue or mediation.
- (3) If the complaint cannot be resolved through informal dialogue or mediation, the Director shall proceed with the preparation of materials for consideration by the Commission for the purpose of holding a vote on whether to conduct a public administrative hearing on the complaint.
- (4) Such materials shall include a copy of the written determination with the names and identifying information of the complainant, respondent, respondent's agents, and any witnesses redacted.
- (5) Upon request by the Commission, the Director shall provide a copy of the full investigative report with the names and identifying information of the complainant, respondent, respondent's agents, and any witnesses redacted.
- (6) If the Director determines that there is ~~no insufficient~~ reasonable cause to believe a violation of this ordinance has been committed, the Director shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) calendar days of receipt of the notice of dismissal, the complainant ~~files with the Commission a request for a~~ contacts the Office of Human Rights to request a review of the determination of the Director through the Commission's public administrative appeal hearing process.

(f) Contracted services

- (1) In order to fulfill the requirements of this section, the City Manager or their designee is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discrimination under this section for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is reasonable cause to believe a violation of this ordinance has occurred, conducting informal dialogues or mediations of complaints, and advising the Director of the Commission of the results of any investigation, informal dialogue, or mediation of complaints.

**Sec. 2-438. Interference, coercion, intimidation, or retaliation prohibited.**

- (a) In accordance with 42 U.S.C. § 3617, it shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, or on account of having filed a complaint of discrimination regarding any right granted or protected by this ordinance.
- (b) Any person experiencing such interference, coercion, intimidation, or retaliation in connection with a complaint of unlawful discrimination received or in process under this ordinance may file a retaliation complaint with the Office of Human Rights. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time,

place, and facts surrounding the alleged unlawful retaliation.

- (c) Retaliation complaints shall be processed in the same manner as complaints of unlawful discrimination and such process shall be determined by the protected activity named in the original complaint to which the alleged retaliation is linked or by the protected activity in which the complainant was engaged and which was impacted by the alleged retaliation.

**Sec. 2-439.1. Enforcement authority – The role of the Commission regarding individual complaints of discrimination.**

(a) Administrative hearings generally

- (1) The Commission shall serve as an administrative hearing body with the authority to review appeals and reasonable cause determinations for complaints of individual discrimination received and investigated by the Office of Human Rights.
- (2) In complaints of housing discrimination, if the Director determines that there is reasonable cause to believe a violation did occur, a charge is filed, and either party elects to pursue judicial determination through a civil action in a court of competent jurisdiction, under Sec. 2-437.2. of this ordinance, the Commission shall not hold an administrative hearing and any proceedings in process shall cease. If an election is not made, the Commission shall hold an administrative hearing on behalf of the complainant.
- (3) If an administrative hearing is to be held, the Commission shall promptly notify the parties of the time, date, and location of the hearing and serve upon them a statement of the charges against the respondent, the Director's summary of the evidence and recommended remedies, and the issues to be considered at the hearing. The notice and statement shall be served no later than fourteen (14) calendar days prior to the date of the hearing.
- (4) The Commission shall have the option to consider all of the allegations and issues set forth in the complaint or, in its discretion, may limit the scope of the administrative hearing to one or more of the allegations or issues.
- (5) Administrative hearings of the Commission may be held before the entire Commission or before designated hearing panels, consisting of three or more members of the Commission, as the Commission in its discretion may determine. The Chair or a Commissioner designated by the Chair shall preside over the hearing, which shall be open to the public.
- (6) Any Commissioner that has a conflict of interest with respect to a complaint brought before the Commission for an administrative hearing shall disclose the conflict of interest to the Chair and recuse themselves from service on the hearing panel for that specific complaint. A conflict of interest may exist when a Commissioner's ability to exercise objective judgement could be reasonably questioned. The Director shall make the final determination about whether a conflict of interest exists.
- (7) Prior to the administrative hearing, the Director shall provide the Commission

with a copy of the investigative report and any findings or determinations resulting from the investigation. During an administrative hearing, the Commission shall base its findings and recommendations on a review of the existing record and any additional evidence acquired by the Commission, at its discretion, through the Office of Human Rights, prior to the hearing. Neither party to the complaint shall be entitled to submit unsolicited written statements or arguments, present oral defense or documentary evidence, or conduct cross examinations during the administrative hearing.

- (8) Any investigative report, findings, determinations, or additional evidence provided to the Commission by the Office of Human Rights for purposes of an administrative hearing shall be redacted to remove any personal identifying information in accordance with Va. Code Ann. § 2.2-3800 et seq.
- (9) The Commission shall keep a full record of the administrative hearing, and such record shall be public and open to inspection by any person unless otherwise provided by any applicable law or regulations. Any party may request that the Commission furnish such party a copy of the hearing record and shall reimburse the Commission for the cost of producing the copy.
- (10) In matters where any party is represented by counsel, the office of the City Attorney shall provide an attorney as counsel to the Commission who will also assist the Director in preparing the case.
- (11) Whenever the Commission requires additional evidence to determine whether reasonable cause exists to believe any person has engaged in or is engaging in any unlawful discriminatory practice, the Commission, after a good faith effort to obtain such evidence or attendance of witnesses through the Office of Human Rights, may petition a court of appropriate jurisdiction for a subpoena against any such person refusing to produce such evidence or refusing to appear as a witness, and such court may, upon good cause shown, cause the subpoena to be issued.
  - (A) Said subpoenas and requests for information may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or requests for information were ordered or served as part of a civil action in the Commonwealth of Virginia.
  - (B) For purposes of this section, "person" includes any individual, partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent thereof.
  - (C) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued.
  - (D) Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.
  - (E) Any person failing to comply with a subpoena issued under this section

shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may petition the Charlottesville Circuit Court to quash the subpoena.

(F) In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court of the City of Charlottesville. The Circuit Court of the City of Charlottesville will be requested to give these cases priority on the court docket.

(12) The Commission shall have the authority to grant relief, as permitted under Virginia law, or to issue recommendations for appropriate remedies, for complaints reviewed during an administrative hearing. If, after the hearing, the Commission determines by a preponderance of the evidence that the respondent has committed or is committing the alleged violation(s) of this ordinance, the Commission shall state its findings in a written resolution and may issue recommendations, to be served promptly on the parties. Such recommendations may include:

(A) the pursuit of remedies through alternative dispute resolution.

(B) a referral to the City Attorney for the consideration of potential civil action.

(C) notice to the respondent to cease and desist from such violation(s) and to take such action as may be authorized by law to effectuate the purpose of this ordinance, including but not limited to the payment by respondent of compensatory damages to any person or persons found by the Commission to be so entitled by reason of the violation(s) of this ordinance, or the placement or restoration of any person in or to such status in which the Commission finds they would be but for respondent's violation(s) of this ordinance.

(13) If, after receiving the evidence presented at the administrative hearing, the Commission finds that the respondent has not engaged in the alleged violation(s) of this ordinance, the Commission shall state its findings in a written resolution and shall dismiss the complaint. Prompt notice of such action shall be given to the parties, and such dismissal shall be final.

(14) Nothing herein shall be construed as authorizing the Commission to award damages or grant injunctive relief.

(b) Administrative appeal hearings for determinations of no reasonable cause

(1) The Commission shall serve as a due process appellate body with the authority to hear appeals of determinations of no reasonable cause rendered by the Director on complaints of individual discrimination received and investigated by the Office of Human Rights.

(2) If the Director determines that there is ~~no~~ ~~insufficient~~ reasonable cause to believe a violation of this ordinance has occurred, the Director shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) calendar days of receipt of notice of the dismissal, the complainant ~~files with the Commission a request for a~~ contacts the Office of

Human Rights to request a review of the determination of the Director through the public administrative appeal hearing process.

- (3) On written petition of the complainant, the Commission shall hold
  - (4) an administrative appeal hearing to review the Director's conclusion and shall either overrule or affirm the finding of no reasonable cause.
  - (5) If, at the conclusion of an administrative appeal hearing, the Commission determines by majority vote that reasonable cause exists, it shall prepare a written resolution that includes a summary of the evidence upon which the reversal of the Director's finding is based and recommendations for further action. The Director shall serve notice on both parties of the Commission's finding and pursue appropriate further action, per the Commission's resolution.
  - (6) If, at the conclusion of an administrative appeal hearing, the Commission determines by majority vote that no reasonable cause exists, it shall prepare a written resolution upholding the Director's dismissal of the complaint, and such dismissal shall be final.
- (c) Administrative hearings for determinations of reasonable cause
- (1) If the Director determines that there is reasonable cause to believe a violation did occur and either party declines to participate in alternative dispute resolution, or if such efforts are attempted but unsuccessful, the Director shall prepare a written summary of the evidence on which the determination of reasonable cause is based and shall recommend appropriate remedies for the discriminatory actions in a report to the Commission.
  - (2) For determinations of reasonable cause regarding complaints of employment, public accommodation, credit, or private education discrimination, the Commission shall determine by majority vote whether to hold an administrative hearing on the complaint. The Commission shall base its determination on its judgment as to how enforcement of this ordinance would be best served. If the Commission determines not to hold an administrative hearing, it shall either dismiss the complaint or take such action as it deems appropriate and consistent with the purposes of this ordinance and the powers of the Commission hereunder.
  - (3) For determinations of reasonable cause regarding complaints of housing discrimination, the Commission shall proceed with an administrative hearing on behalf of the complainant if neither party elects to pursue judicial determination through a civil action in a court of competent jurisdiction.

**Sec. 2-439.2. Enforcement authority – Court enforcement regarding individual complaints of employment, public accommodation, credit, or private education discrimination.**

- (a) If the Commission finds that a respondent has committed a violation of this ordinance and determines that appropriate remedial measures have not been taken, the Commission, through the City Attorney, and subject to approval by the City Council, may file an appropriate action in any court of competent jurisdiction to prove, *de novo*, that the respondent violated this chapter; secure compliance with this chapter; and/or obtain

appropriate relief available under any applicable federal or state statute or regulation including, but not limited to an award of injunctive relief, compensatory and / or punitive damages and a recovery of costs and attorney's fees for any person, including the City, injured as a result of a violation of this chapter.

- (b) If the City Council approves the institution of any proceeding in court, the proceeding shall be brought in the name of the City Council and the Human Rights Commission of the City of Charlottesville.

**Sec. 2-440. Confidentiality.**

It shall be unlawful for any Commissioner, officer, employee, contractor or staff member of the Commission or Office of Human Rights to disclose or make public any complaints, investigative notes, or other correspondence and information furnished to the Commission or its staff in confidence with respect to a complaint, an investigation, or alternative dispute resolution process involving an alleged unlawful discriminatory practice. A violation of this section shall be a Class 3 misdemeanor.

**Sec. 2-441. Annual Report.**

The Commission shall make an annual comprehensive report to City Council that outlines its efforts during the preceding year in the areas of identifying and addressing systemic or institutional discrimination; processing individual complaints of unlawful discrimination; and facilitating a community dialogue regarding issues of human rights. The report shall also outline the Commission's work plan for the ensuing year, which shall be subject to approval or modification by City Council.

**Sec. 2-442. Severability.**

The provisions of the Article are severable, and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Article, or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Article would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which the chapter or any part thereof is inapplicable had been specifically exempted therefrom.

**Sec. 2-443. No waiver of other legal rights.**

- (a) Any person who is aggrieved by an unlawful discriminatory practice may bring an appropriate action in a court of competent jurisdiction, including but not limited to a judicial review of a final decision made by the Commission or Office, as provided for by any other applicable law.
- (b) Nothing in this Chapter shall prevent any person from exercising any right or seeking any remedy to which the person might otherwise be entitled; nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other

agency, except as is otherwise provided by applicable Virginia or federal law.