

Selected Sections: Austin City Code

TITLE 1. GENERAL PROVISIONS.

1-1. GENERAL PROVISIONS.

CHAPTER 1-1. GENERAL PROVISIONS.

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§ 1-1-1 APPLICATION; CITATION; AND INTERNAL REFERENCES.

§ 1-1-2 GENERAL DEFINITIONS.

Unless a different definition is expressly provided, in this Code:

- (1) **BUILDING OFFICIAL** means the person appointed by the city manager to perform the duties prescribed by ordinance or delegated by the city manager.
- (2) **CITY**
- (3) **CODE** or **CITY CODE**
- (4) **COUNCIL** or **CITY COUNCIL**
- (5) **DAY**
- (6) **HEALTH AUTHORITY**
- (7) **INCLUDES** does not imply that items not expressed are excluded.
- (8) **OATH** includes an affirmation.
- (9) **OWNER**, when applied to real property, includes a part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of the real property.
- (10) **PERSON** includes an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity, but does not include the City.
- (11) **PERSONAL PROPERTY**
- (12) **PLAT**
- (13) **PROPERTY** means real and personal property.
- (14) **PUBLIC PLACE**
- (15) **REAL PROPERTY** includes land, tenements, and hereditaments.
- (16) **ROADWAY**
- (17) **SIDEWALK**
- (18) **SIGNATURE**
- (19) **STATE** means the State of Texas.

(20) STREET or HIGHWAY

(21) WRITTEN

§ 1-1-3 WORDS AND PHRASES.

(A) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.

(B) Words and phrases that have acquired a technical or particular meaning, whether by definition or otherwise, shall be construed accordingly.

§ 1-1-4 TENSE; NUMBER; GENDER; AND GRAMMAR.

(A) The present tense includes the future tense.

(B) The singular includes the plural and the plural includes the singular.

(C) A word of one gender includes the other genders.

(D) A definition of a term includes other grammatical conjugations or variations of the term.

§ 1-1-5 CALCULATION OF TIME.

§ 1-1-6 CREATION OF DUTIES; DISCRETION; RIGHTS; CONDITIONS; AND PROHIBITIONS.

(A) “Shall” imposes a duty.

(B) “May” creates discretionary authority or grants permission.

(C) “Must” creates or recognizes a condition precedent.

(D) “May not” and “shall not” are synonymous, and impose a prohibition.

(E) “Is entitled to” creates or recognizes a right.

(F) “Is not entitled to” negates a right.

(G) “Is not required to” negates a condition precedent.

§ 1-1-7 SIGNATURES AND OATHS.

§ 1-1-8 REFERENCES TO STATE OR FEDERAL LAW.

When this Code refers to or adopts by reference a provision of state or federal law:

- (1) the reference or adoption is intended to incorporate future amendments to the provision of state or federal law to maintain parallel meaning with this Code; and
- (2) if the provision of state or federal law is recodified or renumbered, the reference or adoption is intended to incorporate the recodification or the renumbering.

§ 1-1-9 PROVISIONS CONSIDERED AS CONTINUATION OF EXISTING ORDINANCES.

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§ 1-1-11 AMENDMENTS OR ADDITIONS TO CODE.

§ 1-1-12 SEVERABILITY.

§ 1-1-13 BURDEN OF PROOF OF EXCEPTIONS.

§ 1-1-14 DESIGNATION OF CITY OFFICIAL OR DEPARTMENT DIRECTOR.

The designation of a city official or department director under this Code includes the official's or department director's authorized designee.

§ 1-1-99 OFFENSES; GENERAL PENALTY.

(A) The Code creates an offense when:

- (1) an act is prohibited, declared to be unlawful, made an offense, or made a misdemeanor;
- (2) the doing of an act is required, or the failure to do an act is declared to be unlawful, made an offense, or made a misdemeanor; or
- (3) the violation of a provision of the code is declared to be unlawful, or made an offense, or made a misdemeanor.

(B) An offense is a Class C misdemeanor, and if the Code does not state a penalty for an offense:

- (1) except as provided by Subsection (B)(2), the offense is punishable by a fine not to exceed \$500; or

(2) if the offense is a violation of an ordinance that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, the offense is punishable by a fine not to exceed \$2,000.

(C) A City employee or agent does not commit an offense under this Code if the employee or agent fails to perform a ministerial or administrative duty or take an action required under the Code.

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ARTICLE 1. GENERAL PROVISIONS.

§ 5-1-1 DECLARATION OF POLICY.

(A) It is the policy of the City to bring about through fair, orderly and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, creed, religion, sex, national origin, disability, student status, marital status, familial status, sexual orientation, gender identity, or age.

(B) This policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, creed, religion, sex, national origin,

disability, student status, marital status, familial status, sexual orientation, gender identity, or age; and further that the denial of such rights through considerations based on race, color, creed, religion, sex, national origin, disability, student status, marital status, familial status, sexual orientation, gender identity, or age, is detrimental to the health, safety and welfare of the inhabitants of the City and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of the government to prevent.

§ 5-1-2 SCOPE.

(A) To provide a procedure for investigating and settling complaints of discriminatory housing practices which are violations of state and federal law, to provide rights and remedies substantially equivalent to those granted under federal law and to permit the director to accept referral of complaints from the Secretary of Housing and Urban Development and from the Civil Rights Division of the Texas Workforce Commission, Article 2 (*Discrimination in Housing - Fair Housing Act Compliance*) prohibits discrimination in housing on the basis of race, color, sex, religion, disability, familial status or national origin and establishes procedures to enforce the provisions of federal and state law.

(B) Even though federal law protects individuals against discrimination in housing based on race, color, sex, religion, disability, familial status or national origin, it is the policy of the City that no person should be denied the opportunity to obtain housing on the basis of creed, student status, marital status, sexual orientation, gender identity, or age.

ARTICLE 2. DISCRIMINATION IN HOUSING - FAIR HOUSING ACT COMPLIANCE.

Division 1. General Provisions.

§ 5-1-11 PURPOSE.

The purposes of this article are:

- (1) to provide for fair housing practices in the City;
- (2) to create a procedure for investigating and settling complaints of discriminatory housing practices; and
- (3) to provide rights and remedies substantially equivalent to those granted under state and federal law.

§ 5-1-12 AUTHORITY.

This article is enacted pursuant to authority explicitly granted municipalities by Section 214.903 (*Fair Housing Ordinances*) of the Texas Local Government Code and Chapter 301 (*Texas Fair Housing Act*) of the Texas Property Code.

§ 5-1-13 DEFINITIONS.

In this article:

- (1) ADMINISTRATOR means the Equal Employment/Fair Housing Office administrator appointed by the director.
- (2) AGE means the calendar age of an individual 18 years of age or older.
- (3) AGGRIEVED PERSON includes a person who:
 - (a) claims to have been injured by a discriminatory housing practice; or
 - (b) believes that he will be injured by a discriminatory housing practice that is about to occur.
- (4) COMPLAINANT means a person, including the administrator or the commission, who files a complaint under Section 5-1-71 (*Complaint*).
- (5) COMMISSION means the Austin Human Rights Commission.
- (6) CONCILIATION means the attempted resolution of issues raised by a complainant or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the Equal Employment/Fair Housing Office.
- (7) CONCILIATION AGREEMENT means a written agreement setting forth the resolution of the issues in conciliation.
- (8) COVERED MULTIFAMILY DWELLING means:
 - (a) buildings consisting of four or more units if such buildings have one or more elevators; and
 - (b) ground floor units in other buildings consisting of four or more units.
- (9) CREED means a set of principles, rules, opinions, or precepts formally expressed and seriously adhered to or maintained by a person.
- (10) DIRECTOR means the director of the Human Resources Department.
- (11) DISABILITY, with respect to an individual, means:
 - (a) a physical or mental impairment that substantially limits one or more of the major life activities of the individual;
 - (b) a record of the impairment; or

- (c) being regarded as having an impairment.
- (12) DISCRIMINATORY HOUSING PRACTICE means an act prohibited by this article.
- (13) DWELLING means:
 - (a) a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or
 - (b) vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described in Subsection (a)
- (14) EQUAL EMPLOYMENT/FAIR HOUSING OFFICE means the staff in the Human Resources Department that handles cases referred to the City by the United States Department of Housing and Urban Development or the Civil Rights Division of the Texas Workforce Commission.
- (15) FAMILY means a single individual or group of individuals living together under one common roof.
- (16) FAMILIAL STATUS means the status resulting from:
 - (a) one or more persons who are under 18 years old being domiciled with an individual who is either the parent of the persons under 18 years old, the legal guardian or custodian of the persons under 18 years old, or the designee (with written authorization) of the persons under 18 years old;
 - (b) being pregnant; or
 - (c) being in the process of securing legal custody of a person who is under the 18 years old.
- (17) GENDER IDENTITY means a person's various individual attributes, actual or perceived, that may be in accord with or sometimes opposed to, one's physical anatomy, chromosomal sex, genitalia, or sex assigned at birth.
- (18) HOUSING FOR OLDER PERSONS
- (19) MAJOR LIFE ACTIVITIES means functions including caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (20) MARITAL STATUS means an individual's status as a single, married, divorced, widowed, or separated person.
- (21) PERSON includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts,

unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Bankruptcy Code, receivers, and fiduciaries.

(22) RESPONDENT means:

(a) the person accused of a violation of this article in a complaint of discriminatory housing practice; or

(b) any person identified as an additional or substitute respondent under Section 5-1-74 (*Additional or Substitute Respondent*) or an agent of an additional or substitute respondent.

(23) SEXUAL ORIENTATION means an individual's sexual preference or practice including homosexuality, heterosexuality, or bisexuality.

(24) STUDENT STATUS means an individual's status as a student enrolled in any type of educational program or institution.

(25) TO RENT includes to lease, sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

§ 5-1-14 CERTAIN SALES AND RENTALS EXEMPTED.

(A) Subject to Subsection (B), Division 3 (*Prohibitions Against Discrimination*) does not apply to:

(1) The sale or rental of a single-family house sold or rented by an owner if: (a) the owner does not: (i) own more than three single-family houses at any one time; or (ii) own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time; and (b) the house was sold or rented without: (i) the use of the services or facilities of a real estate agent or any other person in the business of selling or renting real estate; or (ii) the publication, posting, or mailing of a notice, statement or advertisement prohibited by Section 5-1-52 (*Publication Indicating Discrimination*).

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters of the owner's residence, except that the prohibition against discriminatory advertising shall apply to dwellings described in this paragraph.

(B) The exemption in Subsection (A)(1) applies only to one sale or rental in a 24-month period if the owner did not reside in the house at the time of sale or rental or was not the most recent resident of the house prior to the sale or rental.

§ 5-1-15 RELIGIOUS ORGANIZATION AND PRIVATE CLUB EXEMPTION.

§ 5-1-16 HOUSING FOR ELDERLY EXEMPTED.

The provisions of this article relating to familial status do not apply to housing for older persons.

§ 5-1-17 APPRAISAL EXEMPTION.

This article does not prohibit a person engaged in the business of furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, sexual orientation, gender identity, disability, age, familial status, marital status, student status, creed, or national origin.

§ 5-1-18 EFFECT ON OTHER LAW.

Division 2. Administration.

§ 5-1-31 ADMINISTRATION.

The Equal Employment/Fair Housing Office shall administer this article.

§ 5-1-32 RULES.

§ 5-1-33 COMPLAINTS.

The Equal Employment/Fair Housing Office shall receive, investigate, seek to conciliate, and act on complaints alleging violations of this article.

§ 5-1-34 COOPERATION WITH OTHER ENTITIES.

§ 5-1-35 SUBPOENAS; DISCOVERY.

The Equal Employment/Fair Housing Office may issue subpoenas and order discovery in aid of investigations and hearings under this article to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in District Court.

§ 5-1-36 WITNESS FEES.

Division 3. Prohibitions Against Discrimination.

§ 5-1-51 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.

(A) A person may not refuse to sell or rent a dwelling to a person who has made a bona fide offer; refuse to negotiate for the sale or rental of a dwelling; or otherwise make unavailable or deny a dwelling to any person based on race, color, religion, sex, sexual orientation, gender identity, age, familial status, disability, marital status, student status, creed, or national origin.

(B) A person may not discriminate against a person in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with the sale or rental, based on race, color, religion, sex, sexual orientation, gender identity, age, familial status, disability, marital status, student status, creed, or national origin.

(C) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance, but does not permit discrimination based on a disability.

§ 5-1-52 PUBLICATION INDICATING DISCRIMINATION.

A person may not 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 on race, color, religion, sex, sexual orientation, gender identity, disability, age, familial status, marital status, student status, creed, or national origin, or an intention to make such a preference, limitation, or discrimination.

§ 5-1-53 AVAILABILITY FOR INSPECTION.

A person may not represent to a person based on race, color, religion, sex, sexual orientation, gender identity, disability, age, familial status, marital status, student status, creed, or national origin that a dwelling is not available for inspection, for sale or rental when the dwelling is available for inspection.

§ 5-1-54 ENTRY INTO NEIGHBORHOOD.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, sexual orientation, gender identity, disability, age, familial status, marital status, student status, creed, or national origin.

§ 5-1-55 DISCRIMINATION BASED ON DISABILITY PROHIBITED.

(A) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter based on disability of: (1) that buyer or renter; (2) a person

residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (3) a person associated with that buyer or renter.

(B) A person may not discriminate against a buyer or renter in the terms, conditions, or privileges of the sale or rental of a dwelling or in providing services or facilities in connection with the dwelling based on disability of: (1) that buyer or renter; (2) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (3) a person associated with that person.

(C) For purposes of this section only, discrimination includes:

(1) A refusal by an owner or landlord to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises of a dwelling, provided that, in the case of a rental, a landlord may reasonably condition permission for modifications upon the renter's agreement to restore the interior of the premises to its premodification condition, reasonable wear and tear excepted, and reasonably condition the permission on the renter providing a reasonable description of the proposed modifications and reasonable assurances that all work will be done in a workmanlike manner and that all required permits will be obtained.

(2) A landlord may not increase for a person with a disability a customarily required security deposit, except that, to ensure available funds for restorations, if any, a landlord may negotiate an agreement that the renter deposit into an interest bearing escrow account, over a reasonable period, a reasonable amount not to exceed the cost of restorations. All interest shall accrue to the renter's benefit.

(3) A refusal by an owner or landlord to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common use areas.

(4) In connection with the design and construction of covered multifamily dwellings for first occupancy after September 13, 1991, a failure by the owner to design and construct those dwellings in a manner that:

(a) the dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;

(b) the public use and common use portions of the dwellings are readily accessible and usable by persons with a disability;

(c) all the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by an individual in a wheelchair; and

(d) all premises within the dwellings contain the following features of adaptive

design:

- (i) an accessible route into and through the dwelling;
 - (ii) light switches, electrical outlets, thermostats, and other environmental control in accessible locations;
 - (iii) reinforcements in bathroom walls to allow later installation of grab bars;
- and
- (iv) usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(5) Making any inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling or any person associated with that person, has a disability or to determine the nature or severity of the disability, except that the following inquiries may be made if these inquiries are made of all applicants, regardless of disability:

- (a) inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- (b) inquiry to determine whether an applicant is qualified for a dwelling available only to a person with a disability or to a person with a particular type of disability;
- (c) inquiry to determine whether an applicant for a dwelling is qualified for a priority available to a person with a disability or to a person with a particular type of disability;
- (d) inquiring whether an applicant for a dwelling is a current illegal user or addict of a controlled substance; and
- (e) inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

(D) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for persons with physical disabilities, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of Subsection (C)(4)(c).

(E) In this section, the term "covered multifamily dwelling" means:

- (1) buildings consisting of four or more units if the buildings have one or more elevators; and
- (2) ground floor units in other buildings consisting of four or more units.

(F) Nothing in this section requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of others or whose tenancy would result in substantial physical damage to the property of others.

§ 5-1-56 RESIDENTIAL REAL ESTATE RELATED TRANSACTION.

(A) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, sexual orientation, gender identity, disability, age, familial status, marital status, student status, creed, or national origin.

(B) In this section, “residential real estate related transaction” means:

- (1) making or purchasing loans or providing other financial assistance:
 - (a) to purchase, construct, improve, repair, or maintain a dwelling; or
 - (b) secured by residential real estate; or
- (2) selling, brokering, or appraising residential real property.

§ 5-1-57 BROKERAGE SERVICES.

Division 4. Complaint, Investigation, and Administrative Action.

§ 5-1-71 COMPLAINT.

(A) The Equal Employment/Fair Housing Office shall investigate alleged discriminatory housing practices.

(B) A complaint must be:

- (1) in writing;
- (2) under oath; and
- (3) in the form prescribed by the Equal Employment/Fair Housing Office.

(C) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the Equal Employment/Fair Housing Office alleging the discriminatory housing practice.

(D) Not later than one year after an alleged discriminatory housing practice has occurred

or terminated, whichever is later, the Equal Employment/Fair Housing Office may file its own complaint.

(E) A complaint may be amended at any time.

(F) Upon the filing of a complaint, the Equal Employment/Fair Housing Office shall issue a written notice to the complainant and the aggrieved person if different from the complainant: (1) advising that the complaint has been filed, and the date the complaint was accepted for filing; (2) including a copy of the complaint; (3) advising of the time limits applicable to the complaint and of all procedural rights and obligations of the aggrieved person under this article; (4) advising of the aggrieved person's right to commence a civil action as provided by federal and state laws and the time period which such action may be filed; and (5) advising that retaliation against any person who files a complaint or assists or otherwise participates in the investigation of a complaint is a discriminatory housing practice.

(G) Not later than the tenth day after a complaint is filed, the Equal Employment/Fair Housing Office shall issue a written notice to each respondent, by certified mail or personal service: (1) advising the date the complaint was accepted for filing; (2) identifying the alleged discriminatory housing practice; (3) including a copy of the complaint; (4) advising of the time limits applicable to complaint processing and of all procedural rights and obligations of the respondent under this article, including the right to submit an answer to the complaint within ten days after receipt of the notice; (5) advising of the aggrieved person's right to commence a civil action as provided by federal law and the time period within which such action may be filed; (6) advising why the respondent has been joined to the complaint if the respondent is not specifically named in the complaint; and (7) advising that retaliation against any person who files a complaint or assists or otherwise participates in the investigation of a complaint is a discriminatory housing practice.

(H) The Equal Employment/Fair Housing Office shall commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint.

§ 5-1-72 ANSWER.

(A) Not later than the tenth day after receipt of the notice and copy under Section 5-1-71(F)(3) (*Complaint*), a respondent may file an answer to the complaint.

(B) An answer must be: (1) in writing; (2) under oath; and (3) in the form prescribed by the Equal Employment/Fair Housing Office.

(C) An answer may be amended at any time.

(D) An answer does not inhibit the investigation of a complaint.

§ 5-1-73 INVESTIGATION.

(A) If the state or federal government has referred a complaint to the City or has deferred

jurisdiction over the subject matter of the complaint to the City, the Equal Employment/Fair Housing Office shall promptly investigate the allegations set forth in the complaint.

(B) The Equal Employment/Fair Housing Office shall investigate all complaints, and except as provided by Subsection (C), shall complete an investigation no later than the 100th day after the date the complaint is filed, or if it is unable to complete the investigation within the 100-day period, shall dispose of all administrative proceedings related to the investigation not later than one year after the date the complaint is filed.

(C) If the Equal Employment/Fair Housing Office is unable to complete an investigation within the time periods prescribed by Subsection (B), the Equal Employment/Fair Housing Office shall notify the complainant and the respondent in writing of the reasons for the delay.

§ 5-1-74 ADDITIONAL OR SUBSTITUTE RESPONDENT.

§ 5-1-75 CONCILIATION.

(A) The Equal Employment/Fair Housing Office shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Equal Employment/Fair Housing Office, to the extent feasible, engage in conciliation with respect to the complaint.

(B) A conciliation agreement is a written agreement between a respondent and the complainant and is subject to Equal Employment/Fair Housing Office approval.

(C) A conciliation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

(D) A conciliation agreement shall be made public unless the complainant and respondent agree otherwise, and the Equal Employment/Fair Housing Office determines that disclosure is not necessary to further the purposes of this article.

(E) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.

(F) After completion of the Equal Employment/Fair Housing Office's investigation, the Equal Employment/Fair Housing Office shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report related to the investigation.

§ 5-1-76 TEMPORARY OR PRELIMINARY RELIEF.

(A) If the Equal Employment/Fair Housing Office concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this

article, the Equal Employment/Fair Housing Office may request a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint. The Equal Employment/Fair Housing Office may direct the request for civil action to the Civil Rights Division of the Texas Workforce Commission or to the city attorney.

(B) Upon receipt of the Equal Employment/Fair Housing Office's request, the city attorney shall promptly assess the case and determine whether to file an action.

(C) A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Texas Rules of Civil Procedure.

(D) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceeding under Section 5-1-85 (*Administrative Hearing*).

§ 5-1-77 INVESTIGATIVE REPORT.

(A) The Equal Employment/Fair Housing Office shall prepare a final investigative report showing: (1) the names and dates of contacts with witnesses; (2) a summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts; (3) a summary description of other pertinent records; (4) a summary of witness statements; and (5) answers to interrogatories.

(B) A final report under this section may be amended if additional evidence is discovered.

§ 5-1-78 REASONABLE CAUSE DETERMINATION.

(A) The Equal Employment/Fair Housing Office shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur.

(B) The Equal Employment/Fair Housing Office shall make the determination under Subsection (A) not later than the 100th day after the date a complaint is filed unless: (1) it is impracticable to make the determination; or (2) the Equal Employment/Fair Housing Office has approved a conciliation agreement relating to the complaint.

(C) If it is impracticable to make the determination within the time period provided by Subsection (B) of this section, the Equal Employment/Fair Housing Office shall notify the complainant and respondent in writing of the reasons for the delay.

(D) If the Equal Employment/Fair Housing Office determines that reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur, the Equal Employment/Fair Housing Office shall, except as provided by Section 5-1-81 (*Dismissal*), immediately issue a charge on behalf of the aggrieved person.

§ 5-1-79 CHARGE.

(A) A charge issued under Section 5-1-78 (*Reasonable Cause Determination*): (1) must consist of a short and plain statement of the facts on which the Equal Employment/Fair Housing Office has found reasonable cause to believe that a discriminatory housing practice occurred or is about to occur; (2) must be based on the final investigative report; and (3) need not be limited to the facts or grounds alleged in the complaint.

(B) Not later than the 20th day after the Equal Employment/Fair Housing Office issues a charge, the commission shall send a copy of the charge with information concerning the election under Section 5-1-83 (*Election of Judicial Determination*) of this article to: (1) each respondent, together with a notice of the opportunity for a hearing provided by Section 5-1-85 (*Administrative Hearing*); and (2) each aggrieved person on whose behalf the complaint was filed.

§ 5-1-80 LAND USE LAW.

§ 5-1-81 DISMISSAL.

(A) If the Equal Employment/Fair Housing Office determines that no reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur, the Equal Employment/Fair Housing Office shall: (1) issue a short and plain written statement of the facts explaining the determination of no reasonable cause; and (2) dismiss the complaint and promptly notify the aggrieved person and the respondent of the dismissal, including the written statement of facts.

(B) The Equal Employment/Fair Housing Office may make public disclosure of each dismissal under this section. The aggrieved person and the respondent may request that no public disclosure be made, but the fact of dismissal, including the names of the parties, but not the statement of facts, shall be available to the public upon request.

§ 5-1-82 PENDING CIVIL TRIAL.

The Equal Employment/Fair Housing Office 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 federal or state law or this article seeking relief with respect to that discriminatory housing practice.

§ 5-1-83 ELECTION OF JUDICIAL DETERMINATION.

(A) 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 as provided by Section 5-1-84 (*City Attorney Action for Enforcement*).

(B) The election must be made no later than the 20th day after the date of receipt by the electing person of service under Section 5-1-79(B) (*Charge*) or, in the case of the Equal Employment/Fair Housing Office, not later than the 20th day after the date the charge was issued.

(C) The person making the election shall give notice to the Equal Employment/Fair Housing Office and to all other complainants and respondents to whom the charge relates.

§ 5-1-84 CITY ATTORNEY ACTION FOR ENFORCEMENT.

(A) If a timely election is made under Section 5-1-83 (*Election of Judicial Determination*) the Equal Employment/Fair Housing Office shall request, and not later than the 30th day after the election is made, the city attorney shall file, a civil action on behalf of the administrator in a district court seeking relief under this section.

(B) Venue for an action under this section is in Travis County.

(C) An aggrieved person may intervene in the action.

(D) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under this article.

§ 5-1-85 ADMINISTRATIVE HEARING.

(A) If a timely election is not made under Section 5-1-83 (*Election of Judicial Determination*), the complainant, respondent, or an aggrieved person on whose behalf the complaint was filed may request that the Equal Employment/Fair Housing Office provide for a hearing on the charge. A hearing under this section shall be conducted by an administrative law judge.

(B) Except as provided by Subsection (C), Chapter 2001 (*Administrative Procedure Act*) of the Texas Government Code governs a hearing and an appeal of a hearing under this section.

(C) A hearing under this section may not continue on an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under this article or federal or state law seeking relief with respect to that discriminatory housing practice.

(D) At the conclusion of a hearing under this section, the administrative law judge shall issue a written recommendation to the commission, including findings of fact.

§ 5-1-86 ADMINISTRATIVE PENALTIES.

(A) The commission shall review and take action on the administrative law judge's recommendation. The commission may adopt, modify, or reject the recommendation. If the commission rejects the recommendation, the commission shall make a determination based on the findings of fact submitted by the administrative law judge.

(B) If the commission determines that a respondent has engaged in or is about to engage in a discriminatory housing practice, the commission may order the appropriate relief, including compensatory damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.

(C) To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed: (1) \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice; (2) except as provided by Subsection (D), \$25,000 if the respondent has been adjudged by order of the commission or a court to have committed one other discriminatory housing practice during the five year period ending on the date of the filing of this charge; and (3) except as provided by Subsection (D), \$50,000 if the respondent has been adjudged by order of the commission or a court to have committed two or more discriminatory housing practices during the seven year period ending on the date of the filing of the charge.

(D) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in Subsections (B)(2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(E) At the request of the commission, the city attorney may sue to recover a civil penalty due under this section. Funds collected under this section shall be paid to the city treasurer for deposit in the general revenue fund.

§ 5-1-87 EFFECT OF COMMISSION ORDER.

A commission order under Section 5-1-86 (*Administrative Penalties*) does not affect a contract, sale, encumbrance, or lease that:

- (1) was consummated before the commission issued the order; and
- (2) involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge filed under this article.

§ 5-1-88 LICENSED OR REGULATED BUSINESSES.

If the commission issues an order with respect to a discriminatory housing practice that

occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission shall, not later than the 30th day after the date of the issuance of the order:

- (1) send copies of the findings and the order to the governmental agency; and
- (2) recommend to the governmental agency appropriate disciplinary action.

§ 5-1-89 ORDER IN PRECEDING FIVE YEARS.

If the commission issues an order against a respondent against whom another order was issued within the preceding five years under Section 5-1-86 (*Administrative Penalties*), the commission shall send a copy of each order issued under that section to the Civil Rights Division of the Texas Workforce Commission and to the attorney general.

§ 5-1-90 COOPERATION WITH STATE AND FEDERAL AGENCIES.

(A) The Equal Employment/Fair Housing Office is encouraged to cooperate with the secretary of Housing and Urban Development and the attorney general of the United States in the enforcement of the Fair Housing Act of 1968, 42 U.S.C. § 3601, et seq., and may assist the secretary or attorney general in any way consistent with the policy of this chapter. The Equal Employment/Fair Housing Office is encouraged to cooperate with the Civil Rights Division of the Texas Workforce Commission in the enforcement of Chapter 301 (*Texas Fair Housing Act*) of the Texas Property Code, and may assist the Civil Rights Division of the Texas Workforce Commission in any way consistent with the policy of this chapter.

(B) The Equal Employment/Fair Housing Office shall treat a complaint referred by the secretary of Housing and Urban Development or the attorney general of the United States under the Fair Housing Act of 1968, 42 U.S.C. § 3601, et seq., or by the Civil Rights Division of the Texas Workforce Commission under Chapter 301 (*Texas Fair Housing Act*) of the Texas Property Code as a complaint filed under this article. No action will be taken under this article against a person for a discriminatory housing practice if the referred complaint was filed with the governmental entity later than one year after an alleged discriminatory housing practice occurred or terminated.

Division 5. Civil Action.

§ 5-1-101 CIVIL ACTION.

(A) An aggrieved person may file a civil action in an appropriate United States district court not later than the second year after the later of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article to obtain appropriate relief based on the discriminatory housing practice or breach.

(B) The two year period does not include any time during which an administrative

hearing under this article is pending with respect to a complaint or charge under this article based on the discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

(C) An aggrieved person may file an action under this section whether or not a complaint has been filed under Section 5-1-71 (*Complaint*) and without regard to the status of any complaint filed under that section.

(D) If the Equal Employment/Fair Housing Office has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section based on the alleged housing practice except to enforce the terms of the agreement.

(E) An aggrieved person may not file an action under this section based on an alleged discriminatory housing practice that forms the basis of a charge issued by the Equal Employment/Fair Housing Office if a hearings examiner has begun a hearing on the record under this article on the charge.

§ 5-1-102 COURT APPOINTED ATTORNEY.

§ 5-1-103 RELIEF.

In an action under this article, an appropriate court, in providing enforcement of this chapter, may:

- (1) award to the plaintiff compensatory and punitive damages, where the court finds that a discriminatory housing practice has occurred or is about to occur;
- (2) allow reasonable attorney's fees and court costs; and
- (3) subject to Section 5-1-104 (*Effect of Relief Granted*), grant any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

§ 5-1-104 EFFECT OF RELIEF GRANTED.

§ 5-1-105 INTERVENTION BY CITY ATTORNEY.

(A) On request of the Equal Employment/Fair Housing Office, the city attorney may intervene in an action if the Equal Employment/Fair Housing Office certifies that the case is of general public importance.

(B) The city attorney may obtain the same relief available under Section 5-1-106 (*Pattern or Practice Cases*).

§ 5-1-106 PATTERN OR PRACTICE CASES.

(A) On request of the Equal Employment/Fair Housing Office, the city attorney may file a civil action in district court for appropriate relief if the Equal Employment/Fair Housing Office has reasonable cause to believe that: (1) a person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article; or (2) a person has been denied any right granted by this article and that denial raises an issue of general public importance.

(B) In an action under this section the court may: (1) award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this article as necessary to assure the full enjoyment of the rights granted by this article; (2) award other appropriate relief, including monetary damages, reasonable attorney's fees, and court costs; and (3) to vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed: (a) \$50,000 for a first violation; and (b) \$100,000 for a second or subsequent violation.

(C) A person may intervene in an action under this section if the person is: (1) an aggrieved person to the discriminatory housing practice; or (2) a party to a conciliation agreement concerning the discriminatory housing practice.

§ 5-1-107 SUBPOENA ENFORCEMENT.

The city attorney, on behalf of the Equal Employment/Fair Housing Office, may enforce the subpoena in appropriate proceedings in district court.

§ 5-1-108 PREVAILING PARTY.

A court in a civil action brought under this article or the commission in an administrative hearing under Section 5-1-85 (*Administrative Hearing*) may award reasonable attorney's fees to the prevailing party and assess costs against the nonprevailing party.

Division 6. Intimidation or Interference Prohibited.

§ 5-1-121 INTIMIDATION OR INTERFERENCE.

A person commits an offense if the person coerces, intimidates, threatens, or otherwise interferes with a person in the exercise or enjoyment of, or on account of the other person having exercised or enjoyed, or aided or encouraged any other person in the exercise or enjoyment of, a right granted or protected by this chapter.

CHAPTER 5-3. DISCRIMINATION IN EMPLOYMENT GENERALLY.

- § 5-3-1 Declaration of Policy
- § 5-3-2 Definitions
- § 5-3-3 Interpretation and Designation
- § 5-3-4 Unlawful Employment Practices
- § 5-3-5 Violations Prohibited
- § 5-3-6 Charges
- § 5-3-7 Preliminary Review; Refusal
- § 5-3-8 Acceptance; Notice; Investigation
- § 5-3-9 No Reasonable Cause Determination
- § 5-3-10 Review of No Reasonable Cause Determination by Commission
- § 5-3-11 Review of No Reasonable Cause Determination by EEOC
- § 5-3-12 Conciliation Agreement
- § 5-3-13 Investigative Access to Records and Evidence
- § 5-3-14 Legal Assistance
- § 5-3-15 Exemptions

§ 5-3-1 DECLARATION OF POLICY.

(A) It is the policy of the City to bring about through fair, orderly and lawful procedures, the opportunity for each person to obtain employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

(B) This policy is established upon the recognition of the inalienable rights of each individual to work to earn wages and obtain a share of the wealth of this City through gainful employment; and further that the denial of such rights through considerations based upon race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability is detrimental to the health, safety and welfare of the inhabitants of the City and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

§ 5-3-2 DEFINITIONS.

In this chapter:

(1) ADMINISTRATOR means the Equal Employment/Fair Housing Office administrator appointed by the director.

(2) AGE means a person at least 40 years old.

(3) CHARGE means a complaint filed by a charging party alleging discrimination under Section 5-3-4 (*Unlawful Employment Practices*), Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, or Chapter 21 (*Employment Discrimination*) of the Texas Labor Code.

(4) CHARGING PARTY means the person alleging discrimination in a charge.

(5) COMMISSION means the Austin Human Rights Commission.

(6) DIRECTOR means the Director of Human Resources Department.

(7) DISABILITY, with respect to an individual, means:

(a) a physical or mental impairment that substantially limits one or more of the major life activities of the individual;

(b) a record of the impairment; or

(c) being regarded as having an impairment.

(8) EEOC means the Equal Employment Opportunity Commission.

(9) EMPLOYEE means an individual employed by an employer, including a City employee. The term does not include an elected official of the City.

(10) EMPLOYER means a person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and the person's agent. The term does not include the United States, or a corporation wholly owned by the government of the United States; a bona fide private membership club (other than a labor organization) which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954; or the state, a state agency, or political subdivision.

(11) EMPLOYMENT AGENCY means a person who regularly attempts, with or without compensation, to procure employees for an employer or to procure employment opportunities for employees, including the person's agent.

(12) EQUAL EMPLOYMENT/FAIR HOUSING OFFICE means the office in the Human

Resources Department responsible for receiving, investigating, conciliating, making determinations, and taking other action related to charges received under this chapter.

(13) GENDER IDENTITY means a person's various individual attributes, actual or perceived, that may be in accord with or sometimes opposed to, one's physical anatomy, chromosomal sex, genitalia, or sex assigned at birth.

(14) INVESTIGATOR means the person investigating a charge.

(15) LABOR ORGANIZATION

(16) RELIGION means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates the inability to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(17) RESPONDENT means the person against whom a charging party alleges discrimination in a charge.

(18) SEX DISCRIMINATION means discrimination on the basis of gender, or any associated condition, including pregnancy, childbirth or related medical conditions. A woman affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as a person not so affected, but similar in their ability or inability to work.

§ 5-3-3 INTERPRETATION AND DESIGNATION.

(A) In construing this chapter, it is the intent of the city council that the courts shall be guided by the rules and regulations of the EEOC and Federal Court interpretations of Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1967, and Chapter 21 (*Employment Discrimination*) of the Texas Labor Code.

(B) The city council designates the Equal Employment/Fair Housing Office a local commission under Chapter 21 (*Employment Discrimination*) of the Texas Labor Code, to exercise the powers and duties provided in that chapter.

§ 5-3-4 UNLAWFUL EMPLOYMENT PRACTICES.

(A) An employer may not:

(1) fail or refuse to hire or to discharge any individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, based on the individual's race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; or

(2) limit, segregate, or classify an employee or applicant for employment in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the individual's status as an employee, based on the individual's race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

(B) An It shall be an unlawful employment practice for an employment agency may not:

(1) fail or refuse to refer for employment, or otherwise discriminate against, an individual based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; or

(2) classify or refer for employment an individual based on race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability.

(C) A labor organization may not:

(1)

(2)

(3)

(D) An employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, may not discriminate against an individual based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in admission to or employment in a program established to provide apprenticeship or other training.

(E) Unless it is a *bona fide* occupational qualification for employment, an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, may not print, publish, or cause to be printed or published a notice or advertisement that indicates a preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability related to:

(1) employment by the employer;

(2) membership in or classification or referral for employment by an employment agency; or

(3) admission to, or employment in, a program established to provide apprenticeship or other training by a joint labor-management committee.

(F) Based on an individual's opposition to an unlawful employment practice or the individual's filing a charge, or testimony, assistance, or participation in an investigation, proceeding or hearing under this chapter:

- (1) an employer may not discriminate against an employee or applicant for employment;
- (2) an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, may not discriminate against an individual; and
- (3) a labor organization may not discriminate against a member or applicant for membership.

§ 5-3-5 VIOLATIONS PROHIBITED.

A person may not violate this chapter, or knowingly obstruct or prevent compliance with this chapter.

§ 5-3-6 CHARGES.

- (A) A person must file a charge with the Equal Employment/Fair Housing Office not later than the 180th day after the date the violation occurred.
- (B) A charge under this section must be:
 - (1) made in writing on the form prescribed by the Equal Employment/Fair Housing Office;
 - (2) be sworn to by the charging party; and
 - (3) contain the information required by the Equal Employment/Fair Housing Office.

§ 5-3-7 PRELIMINARY REVIEW; REFUSAL.

(A) Before the Equal Employment/Fair Housing Office accepts a charge, an investigator shall review the charge with the charging party and make a determination that the charge describes a violation of Section 5-3-4 (*Unlawful Employment Practices*), Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act or the Americans with Disabilities Act of 1990, or Chapter 21 (*Employment Discrimination*) of the Texas Labor Code.

(B) If, after a preliminary review, an investigator determines that a charge does not describe a violation of Section 5-3-4 (*Unlawful Employment Practices*) or of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, or Chapter 21 (*Employment Discrimination*) of the Texas Labor Code the Equal Employment/Fair Housing Office shall notify the charging party that the charge will not be accepted and describe the reason for the refusal, not later than the 10th day after the determination. The Equal Employment/Fair Housing Office shall maintain a record documenting the reason a charge was not accepted.

§ 5-3-8 ACCEPTANCE; NOTICE; INVESTIGATION.

If the Equal Employment/Fair Housing Office accepts a charge, it shall notify the respondent not later than the 10th day after acceptance of the charge. If the charge alleges a violation of Section 5-3-4 (*Unlawful Employment Practices*), the Equal Employment/Fair Housing Office shall initiate an investigation.

§ 5-3-9 NO REASONABLE CAUSE DETERMINATION.

If, after an investigation, an investigator determines that there is no reasonable cause to believe that a charge is true, the Equal Employment/Fair Housing Office shall issue a determination explaining why there was no reasonable cause to believe a violation had occurred and shall immediately notify the charging party and the respondent of the determination.

§ 5-3-10 REVIEW OF NO REASONABLE CAUSE DETERMINATION BY COMMISSION.

(A) A charging party may file with the director a request for review by the Commission of a no reasonable cause determination issued under a charge filed alleging a violation of Section 5-3-4 (*Unlawful Employment Practices*). This request must be filed not later than the 10th day after receipt of the notice of the issuance of a no reasonable cause determination under Section 5-3-9 (*No Reasonable Cause Determination*).

(B) For charges filed exclusively under Section 5-3-6 (*Charges*) and not deferred by the EEOC pursuant to Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, or Chapter 21 (*Employment Discrimination*) of the Texas Labor Code, if the charging party files a request for review, the Commission, after review, may conduct a hearing and consider evidence presented by the charging party, the respondent, and the Equal Employment/Fair Housing Office. The Commission shall conduct a hearing as prescribed by the Chapter 2001 (*Administrative Procedure Act*) of the Texas Government Code. At the conclusion of the hearing, the Commission may, by majority vote, affirm, reverse, or modify the determination of the Equal Employment/Fair Housing Office.

§ 5-3-11 REVIEW OF NO REASONABLE CAUSE DETERMINATION BY EEOC.

A charging party may file with the EEOC an appeal of a no reasonable cause determination issued under a charge filed alleging a violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, or the Americans with Disabilities Act of 1990.

§ 5-3-12 CONCILIATION AGREEMENT.

(A) If, after investigation of the charge or review by the Commission, it is determined that there is reasonable cause to believe a violation of Section 5-3-4 (*Unlawful Employment Practices*) or a violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in

Employment Act, the Americans with Disabilities Act of 1990, or Chapter 21 (*Employment Discrimination*) of the Texas Labor Code has occurred, the Equal Employment/Fair Housing Office shall attempt to resolve the alleged violation through a conciliation agreement.

(B) A respondent may enter into a settlement at any time before a determination is made by the Equal Employment/Fair Housing Office, if the Equal Employment/Fair Housing Office agrees that the settlement is acceptable and complies with the objectives of this chapter.

(C) The Equal Employment/Fair Housing Office, investigator, charging party, and respondent shall treat as confidential any written or oral communications or documentation prepared during the course of attempting to reach a conciliation agreement or predetermination settlement, unless disclosure is required by law, and may not use this information as evidence in a subsequent proceeding without the written consent of all parties.

(D) If the Equal Employment/Fair Housing Office is unable to obtain a conciliation agreement acceptable to the Equal Employment/Fair Housing Office and the charging party, the Equal Employment/Fair Housing Office may refer a case involving a violation of Section 5-3-4 (*Unlawful Employment Practices*) to the city attorney for prosecution in municipal court or for other civil prosecution as authorized by Chapter 21 (*Employment Discrimination*) of the Texas Labor Code. Prosecution in municipal court or by other civil action does not bar the charging party from seeking relief from the EEOC or other civil proceeding.

(E) If no conciliation agreement acceptable to the charging party and the Equal Employment/Fair Housing Office is reached in a case involving a violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, or the Americans with Disabilities Act of 1990, the Equal Employment/Fair Housing Office shall send a failure to conciliate letter to the charging party and the respondent and forward the charge to the EEOC for their review.

(F) The confidentiality rules in 29 CFR § 1601.22 apply in all cases deferred to the City by the EEOC.

§ 5-3-13 INVESTIGATIVE ACCESS TO RECORDS AND EVIDENCE.

In investigating a charge filed under this chapter, the Equal Employment/Fair Housing Office shall have access to, and may examine and copy, records or other evidence maintained by a respondent that the office believes is relevant to a charge under investigation.

§ 5-3-14 LEGAL ASSISTANCE.

The city attorney shall advise the Equal Employment/Fair Housing Office or the Commission relating to the administration and enforcement of this chapter.

§ 5-3-15 EXEMPTIONS.

(A) If an individual's religion, sex, sexual orientation, gender identity, national origin, age, or disability are a bona fide occupational qualification reasonably necessary for the normal operation of a particular business or enterprise, it is not an unlawful employment practice for:

- (1) an employer to hire and employ employees;
- (2) an employment agency to classify, or refer for employment an individual;
- (3) a labor organization to classify its membership or to classify or refer for employment an individual; or
- (4) an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in a program.

(B) It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if:

- (1) the school, college or university or other educational institution or institution of learning is wholly or substantially owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society; or
- (2) the curriculum of the school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(C) It is not an unlawful employment practice for a religious corporation, association, educational institution, or society to hire and employ individuals of a particular religion to perform work connected with the activities of the corporation, association, educational institution, or society.

(D) If it is not caused by an employer's intentional discrimination based on an employee's race, color, sex, sexual orientation, gender identity, religion, national origin, age, or disability, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment based on:

- (1) a *bona fide* seniority or merit system;
- (2) a system which measures earnings by quantity or quality of production; or
- (3) to employees who work in different locations.

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