

Underlined text indicates proposed new content.

~~Strike through text~~ indicates existing content to consider removing.

AN ORDINANCE

AMENDING AND REENACTING CHAPTER 2 (ADMINISTRATION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, ARTICLE XV (HUMAN RIGHTS) TO UPDATE THE ORDINANCE TO EXPAND THE COMMISSION'S DUTIES AS AUTHORIZED BY THE VIRGINIA HUMAN RIGHTS ACT (VIRGINIA CODE TITLE 2.2, CHAPTER 39), THE VIRGINIA FAIR HOUSING LAW (VIRGINIA CODE TITLE 36, CHAPTER 5.1), and VIRGINIA CODE, TITLE 15.2, CHAPTER 9, §15.2-965, AS AMENDED.

WHEREAS, by recorded vote, the Human Rights Commission initiated certain amendments to the text of the City's Human Rights Ordinance, Sections 2-430; 2-431; 2-431.1; 2-431.2; 2-431.3; 2-432; 2-433; 2-433; 2-435; 2-436; Sec. 2-437.1; 2-437.2; 2-437.3; 2-438; 2-439.1; 2-439.2; and 2-440 ("Proposed Text Amendments"); and

WHEREAS, a public meeting was held to discuss and receive comments on the Proposed Text Amendments on June 18, August 20, and September 17, 2020 and the proposed amendments were presented to, discussed and approved at the October 15, 2020 public meeting of the Human Rights Commission for recommendation to Charlottesville City Council; and

WHEREAS, after consideration of the Human Rights Commission recommendations and other factors within the City, this Council is of the opinion that that the Proposed Text Amendment has been designed to comply with the Virginia Human Rights Act (Virginia Code Title 2.2, Chapter 39), the Virginia Fair Housing Law (Virginia code Title 36, Chapter 5.1), and Virginia Code, Title 15.2, Chapter 9, §15.2-965 of the Code of Virginia (1950), as amended, and this Council hereby finds and determines that: (i) the public necessity, convenience, and general welfare require the Proposed Text Amendment, and (ii) the Proposed Text Amendment is consistent with the Council's vision of the City as a leader in social justice; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that: Sections 2-430; 2-431; 2-431.1; 2-431.2; 2-431.3; 2-432; 2-433; 2-433; 2-435; 2-436; Sec. 2-437.1; 2-437.2; 2-437.3; 2-438; 2-439.1; 2-439.2; and 2-440 of the Code of the City of Charlottesville (1990), as amended, is hereby amended and reenacted as follows:

Article XV. Human Rights

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 U.S. Code §§ 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”, Virginia Fair Housing Law, Va. Code § 36-96.1:1., and 42 USCS § 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 USCS § 2000a., as amended.

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. Unlawful 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 employment, 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 status as a veteran, or disability.~~

~~(a) It shall be unlawful and a violation of this article for any person, partnership, corporation or other entity to engage in discrimination in housing on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability.~~

~~(b) As used in herein, the term "gender identity" means the gender related identity, appearance, or other gender related characteristics of an individual, without regard to the individual's designated sex at birth.~~

~~(c) As used herein, the term “source of funds” means any source that lawfully provides~~

~~funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.~~

~~(d) As used herein, the term “unlawful discriminatory practice” includes conduct in violation of any comparable Virginia or federal statute or regulation governing 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, status as a veteran, 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 U.S. Code §§ 1981-2000h-6., as amended.

Sec. 2-431.2. Unlawful housing discrimination prohibited.

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, status as a veteran, 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, status as a veteran, 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, status as a veteran, 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, status as a veteran, 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, status as a veteran, 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:
 - (I) an accessible route into and through the dwelling;
 - (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (III) reinforcements in bathroom walls to allow later installation of grab bars; and
 - (IV) 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).

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

(A) buildings consisting of 4 or more units if such buildings have one or more elevators;
and

(B) ground floor units in other buildings consisting of 4 or more units.

(5) Nothing in this subchapter 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, status as a veteran, 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, status as a veteran, 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, status as a veteran, 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 status as a veteran, 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 U.S. Code §§ 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, 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.
- (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 sections 2-433(a) (b), 2-434, 2-435(a), 2-437 and 2-439.1 of this article. The Director will be responsible for and report to the Commission ~~in~~

on the ~~day to day~~ day-to-day operational conduct of the Human Rights Commission, of the Commission's activities. The Director shall report directly to the Deputy City Manager for Racial Equity, Diversity, and Inclusion 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, in order for the Commission to fulfill effectively 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 ~~provide assistance to~~ 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 ~~may~~ hereby authorizes retention of outside counsel where deemed appropriate 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 enforcement jurisdiction of the City;
- (b) Collaborate with the public and private sectors for the purpose of providing awareness, education and guidance on methods to prevent and eliminate discrimination citywide;
- (c) Identify and review policies and practices of the City of Charlottesville and its boards, ~~and~~ commissions, and other public agencies within the City and advise those bodies on issues related to human rights ~~issues;~~
- (d) Seek a Fair Employment Practices Agency (FEPA) ~~work share agreements~~ workshare agreement with the Equal Employment Opportunity Commission (~~"FEPA"~~) (EEOC) and a Fair Housing Assistance Program (FHAP) ~~workshare agreement with~~ the Department of Housing and Urban Development (~~"HUD-FHAP"~~) (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 recommendations to City Council as to policies and procedures 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. Duties and responsibilities – Community dialogue and engagement.

- (a) The Commission will 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.
- (b) The Commission will 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.

Sec. 2-435. Duties and responsibilities – Systemic issues.

- (a) The Commission will be responsible for identifying and reviewing policies, practices, and systems of an institutional nature that:
 - (1) May be unlawful discriminatory practices; or,
 - (2) May not constitute unlawful discriminatory ~~be~~ practices but nevertheless ~~which~~ produce disparities that adversely impact ~~be~~ individuals in accordance with the protected classes identified within this ordinance, on the basis of a status such as their race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status, criminal record, income or disability.
- (b) 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.
- (c) 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 in (a), 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. On and after July 1, 2021, the Commission will conduct at least one such research project or review every two years. The Commission will report the status of its ongoing project(s) or review(s) to City Council within its quarterly and annual reports.
- (d) Where the Commission, in accordance with subsection (a) herein identifies systemic, discriminatory housing practices, the Commission may upon majority vote of its members, request the Director of the Commission to file a complaint of discrimination in situations where there is no named complainant but factual evidence exists to support a prima facie case of a systemic, discriminatory housing practice. The Director shall follow the complaint and investigation procedures for fair housing complaints under City Code Sec. 2-437.2.

Sec. 2-436. ~~Reserved.~~ Office of Human Rights.

- (a) There is hereby created in the City of Charlottesville an Office of Human Rights, 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 role of the Office of Human Rights is to:
 - (1) Provide administrative support to the Human Rights Commission;
 - (2) Receive, attempt to conciliate or investigate and issue findings on individual complaints of discrimination within the jurisdiction of the City of Charlottesville;
 - (A) Provide referrals to appropriate services for inquiries that do not involve a jurisdictional complaint of discrimination.
 - (3) Conduct community outreach related to human rights. Such outreach may include:
 - (A) Providing information to the public regarding the services provided by the Office of Human Rights and the Human Rights Commission;
 - (B) Hosting or participating in educational events for the purpose of raising public awareness around human rights issues;
 - (C) Facilitating, leading, or participating in collaborative meetings and events with community partners for the purpose of addressing human rights issues.

Sec. 2-437.1. Duties and responsibilities – Investigation of individual employment discrimination complaints and issuance of findings.

- (a) Complaints and answers
 - (1) The Director ~~will~~ shall develop and implement a central intake mechanism to be used by the Office of Human Rights for receiving and processing individual complaints that allege an unlawful, discriminatory employment practice ~~in~~ within the enforcement jurisdiction of the City.
 - (2) 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.
 - (3) For complaints alleging an unlawful discriminatory employment practice within the enforcement jurisdiction of the City, defined herein as within the corporate limits of the City and as authorized by state and federal statutes, the Director or other designated professional staff are authorized to undertake further action as detailed in Sec. 2-437.1.(c).

- (A) For complaints alleging an unlawful discriminatory employment practice that falls outside the enforcement jurisdiction of the City, the Director or other designated professional staff will refer the complaint to the appropriate state or federal agency.
 - (B) If the City of Charlottesville is the named respondent in a complaint of employment discrimination received by Office of Human Rights, the Director shall refer the complaint to the appropriate state or federal agency.
- (4) ~~Upon determination that an alleged unlawful discriminatory practice falls within the enforcement jurisdiction of the City, the Director or other designated professional staff will conduct, as authorized by this ordinance, an initial fact finding inquiry to determine if the Complainant presents a prima facie case. Upon the filing of such a discriminatory complaint:~~
- (A) The Director or other designated professional staff shall conduct an initial assessment to determine if the complaint is jurisdictional and presents a prima facie case of discrimination. The complaint may be dismissed by the Director without further action if it fails to adequately allege a violation of this ordinance, is non-jurisdictional, or is otherwise deficient on its face.
 - (B) ~~Following the initial fact finding inquiry,~~ If the complaint is not dismissed, and the Complainant wishes to pursue further action, the Director shall ~~will~~ serve a copy on each respondent named therein. Said copy shall be served in a timely manner and specify the allegation, citing the evidence that supports further action, and indicating the action to be taken.

(b) Informal dialogue, mediation, and investigation

- (1) Further action, as authorized by this ordinance, may include informal dialogue mediation, ~~conciliation~~, and formal investigation of the complaint, as deemed appropriate by the Director.
- (2) If the Director determines that further action on a complaint is appropriate, 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.
 - (A) ~~If the Director determines that further action is appropriate, the~~ The Director will ~~shall~~ propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary mediation or other informal means.
 - (i) Nothing herein shall be interpreted as requiring any party to participate in informal dialogue, mediation, or any other resolution ~~conciliatory~~ efforts.
 - (ii) Materials used and communications made during ~~a mediation or informal dialogue or mediation~~ conciliation concerning a complaint of unlawful discrimination shall be confidential and shall not be disclosed to the public by the Director, the Commission, or ~~its~~ Office of Human Rights staff unless disclosure is authorized in writing by all parties to the dispute.

- (iii) If informal dialogue is concluded, the complaint will be considered resolved upon the complainant's written or verbal withdrawal of the complaint.
- (iv) 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 ~~conciliation or~~ 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 ~~it's the~~ Office of Human Rights staff once the agreement is executed.
- (v) If informal dialogue or mediation ~~or conciliation~~ is not successful, and the complainant wishes to pursue further action, the Director or designee may conduct a formal investigation. ~~for the purpose of rendering a written determination as to whether there is probable cause to believe a violation of this ordinance occurred, and the facts supporting such determination.~~
- (vi) If further investigation is not warranted, the Director may dismiss the complaint as not constituting a violation and promptly serve written notice of the dismissal on the complainant and respondent. ~~After a written determination has been served on both parties, the Director may either close the case or proceed with the preparation of materials for consideration by the Commission, as provided in section 2-439.1(c).~~
- (B) If the Director determines that a formal investigation into the complaint is warranted, 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 ~~probable~~ reasonable cause to believe a violation of this ordinance occurred, and the facts supporting such determination.
- (i) 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.
- (I) 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.
- (II) If, during the process of informal dialogue, mediation or investigation, the complainant does not respond to communication or requests for information from the Investigator for a period of thirty (30) calendar days, the Investigator shall notify the Director. The Director shall serve written notice on the complainant that the case will be administratively closed if the complainant does not respond within ten (10) calendar days of the receipt of the written notice.

- (ii) If the Director determines that there is 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 review of the determination of the Director.

(c) 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 ~~discriminatory conduct as prohibited in section 2-431~~, for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is ~~probable~~ reasonable cause to believe a violation of this ordinance has occurred, conducting informal dialogues or mediations or conciliations of complaints and advising the Director of the Commission of the results of any investigation, informal dialogue or mediation or conciliation of complaints.

Sec. 2-437.2. Duties and responsibilities – Investigation of individual housing discrimination complaints and issuance of findings.

(a) **Complaints and Answers**

- (1) An aggrieved person may, not later than one year (365 calendar days) after an alleged discriminatory housing practice has occurred, file a written complaint with the Office of Human Rights alleging such discriminatory housing practice.
- (2) Such complaints shall be in writing and shall contain such information and be in such form as the Director requires.
- (3) The Director may also investigate housing practices to determine whether a complaint should be brought under this section.
- (4) 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 under section 2-437.2.(a).(7)., 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; and
 - (D) the Director shall 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.

- (5) If the Director 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.
- (6) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.
- (7) 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, under Sec. 2-437.2.(a).(4).(B).., to such person, from the Director.
- (8) Such notice, in addition to meeting the requirements of Sec. 2-437.2.(4) shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigation, mediation, or conciliation

- (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 mediation or conciliation with respect to such complaint.
 - (A) For the purposes of this section, mediation shall refer to a facilitated dialogue resulting in a written settlement agreement between the respondent and complainant.
 - (B) 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) When conducting an investigation of a complaint filed under this ordinance, the Director shall have the right to interview any person who may have any information which may further its 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 may be interviewed under oath. The Director or its designated subordinates shall have the authority to collect, inspect and copy records under this ordinance.
- (3) At the end of each investigation under this section, the Director 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.
- (4) 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 Deputy City Manager for Racial Equity, Diversity and Inclusion and the Director. 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.

- (5) 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.
- (6) A final report under this paragraph may be amended if additional evidence is later discovered.

(b) Failure to comply with conciliation agreement

- (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 Deputy City Manager for Racial Equity, Diversity, and Inclusion (REDI), who shall determine further action on behalf of the City.
- (2) A determination that there is a breach of the conciliation agreement by the Deputy City Manager shall be referred 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.

(c) Prohibitions and requirements with respect to disclosure of information

- (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. 2-347.2.(a), the Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Director's 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.

(d) Prompt judicial action

- (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 Deputy City Manager for REDI with a request for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization from the Deputy City Manager for REDI, 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 administrative proceedings under Sec. 2-437.2.(f) of 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 under Sec. 2-

437.2.(h) of this ordinance or for proceedings by any governmental licensing or supervisory authorities, the Director shall transmit the information upon which such belief is based to the Deputy City Manager for REDI, or to such other agency or authority with appropriate jurisdiction.

(e) **Reasonable cause determination and effect**

- (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.
- (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, except as provided in Sec. 2-437.2.(c), immediately render a determination on behalf of the aggrieved person.
- (3) If the Director, in consultation with the City Attorney and Deputy City Manager for REDI, 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 proceedings under Sec. 2-437.2.(h) of this ordinance. 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 Deputy City Manager for REDI with a recommendation for appropriate action under Sec. 2-437.2.(m) of this ordinance, instead of issuing such charge.
- (5) If the Director determines that there is 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 review of the determination of the Director.
- (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.

(f) **Service of copies of charge**

- (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 under Sec. 2-437.2.(h) of 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 hearing 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.

(g) Election of judicial determination

- (1) When a charge is filed under section 2-437.2.(f) 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 under Sec. 2-437.2.(h). The election must be made not later than 20 calendar days after the receipt by the electing person of service under Sec. 2-437.2.(g) of this ordinance or, in the case of the Director, not later than 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.

(h) Civil action for enforcement when a charge is issued or election is made for such civil action

- (1) If an election is made under Sec. 2-437.2.(g), the Director shall advise the Deputy City Manager for REDI of such election, and the Deputy City Manager may authorize, not later than thirty (30) calendar days after the authorization or election is made, the City Attorney to commence and maintain, a civil action on behalf of the aggrieved person in a Court of competent jurisdiction seeking relief to this subsection.
 - 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.

(k) Civil action by private persons

- (1) Under 42 U.S.C. § 3613, 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.
- (1) 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.

- (2) 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.

(l) **Relief which may be granted**

- (1) In a civil action under Sec. 2-437.2.(h) of 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 subject to subsection (d), 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 on 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 under subsection (a), 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.

(m) **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.

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

(a) Complaints and answers

- (1) The Director ~~will~~ shall develop and implement a central intake mechanism to be used by the Office of Human Rights for receiving and processing individual complaints that allege an unlawful, discriminatory public accommodation, credit, or private education practice ~~in~~ within the enforcement jurisdiction of the City.
- (2) 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. The Director may in like manner file such a complaint. 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.
- (3) For complaints alleging an unlawful discriminatory public accommodation, credit, or private education practice within the enforcement jurisdiction of the City, defined herein as within the corporate limits of the City and as authorized by state and federal statutes, the Director or other designated professional staff are authorized to undertake further action as detailed in **Sec. 2-437.3.(c).**
 - (A) For complaints alleging an unlawful discriminatory public accommodation, credit, or private education practice that falls outside the enforcement jurisdiction of the City, the Director or other designated professional staff will refer the complaint to the appropriate state or federal agency.
 - (B) If the City of Charlottesville is the named respondent in a complaint of public accommodation, credit, or private education discrimination received by Office of Human Rights, the Director shall refer the complaint to the appropriate state or federal agency.
- (4) ~~Upon determination that an alleged unlawful discriminatory practice falls within the enforcement jurisdiction of the City, the Director or other designated professional staff will conduct, as authorized by this ordinance, an initial fact finding inquiry to determine if the Complainant presents a prima facie case. Upon the filing of such a discriminatory complaint:~~
 - (A) The Director or other designated professional staff shall conduct an initial assessment to determine if the complaint is jurisdictional and presents a prima facie case of discrimination. The complaint may be dismissed by the Director without further action if it fails to adequately allege a violation of this ordinance, is non-jurisdictional, or is otherwise deficient on its face.
 - (B) ~~Following the initial fact finding inquiry,~~ If the complaint is not dismissed, and the Complainant wishes to pursue further action, the Director shall, not later than 10 calendar days after such filing, will serve a copy on each respondent named therein.

Said copy shall specify the allegation, citing the evidence that supports further action, and indicating the action to be taken.

(b) Informal dialogue, mediation, and investigation

(1) Further action, as authorized by this ordinance, may include informal dialogue mediation, ~~conciliation~~, and formal investigation of the complaint, as deemed appropriate by the Director.

(2) If the Director determines that further action on a complaint is appropriate, 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.

(A) ~~If the Director determines that further action is appropriate, the~~ The Director will shall propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary mediation or other informal means.

(i) Nothing herein shall be interpreted as requiring any party to participate in informal dialogue, mediation, or any other conciliatory efforts.

(ii) Materials used and communications made during ~~a mediation or~~ informal dialogue or mediation ~~conciliation~~ concerning a complaint of unlawful discrimination shall be confidential and shall not be disclosed to the public by the Director, the Commission, or ~~its~~ Office of Human Rights staff unless disclosure is authorized in writing by all parties to the dispute.

(iii) ~~If informal dialogue is concluded, the complaint will be considered resolved upon the complainant's written or verbal withdrawal of the complaint.~~

(iv) ~~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 conciliation or 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 its Office of Human Rights staff once the agreement is executed.~~

(v) ~~If informal dialogue or mediation or conciliation is not successful, and the complainant wishes to pursue further action, the Director or designee may conduct a formal investigation. for the purpose of rendering a written determination as to whether there is probable cause to believe a violation of this ordinance occurred, and the facts supporting such determination.~~

(vi) ~~If further investigation is not warranted, the Director may dismiss the complaint as not constituting a violation and promptly serve written notice of the dismissal on the complainant and respondent. After a written determination has been served on both parties, the Director may either close the case or proceed with the preparation of materials for consideration by the Commission, as provided in section 2-439.1(c).~~

- (B) If the Director determines that a formal investigation into the complaint is warranted, 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 ~~probable~~ reasonable cause to believe a violation of this ordinance occurred, and the facts supporting such determination.
- (i) 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.
- (I) 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.
- (II) If, during the process of informal dialogue, mediation or investigation, the complainant does not respond to communication or requests for information from the Investigator for a period of thirty (30) calendar days, the Investigator shall notify the Director. The Director shall serve written notice on the complainant that the case will be administratively closed if the complainant does not respond within ten (10) calendar days of the receipt of the written notice.
- i. 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.
- (III) If, during the process of informal dialogue, mediation or investigation, the respondent does not respond to communication or requests for information from the Investigator for a period of thirty (30) calendar days, the investigator shall notify the Director. The Director shall serve written notice on the respondent that the investigation shall proceed without the requested information and that a determination on the case shall be rendered upon completion of the investigation.
- (ii) Statements received by the Investigator from the Complainant, respondents, and witnesses as part of a formal investigation shall be under oath or affirmation and may be reasonably and fairly amended at any time.
- (iii) Upon the conclusion of the formal investigation, the Investigator shall prepare an investigative report for submission to the Director.
- (C) Upon completion of a formal investigation and submission of the investigative report, the Director shall render a written determination of whether there is ~~probable~~ reasonable cause to believe a violation of this ordinance has been committed ~~occurred~~, and the facts supporting such determination. The written determination shall promptly be served on the parties.

- (i) 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.
 - (I) 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 hearing on the complaint.
 - i. 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.
 - ii. 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.
- (ii) If the Director determines that there is 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 review of the determination of the Director.

(c) 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 ~~discriminatory conduct as prohibited in section 2-431,~~ for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is ~~probable~~ reasonable cause to believe a violation of this ordinance has occurred, conducting informal dialogues or mediations or conciliations of complaints and advising the Director of the Commission of the results of any investigation, informal dialogue or mediation or conciliation of complaints.

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

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.

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

complaints of employment, public accommodation, credit, or private education discrimination.

- (a) If the Director determines that there is insufficient ~~probable~~ 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 review of the determination of the Director. On written petition of the Complainant the Commission may review the Director's conclusion and may either overrule or affirm the finding of no ~~probable~~ reasonable cause. The parties may submit such additional information as they desire for the Commission's consideration. If the Commission determines that probable cause exists, it shall direct the Director to continue the investigation or proceed with conciliation efforts.
- (b) If the Director determines that ~~probable~~ reasonable cause to believe a violation did occur and either party declines to participate in mediation or other informal means of resolving the complaint, or if such efforts are attempted but unsuccessful, the Director shall prepare a written summary of the evidence on which the determination of ~~probable~~ reasonable cause is based, and shall recommend appropriate remedies for the discriminatory actions in a report to the Commission. The Commission shall determine by majority vote whether to hold a public 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 a public 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.
- (c) If a 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 Commission will 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 hearing to one or more of the allegations or issues. The notice and statement shall be served no later than 14 days prior to the date of the hearing. 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 public hearing, which shall be open to the public.
- (d) Whenever the Commission has reasonable cause to believe that any person has engaged in or is engaging in any unlawful discriminatory practice, and the Commission, after a good faith effort to obtain the data and information necessary to determine whether a violation has occurred, has been unable to obtain such information, it may request the City Attorney to apply to the judge of the circuit court of the jurisdiction in which the respondent resides or is doing business for a subpoena *duces tecum* against any person refusing to produce such data and information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. 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.
- (e) In cases to be heard by the Commission the complainant and the responding parties shall be entitled:

- (1) To file written statements or arguments with the Commission prior to the hearing;
 - (2) To be represented by privately retained counsel of their ~~his or her~~ choice;
 - (3) To present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;
 - (4) To submit rebuttal evidence; and
 - (5) To conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the Commission as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. The Commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.
- (f) The Director shall be responsible for assuring the development of the evidentiary record before the Commission and may introduce evidence, examine, or cross-examine witnesses, or make argument if they deem it advisable ~~in order~~ to fully apprise the Commission of the facts or the applicable law. The Commission shall keep a full record of the hearing, which 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. 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.
- (g) 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 and may issue recommendations, to be served promptly on the parties, which recommendations may include 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.
- (h) If, after receiving the evidence presented at the hearing, the Commission finds that the respondent has not engaged in the alleged violation(s) of this ordinance, the Commission shall state its findings and shall dismiss the complaint. Prompt notice of such action shall be given to the parties.
- (i) Nothing herein shall be construed as authorizing the Commission to issue subpoenas, award damages or grant injunctive relief.

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 conciliation 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. Reserved.