



**Human Rights Commission  
Regular Meeting  
January 21, 2021  
Virtual/Electronic Meeting  
6:30 pm**

**Agenda Packet Attachments**

1. 01/21/2021 HRC Regular Meeting Agenda
2. 12/17/2020 DRAFT HRC Regular Meeting Minutes
3. Charlottesville Human Rights Ordinance with comments from Erik Steinecker
4. January 2021 OHR Monthly Staff Report
5. Human Rights Ordinance with recommendations from the HRC to City Council and with revisions based on suggestions by City Council during the Council meeting on 01/19/2021

# Attachment 1



**Human Rights Commission  
AGENDA  
Regular Meeting  
January 21, 2021  
Virtual/Electronic Meeting  
6:30pm**

Please take Notice that this virtual meeting of the Human Rights Commission is for the purposes of planning, developing and drafting management and administration documents for the Human Rights Commission. For the purpose of addressing issues during the quarantine, this virtual meeting will be a limited public forum to discuss the agenda items designated under Section 5 below and to ensure the continuity of services provided by the Commission. The Commission Chair may limit public comments or discussion points that are unrelated to agenda items under Section 5 or that pertain to topics outside the scope of this Agenda. Members of the public are limited to three minutes of comment time per person related to the Agenda below. A maximum of sixteen public comment time slots are allotted per meeting. This will be a virtual/electronic meeting open to the public and registration information is available at [www.charlottesville.gov/zoom](http://www.charlottesville.gov/zoom).

**Link to Human Rights Commission shared Box folder:** <https://app.box.com/s/xy3wonn2s1tj8h7trkknvd79bipyxezy>

**1. WELCOME**

- a. CALL TO ORDER
- b. ROLL CALL
- c. MISSION (recited by all): *Act as a strong advocate to justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights.*

**2. MATTERS BY THE PUBLIC**

- a. PUBLIC COMMENT (Webinar attendees use the "raise hand" function, phone attendees use \*9)
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

**3. MINUTES**

- a. HRC Regular Meeting 12-17-2020

**4. BUSINESS MATTERS**

- a. Fair Housing Assistance Program (FHAP) Overview and Q&A with Erik Steinecker
- b. HRC Director/OHR Manager hiring discussion
- c. OHR STAFF REPORT
- d. CHAIR UPDATE

**5. WORK SESSION**

- a. AD-HOC COMMITTEE UPDATES

**6. MATTERS BY THE PUBLIC**

- a. PUBLIC COMMENT (Webinar attendees use the "raise hand" function, phone attendees use \*9)
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

**7. COMMISSIONER UPDATES**

**8. NEXT STEPS & ADJOURN**

\* ACTION NEEDED

Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call the ADA Coordinator at (434) 970-3182 or submit a request via email to [ada@charlottesville.gov](mailto:ada@charlottesville.gov). The City of Charlottesville requests that you provide a 48 hour notice so that proper arrangements may be made.

# Attachment 2



**Human Rights Commission  
Meeting Minutes  
Regular Meeting  
December 17, 2020  
Virtual/Electronic Meeting  
6:30 pm**

Link to rebroadcast: <https://boxcast.tv/channel/vabajtzeuuyv3iclkx1a>

**1. WELCOME**

- a. CALL TO ORDER
  - i. Chair, Shantell Bingham, called the meeting to order at 6:33 pm
- b. ROLL CALL
  - i. Shantell Bingham
  - ii. Sue Lewis
  - iii. Jeanette Abi-Nader
  - iv. Mary Bauer
  - v. Ernest Chambers
  - vi. Jessica Harris
  - vii. Laura Keppley
  - viii. Kathryn Laughon
  - ix. Tobiah Mundt
  - x. Andrew Orban
  - xi. Alex Oxford
  - xii. Lyndelee von Schill
- c. MISSION (recited by all): *Act as a strong advocate to justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights.*

**2. MATTERS BY THE PUBLIC**

- a. PUBLIC COMMENT
  - i. Walt Heinecke
    1. Notes the relation of housing, employment, and economics in Charlottesville
    2. Suggests that employment discrimination on the basis of race be the primary focus of the HRC
      - a. Hold hearings
      - b. Collect data
      - c. Listen to experts
      - d. Make policy recommendations to Council
    3. States that FEPA agreement is necessary to adequately address employment discrimination
      - a. Would like to see this on the monthly HRC agenda until it is resolved
    4. Suggests housing also be a major focus
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

- i. OHR staff response
  - 1. FEPA agreement
    - a. Contact with EEOC required – James Yao is the point person in the EEOC Field Office
      - i. Multiple calls made by OHR staff for information but no response yet
      - ii. Will try again in the new year
    - b. Other considerations
      - i. Current OHR staffing would likely be insufficient for FEPA qualification
      - ii. HRC has many suggested amendments to the current Human Rights Ordinance for consideration by Council
        - 1. Passage of the Values Act may no longer limit local OHR/HRC's to employment investigations to employers with between  $5 \leq 15$  employees and to only cases involving termination
        - 2. FEPA may no longer be the only way to address employment issues involving employers with  $16 \leq$  employees
      - iii. Also exploring an MOU with the Attorney General's Office Division of Human Rights, as they also have expanded authority under state law with the passage of the Values Act
  - 2. FHAP agreement
    - a. HUD Fair Housing Director has been responsive to requests for information
    - b. HUD Fair Housing Attorney has reviewed current Human Rights Ordinance and made many suggestions to make the Ordinance substantially equivalent to federal fair housing law
      - i. HRC would need to propose these amendments to the Ordinance and Council would need to approve the amendments in order for HUD to enter into a FHAP with the OHR
    - c. FHAP would also require OHR to hire additional staff
- ii. Commissioner response
  - 1. HRC has considered exploring equity issues as relates to the hiring of temporary City employees
- iii. Commissioner response
  - 1. Two commissioners praise to Walt for continuing to raise these issues
- iv. Commissioner response
  - 1. Suggestion to discuss employment and housing at upcoming HRC retreat

### 3. MINUTES

- a. Review of minutes from July 16, 2020 Regular Meeting\*
  - i. Motion to approve as written
    - 1. Laura
  - ii. Second
    - 1. Alex
  - iii. Discussion
    - 1. None.
  - iv. Vote
    - 1. In favor: 11
    - 2. Opposed: 0
    - 3. Abstained: 1 (Chair)
- 4. **BUSINESS MATTERS** – Note: Officer Elections moved to after the Work Session
  - a. Memo to City Council regarding Ordinance amendment recommendations
    - i. Memo prepared by staff and submitted to City Attorney's Office for review
      - 1. Memo outlines the process and logic behind the proposed amendments
      - 2. Also communicates to the public what the HRC is asking Council to do
      - 3. Becomes part of the legislative history for the proposed amendments
    - ii. Memo approved by City Attorney's Office with edits by Allyson Davies
      - 1. Added state code references to proposed amendments
    - iii. HRC to consider dates for upcoming Council meetings to present the memo along with the proposed amendments
    - iv. Councilor Magill
      - 1. Notes that the earliest available Council meeting would be on Tuesday, 1/19/2021
    - v. Commissioner suggestion
      - 1. Goal 5
        - a. Insert an additional statements to support LGBTQ+ inclusive language revisions to the Ordinance
        - b. Add brief summaries of the amended sections
    - vi. Staff will work with the Clerk of Council to verify that there is space on Council's agenda on 1/19/2021
    - vii. Motion
      - 1. To approve the memo as it appears in the board packet
        - a. Jeanette
      - 2. Second
        - a. Laura
      - 3. Discussion
        - a. None
      - 4. Vote
        - a. In favor: 11
        - b. Opposed: 0
        - c. Abstained: 1 (Chair)
  - b. Resolution HR20-2
    - i. HRC Chair and OHR staff attempted to integrate feedback from the previous HRC meeting

1. Reverting to previous version as a base
  2. Inserting language for inclusion of an ad hoc committee to guide a review
  3. Including a tiered response including no action, reprimand, or removal
- ii. The intent of the current draft is to serve as a primary procedural tool in addition to a resolution for specific action
    1. An ad hoc review committee could create additional supplementary procedures
  - iii. Commissioner discussion
    1. Several Commissioners discuss point (c) in the resolution
      - a. Reprimand language may refer to Commission action of asking the Commissioner under review not to engage in the activity that gave rise to the review
      - b. Commissioners offer suggestions for language revisions via the Chat function of Zoom (see attached excerpt)
  - iv. Councilor Magill
    1. Notes that when a Commissioner's actions rise to the level of a Commission review, Council may already be aware of the Commissioner's activity that led to the review
    2. Suggests that a quick summary be provided to Council of the reasons for the review, the conclusions of the Commission, and the recommended action, even if no further action
  - v. Commissioner discussion
    1. Would it suffice that a record of the Commission's review would be included in the HRC meeting minutes?
    2. Is removal the only possible action that the HRC might recommend that Council take?
      - a. If so, then there is no need to send a report to Council unless there is a recommendation for removal
      - b. If there is no action or only an internal reprimand, then there may be no need for a report
    3. Other Commissioners suggest that because Council will likely already be aware of the issue as Council may have also received a complaint about the Commissioner's actions
      - a. Written communication to Council about the review provides a clear and open line of communication
  - vi. Councilor Magill
    1. Notes that Council gets emails about things that happen in the community
    2. Council was well aware of the issue that sparked discussion of this particular resolution
    3. Council does not need a lengthy report but a summary of the Commission's review and recommended actions would suffice
    4. This would be more efficient than Council tracking down the issue in HRC minutes
  - vii. Motion
    1. To revise resolution point (c) to read: *Upon conclusion of the review, provide a written summary of the facts and a*



*recommendation to City Council if the Commission believes there is need for further action, including whether there is good cause for removal or whether the individual will receive a reprimand from the Commission.*

- a. Laura
  2. Second
    - a. Mary
  3. Discussion
    - a. Commissioner notes a preference for a different version
  4. Vote
    - a. In favor: 11
      - i. One Commissioner changed from Opposed to In favor
    - b. Opposed: 0
    - c. Abstained: 1 (Chair)
- c. 2021 Retreat Planning
- i. OHR staff suggests choosing a Saturday in January or February for the retreat
    1. HRC may want to keep the retreat to 5 hours and preserve 1 hour for a potential ad hoc committee meeting in either month
      - a. HRC prefers a Doodle poll to select a date
        - i. Suggestion that the retreat occur after the HRC presents the Ordinance revisions to Council
  - ii. OHR staff asks if the HRC would like third-party facilitation for the retreat
    1. Some Commissioners feel no facilitator is needed
    2. Other Commissioners suggest a facilitator for the following
      - a. Strategic planning
      - b. Team building
      - c. Perhaps facilitation for the first part of the retreat
  - iii. Commissioner asks who leads the retreat: Commission or Director?
    1. Charlene Green (previous HRC Director/OHR Manager) typically decided the content and agenda for the retreat
    2. Commissioners feel that Chair and Commission could run the retreat
      - a. The intent of the retreat is to plan for the future of the HRC
      - b. The Commissioners have the necessary skillsets to lead the retreat
  - iv. Additional Commissioner suggestions
    1. Guest speaker from another OHR/HRC in Virginia
    2. Discussion about housing
      - a. HUD representative regarding FHAP
    3. Facilitator for a specific topic only
    4. Discussion about employment
      - a. EEOC representative regarding FEPA
  - v. Next steps for OHR staff
    1. Doodle Poll
    2. Reach out to EEOC regarding speaker on FEPA

### 3. Reach out to HUD regarding speaker on FHAP

- d. OHR STAFF REPORT
    - i. Notes that data entry for November and December will be updated before the January meeting
      - 1. Generally more individual service work these months
    - ii. Will be doing community outreach (no contact) in South 1<sup>st</sup> Street and 6<sup>th</sup> Street the following week on 1/22 and 1/23
  - e. CHAIR UPDATE
    - i. Notes that this is her last meeting as Chair
    - ii. Excited to support whomever is elected Chair
5. WORK SESSION
- a. AD-HOC COMMITTEE UPDATES
    - i. Public Hearing Procedures Ad hoc Committee
      - 1. Laura, Alex, and Todd met with Allyson Davies to ask questions
      - 2. Asked about supporting Complainants in need of legal counsel and two ideas emerged
        - a. Ask Council to approve funds
          - i. Would be have to be made available to both Complainant and Respondent
        - b. Working with non-profit sector
          - i. Providing referrals to local non-profits or other pro-bono legal counsel
          - ii. Concerns about this as an option with regard to equity for the Complainant
      - 3. Discussed potential for legal counsel for the HRC, outside of the City Attorney's Office
        - a. PCRB is currently going through this process
      - 4. Discussed other potential ways the HRC could serve as advocates for community members
      - 5. Commissioner suggestion
        - a. Put income guidelines in place so that Counsel assistance would be based on need
      - 6. Allyson Davies
        - a. Concurs that putting income guidelines into a policy would be possible
        - b. Notes that the HRC serves a judicial body on behalf of the City government
        - c. Equal resources and access should be made to both sides
      - 7. Commissioner asks if funding for legal counsel for Complainants and Respondents would be part of OHR budget
        - a. OHR staff
          - i. FY22 proposed budget has been submitted
          - ii. Contracted Services line item could be the area of the budget that relates to this
            - 1. Currently set at \$25K
          - iii. Ad hoc committee could start to draft the language about this ask to bring to Council
6. OFFICER ELECTIONS – OHR staff assumes leadership of the meeting

- a. Election for HRC Chair
  - i. Nominating Committee announces slate for Chair
    - 1. Jessica Harris
    - 2. Mary Bauer
  - ii. Motion
    - 1. Nomination for Jessica Harris for Chair
      - a. Lyndele
    - 2. Second
      - a. Jeanette
    - 3. Jessica accepts the nomination for Chair
  - iii. Motion
    - 1. Nomination for Mary Bauer for Chair
      - a. Kathryn
    - 2. Second
      - a. Andrew
    - 3. Mary accepts the nomination for Chair
  - iv. Call for nominations for Chair from the floor
    - 1. None
  - v. Nominees for Chair offered the opportunity to speak
    - 1. Jessica Harris
      - a. Thanks Commission for the nomination
      - b. Shares that she was motivated to join the HRC after her son experienced a challenging situation in school shortly after she moved to Charlottesville
      - c. Wants to work for change in the local community
      - d. Would like to put effort into education and public outreach
      - e. Has done a lot of institutional change work in other organizations and would like to bring that to the HRC as well
    - 2. Mary Bauer
      - a. Thanks Commission for the nomination
      - b. Civil rights and poverty attorney for over 30 years
        - i. Legal Director at Southern Poverty Law Center
        - ii. Executive Director of Legal Aid Justice Center
        - iii. Currently Legal Director at Muslim Advocates
      - c. Dedicated life to Civil Rights as a lawyer
      - d. Has talked with Mr. Heinecke and thinks he makes good points
      - e. Believes the HRC could do big ambitious things
      - f. Would like to be part of a strategic planning process that puts a deeper focus on one or two areas to bring about change in the city
  - vi. OHR staff explains the voting process
    - 1. Votes will be held for nominees in the order presented on the slate
    - 2. If the first nominee receives a majority vote, then the vote concludes
    - 3. If the first nominee does not receive a majority vote, then the

- vote moves to the next nominee
4. If neither candidate receives a majority vote, the floor can be reopened for nominations by a motion and a second
- vii. Commissioner asks about the voting process as it appears different than the procedure used during the last vote
    1. The process being used was established by HRC vote in 2014 and is on page of the of the Human Rights Commission Rules and Procedures
  - viii. Vote for Jessica Harris for HRC Chair
    1. Yes: 4
    2. No: 8
    3. Abstained: 0
  - ix. Vote for Mary Bauer for HRC Chair
    1. Yes: 9
    2. No: 3
    3. Abstained: 0
- b. Election for HRC Vice Chair
- i. Nominating Committee announces slate for Vice Chair
    1. Kathryn Laughon
    2. Sue Lewis
  - ii. Motion
    1. Nomination for Kathryn Laughon for Vice Chair
      - a. Laura
    2. Second
      - a. Jessica
    3. Kathryn accepts the nomination for Vice Chair
  - iii. Motion
    1. Nomination for Sue Lewis for Vice Chair
      - a. Laura
    2. Second
      - a. Kathryn
    3. Sue accepts the nomination for Vice Chair
  - iv. Call for nominations for Chair from the floor
    1. Motion
      - a. Nomination for Ernest Chambers for Vice Chair
        - i. Shantell
      - b. Second
        - i. Kathryn
      - c. Ernest declines the nomination for Vice Chair
  - v. Nominees for Vice Chair offered the opportunity to speak
    1. Kathryn Laughon
      - a. Works as a nurse focused on gender violence
      - b. Brings a gender equity lens to issues
      - c. Interested in seeing the HRC to grow in legal power
      - d. Would like to see the HRC use its voice
    2. Sue Lewis
      - a. Last year on the Commission
      - b. One of the original members
      - c. Has served as the parliamentarian for all Chairs

- d. Familiar with rules and processes
      - e. Interested in developing rules and procedures further
    - vi. Vote for Kathryn Laughon as HRC Vice Chair
      - 1. Yes: 9
      - 2. No: 3
      - 3. Abstained: 0
    - c. OHR staff turns meeting leadership over to Chair Mary Bauer
- 7. MATTERS BY THE PUBLIC
  - a. PUBLIC COMMENT
    - i. Walt Heinecke
      - 1. Congratulates new HRC leaders
      - 2. Thanks HRC for hard work
    - ii. Don Gathers
      - 1. Thanks HRC for work
      - 2. Thanks Shantell for her service
      - 3. Looks forward to working with new leadership
      - 4. Offers to be of assistance to HRC
    - iii. Councilor Sena Magill
      - 1. Thanks outgoing Chair and Vice Chair
      - 2. Welcomes new Chair and Vice Chair
  - b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
    - i. Chair thanks all members of the public
    - ii. Outgoing Chair thanks members of the public
      - 1. Encourages Councilors to continue attending
- 8. COMMISSIONER UPDATES
  - a. Sue
    - i. Virginia Association for Human Rights
      - 1. No new actions
      - 2. Bylaws still not amended
      - 3. Most recent meeting canceled
      - 4. Will likely not meet until new year
      - 5. Sue will keep HRC updated
  - b. Kathryn
    - i. Thanks outgoing Chair and Vice Chair
- 9. NEXT STEPS
  - a. Memo to Council and proposed Ordinance amendments
    - i. OHR staff will work with the Clerk of Council to verify that there is space on Council's agenda on 1/19/2021
  - b. Resolution HR20-2
    - i. OHR staff will update item (c) and send the final version to Chair for signature
  - c. HRC 2021 Retreat
    - i. OHR staff will send a Doodle poll to determine the date
    - ii. OHR staff will reach out to EEOC regarding speaker on FEPA
    - iii. OHR staff will reach out to HUD regarding speaker on FHAP
- 10. ADJOURN
  - a. Meeting adjourned at 8:33 pm

**Excerpt from Zoom Chat regarding revised language for Resolution HR20-2 item (c)**

19:19:58 From Jeanette Abi-Nader she/her to All panelists : Upon conclusion of the review, provide a written recommendation to City Council as to whether the Commission believes there is no need for further action, whether there is good cause for removal, or whether the individual will receive a reprimand from the Council.

19:20:31 From Laura Keppley (they/them) to All panelists : Upon conclusion of the review, provide a written recommendation to City Council as to whether the Commission believes there is no need for further action, whether there is good cause for removal, or whether the individual will receive a reprimand from the Commission.

19:20:33 From Jeanette Abi-Nader she/her to All panelists : Upon conclusion of the review, provide a written recommendation to City Council as to whether the Commission believes there is no need for further action, whether there is good cause for removal, or whether the individual will receive a reprimand from the Commission.

19:22:47 From Mary Bauer (she/her) to All panelists : Upon conclusion of the review, provide a written recommendation to City Council if the Commission believes there is need for further action, including whether there is good cause for removal or whether the individual will receive a reprimand from the Commission.

19:25:07 From Todd Niemeier (he/him) to All panelists : Upon conclusion of the review, provide a written summary of the facts and a recommendation to City Council if the Commission believes there is need for further action, including whether there is good cause for removal or whether the individual will receive a reprimand from the Commission.

19:29:47 From Andrew Orban (he/him) to All panelists : Upon conclusion of the review, the commission may determine there is no need for further action, the Commissioner may be reprimanded, or may recommend to City Council that the member be removed for good cause.

19:30:12 From Andrew Orban (he/him) to All panelists : (Putting the burden on the commission to decide the determination ahead of action to Council.)

19:33:00 From Jeanette Abi-Nader she/her to All panelists : Upon conclusion of the review, the commission may determine there is no need for further action, the Commissioner may be reprimanded, or may provide a written summary that recommends to City Council that the member be removed for good cause.

# Attachment 3

**AN ORDINANCE AMENDING AND REORDAINING CHAPTER 2  
(ADMINISTRATION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990),  
AS AMENDED, BY ADDING A NEW ARTICLE XV ENTITLED HUMAN RIGHTS.**

**BE IT ORDAINED** by the Council for the City of Charlottesville, Virginia that Chapter 2 of the Code of the City of Charlottesville (1990), as amended, is hereby amended and reordained by adding a new Article XV entitled Human Rights, which Article shall read as follows:

**Article XV. Human Rights**

**Sec. 2-430. Short title.**

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

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

(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, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status or disability.

**Commented [SE1]:** Missing familial status as a protected class, which is more expansive than “pregnancy/childbirth”.

(b) As used herein, the term “discrimination on the basis of sex” is defined to include, but not be limited to, discrimination on the basis of gender identity, transgender status or sexual orientation.

(c) As used herein, the term “unlawful discriminatory practice” includes conduct in violation of any comparable Virginia or federal statute or regulation governing unlawful discrimination.

**Commented [SE2]:** Generally, this ordinance sites to state and federal law, but does itself specially define what actions constitute discrimination in housing (e.g., 42 U.S.C. §§ 3604 – 3606).

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

(a) There is hereby created in the City of Charlottesville a Human Rights Commission, consisting of no less than nine members appointed by the City Council. The Commission membership shall be broadly representative of the City’s population, with consideration of racial, gender (including gender identity, transgender status, and sexual orientation), religious, ethnic, disabled, socio-economic, geographic neighborhood and age groups within the City. 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.

No retaliation provision comparable to § 3617.

(b) The Commission shall elect from its members a chair, a vice-chair, and such other officers as the Commission may deem appropriate. The Commission may also adopt rules and procedures to govern the conduct of its affairs.



(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. 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 "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. The Director will be responsible for and report to the Commission in the day-to-day operational conduct of the Commission's activities. The Director shall report directly to the City Manager 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.

(g) All City departments, boards and commissions shall cooperate with and provide assistance to 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 authorize retention of outside counsel where deemed appropriate upon recommendation of the City Attorney.

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

The role of the Human Rights Commission 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) 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;

(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) Assist individuals who believe they are the victim of an act of unlawful discrimination within the City;

(d) 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;

**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 may 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 practices but nevertheless which produce disparities that adversely impact affect individuals 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 concrete, actionable reforms that will eliminate discriminatory practices or the adverse effects of lawful other practices.

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

**Sec. 2-437. Duties and responsibilities – Investigation of individual complaints and issuance of findings.**

(a) The Director will develop and implement a central intake mechanism for receiving and processing individual complaints that allege an unlawful discriminatory practice in the City.

(b) In cases where investigation and remediation are already available in the City, such as employment discrimination complaints within the jurisdiction of the Equal Employment Opportunity Commission (“EEOC”) or fair housing complaints addressed by the Piedmont Housing Alliance, the complaint will be referred to that agency so that investigation and enforcement may be initiated by those bodies, which will offer services in the City and, to the extent allowed by law, report their findings to the Commission.

(c) For all other complaints alleging an unlawful discriminatory practice as defined herein within the corporate limits of the City, the Director or other designated professional staff will conduct, as authorized by this ordinance, fact-finding, mediation, conciliation, and, if necessary, full investigation of the complaint as he or she deems appropriate to ascertain the facts underlying the charge of discrimination, provided that the complaint may be dismissed by the Director without investigation if it fails to adequately allege a violation of this ordinance or is otherwise deficient on its face. If the complaint is not dismissed the Director will serve a copy on

**Commented [SE3]:** Per 24 C.F.R. § 115.204(f), “a law will be found inadequate ‘on its face’ if it permits any of the agency’s decision-making authority to be contracted out or delegated to a non-governmental authority.”

**Commented [SE4]:** This section is missing the following (analogous to 42 U.S.C. § 3610) such as:

- **Notice requirements** (e.g., of filing, response, findings)
- **Investigation timeframes** (e.g., filed within 30 days, response within 10 days, 100 days to complete investigation, final disposition within one year).
- Ability to file a **response** by respondent
- **Service** of a charge

The FHAP implementing regulation at 24 C.F.R. § 115.204 identifies what investigative procedures are specifically required to be stipulated in the law itself (as opposed to other laws or regulations).

each respondent named therein. Upon completion of the initial investigation, the Director shall render a written determination of whether there is probable cause to believe a violation of this ordinance has occurred, and the facts supporting such determination. The written determination shall promptly be served on the parties.

(d) If the Director determines that there is probable cause to believe a violation has occurred, the Director will propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary mediation or other informal means. Nothing herein shall be interpreted as requiring any party to participate in mediation or any other conciliatory efforts. Materials used and communications made during a mediation or informal conciliation shall be confidential, and shall not be disclosed to the public by the Director, the Commission or its staff unless disclosure is authorized in writing by all parties to the dispute.

(e) 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 has been violated. No further action on the initial complaint will be taken by the Commission or its staff once the agreement is executed. If mediation or conciliation is not successful, the Director or designee may conduct further investigation or, if further investigation is not warranted, either dismiss the complaint as not constituting a violation or proceed with the preparation of materials for consideration by the Commission, as provided in section 2-439.1 (b).

(f) In order to fulfill the requirements of this section, the City Manager is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discriminatory conduct as prohibited in section 2-431, for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is probable cause to believe a violation of this ordinance has occurred, conducting mediations or conciliations of complaints and advising the Director of the Commission of the results of any investigation, mediation or conciliation of complaints.

**Commented [SE5]:** As per the FHAP implementing regulation at 24 C.F.R. § 115.204(a)(2)(iv), "any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent, the complainant, and the agency." (emphasis added). Once executed, the agency should monitor the terms of the agreement to ensure implementation.

**Commented [SE6]:** As noted above, this would be considered inadequate on its face for subcontracting out core investigative functions.

**Sec. 2-438. Reserved.**

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

(a) If the Director determines that there is insufficient probable 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) business 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 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 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 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 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.

**Commented [SE7]:** Under the Act at 42 U.S.C. § 3610(g) and under the FHAP regulation at 24 C.F.R. § 115.204(b), a case must proceed to enforcement upon a finding of probable/reasonable cause, either through an administrative hearing or by filing a civil action and proceed through final disposition.

**Commented [SE8]:** Note, that if an administrative hearing is provided to the parties, the agency must also provide an **election option** analogous to 24 U.S.C. § 3612 (a) and (o). The election provision should stipulate that:  
- Either party can choose to elect to have claims asserted in civil action  
- Notice requirement on the party requesting election.  
If election is made, the law official shall commence and maintain a civil action on behalf of the aggrieved person

(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 he or she deems 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 he or she 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.**

(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 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

**Commented [SE9]:** Under 24 C.F.R. § 115.204(b), the agency or commission must have the authority to grant or seek prompt judicial action, issue and seek enforceable subpoenas, grant actual damages in an administrative proceeding, grant injunctive or other equitable relief, provide provided civil penalties, and an election option.

**Commented [SE10]:** Where reasonable cause is found, the complainant must have the ability to have their case proceed through a civil action, and the agency is responsible for brining forward a case on behalf of the complainant.

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.**

# Attachment 4

**Office of Human Rights**  
**Todd Niemeier Monthly Staff Report**  
**January 2021**

**Service Provision Data:**

The chart below includes all service data entered as of 1/15/2021

- Data currently entered through 12/31/2020
- Values may change in future reports following reviews for accuracy and/or categorization updates
- Key to abbreviations and terms
  - Total Contacts = Includes incoming contacts and staff contacts going out
  - Total External Contacts = Includes only incoming contacts
  - I = New Inquiries
    - Service provision involving any of the protected activities
    - Complaints of discrimination that fall outside the OHR's jurisdiction
  - C = New Complaints
    - Complaints of discrimination that fall within the OHR's jurisdiction for which the Complainant chose to take action
  - P.A. = Protected Activity
  - P.C. = Protected Class
  - Counseling = Contacts involving referrals to services or direct non-investigative assistance
  - Referral = Contact resulting in a referral to another agency for assistance
    - CSRAP = Charlottesville Supplemental Rental Assistance Program
    - LAJC = Legal Aid Justice Center
    - CVLAS = Central Virginia Legal Aid Society
    - PHA = Piedmont Housing Alliance
    - EEOC = Equal Employment Opportunity Commission
    - DPOR = Department of Professional and Occupational Regulation (VA Fair Housing Office)

<b>Measures</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>TOTALS</b>
<i>Open office days in the month</i>	22	20	21	22	23	20	22	22	20	23	19	18	252
<i>Total Incoming &amp; Outgoing Contacts</i>	288	318	276	253	160	104	47	79	88	129	193	148	<b>2083</b>
<i>Total Incoming Contacts</i>	207	230	158	69	81	61	26	45	43	75	94	70	<b>1159</b>
<i>Average Incoming Contacts/Day</i>	9	12	8	3	4	3	1	2	2	3	5	4	<b>5</b>
<i>Referrals from Sin Barreras</i>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<i>Contacts in Spanish</i>	0	3	9	106	58	29	10	0	0	2	9	5	<b>231</b>
<i>Total Staff Follow-ups (Outgoing)</i>	56	36	80	180	72	36	18	24	31	32	56	48	<b>669</b>
<i>Total Third Party Contacts (Outgoing)</i>	25	52	38	4	7	7	3	10	14	22	43	30	<b>255</b>
<i>Total Client Follow-ups (Incoming)</i>	143	137	99	53	69	41	19	23	24	42	50	39	<b>739</b>
<i>Total Third Party Contacts (Incoming)</i>	25	42	32	2	5	11	2	4	14	20	24	21	<b>202</b>







Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Employment Complaints: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Employment Complaints: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Employment Complaints: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Emp. Complaints: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Age	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Disability	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - National Origin	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Pregnancy	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Childbirth or R.M.C.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Race	0	0	0	0	0	0	0	0	0	0	1	0	1
Total Housing Complaints: P.C. - Color	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Religion	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Sex	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Age	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Disability	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - National Origin	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Pregnancy	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Childbirth or R.M.C.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Race	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Color	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Religion	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Sex	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Open Inquiries													16
Total Closed Inquiries													47
Total Dismissed Inquiries													0

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Open Complaints													1
Total Closed Complaints													1
Total Dismissed Complaints													0
Primary Service: Appointment Set-up	51	23	13	1	1	1	0	5	4	0	12	3	114
Primary Service: Clerical Assistance	0	8	0	0	2	0	1	0	1	0	0	0	12
Primary Service: Counseling	51	39	25	7	5	5	5	7	12	18	13	14	201
Primary Service: Event Information	1	1	1	0	0	0	0	0	0	0	0	2	5
Primary Service: Investigation Activity	11	11	5	3	1	0	1	9	10	19	10	13	93
Primary Service: Information	166	234	180	24	62	51	26	56	60	91	156	116	1222
Primary Service: Mediation Related Services	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Outreach Coordination	8	2	4	0	0	1	0	2	1	1	2	0	21
Primary Service: Public Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Volunteer Coordination	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Helpline - COVID Response	0	0	48	218	89	46	14	0	0	0	0	0	415
Total Formal Investigations: - Employment													0
Total Formal Investigations: - Housing													1
Total Formal Investigations: - Public Accommodation													1
Total Formal Investigations: - Credit													0
Total Formal Investigations: - Private Education													0

### Active Investigations:

- Case 2019-1
  - Public Accommodation Discrimination on the basis of race
    - Determination of probable cause served on 11/12/2020 by Acting City Manager John Blair
    - Next steps
      - Complainant considering conciliation offer from Respondent
      - If conciliation fails, potential for public hearing by HRC
- Case 2020-2
  - Housing Discrimination on the basis of race
    - Investigation in progress

## Outreach:

- Service Provision
  - Fair Employment Practices Agency (FEPA) Inquiry
    - Spoke with James Yao
    - He is willing to meet with Chair, Vice Chair, and staff to discuss further
  - Fair Housing Assistance Program (FHAP) Inquiry
    - Erik Steinecker to present overview to HRC at meeting on 1/21/21
  - Workshare MOU with Virginia Attorney General's Office
    - No response yet regarding draft MOU from AG's Office
    - Staff to follow up in January
- Education & Awareness
  - Would like to revise our general services brochure and fair housing brochure once the Ordinance is updated
- Facilitation & Leadership
  - Public Housing Association of Residents – Residents for Respectful Research (RRR)
    - MOUs with UVA in final steps
      - Awaiting final response from UVA SBS IRB
      - Awaiting final response from UVA Equity Center
    - Hiring process begins for RRR Coordinator
    - RRR Advisory Board continues work on developing “community accessible” CITI training modules
      - Translation of module 1 complete
        - Work begins on recreation of module using translation.
      - Translation of module 2 complete
        - Work begins on recreation of module using translation.
  - Affordable Housing
    - Code for Charlottesville rethinking software platform for housing navigation tool using Google software
  - Welcoming Greater Charlottesville (WGC)
    - OHR staff is engaging WGC task force members in thinking about ways to address ongoing concerns about conflicts between new immigrants and long-time residents, especially in public and subsidized housing
      - Idea proposed for dialogue on race and ethnicity
      - No additional progress to report at this time

# Attachment 5

**AN ORDINANCE**

**APPROVING AMENDMENTS TO CHAPTER 2 (ADMINISTRATION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, ARTICLE XV (HUMAN RIGHTS) SEC. 2-431 (UNLAWFUL DISCRIMINATION PROHIBITED); SEC. 2-432 (HUMAN RIGHTS COMMISSION); SEC. 2-433 (ROLE OF THE HUMAN RIGHTS COMMISSION); SEC. 2-437 (DUTIES AND RESPONSIBILITIES- INVESTIGATION OF INDIVIDUAL COMPLAINTS AND ISSUANCE OF FINDINGS); AND SEC. 2-439.1 (ENFORCEMENT AUTHORITY-THE ROLE OF THE COMMISSION) TO UPDATE THE ORDINANCE TO REFLECT CHANGES TO 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 2.431; 2-434; 2-433; 2-437; and 2-439.1 (“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 and considerations, this Council is of the opinion that that the Proposed Text Amendment has been designed to comply with recent changes to 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 2.431; 2-434; 2-433; 2-437; and 2-439.1 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. Short title.**

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

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

(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~~, 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, pregnancy, childbirth or related medical conditions, national origin, age, marital status, status as a veteran, or disability.

(b) 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.

(c) ~~As used herein, the term “discrimination on the basis of sex” is defined to include, but not be limited to, discrimination on the basis of gender identity, transgender status or sexual orientation.~~ 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.

(d) 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.

(e) 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. 2-432. Human Rights Commission.**

(a) There is hereby created in the City of Charlottesville a Human Rights Commission, consisting of no less than nine (9) and not more than fifteen (15) members appointed by the City Council. The Commission membership shall be broadly representative of the City's ~~population~~ 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 ~~within the City; with priority given to City residents, and to applicants with significant and demonstrable ties to the City.~~ 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.

Deleted: as well as

(b) The Commission shall elect from its members a chair, a vice-chair, and such other officers as the Commission may deem appropriate. The Commission may also adopt rules and procedures to govern the conduct of its affairs.

(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. 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 "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. The Director will be responsible for and report to the Commission in the day-to-day operational conduct of the Commission's activities. The Director shall report directly to the City Manager 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.

(g) All City departments, boards and commissions shall cooperate with and provide assistance to 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 authorize retention of outside counsel where deemed appropriate upon recommendation of the City Attorney.

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

The role of the Human Rights Commission 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 City; 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;

(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; Assist individuals who believe they are the victim of an act of unlawful discrimination within the City;

(d) 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;

**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 may 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 practices but nevertheless which produce disparities that adversely impact affect individuals 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 concrete, actionable reforms that will eliminate discriminatory practices or the adverse effects of lawful other practices.

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

**Sec. 2-437. Duties and responsibilities – Investigation of individual complaints and issuance of findings.**

(a) The Director will develop and implement a central intake mechanism for receiving and processing individual complaints that allege an unlawful discriminatory practice in the City.

(b) ~~In cases where investigation and remediation are already available in the City, such as employment discrimination complaints within the jurisdiction of the Equal Employment Opportunity Commission (“EEOC”) or fair housing complaints addressed by the Piedmont Housing Alliance, the complaint will be referred to that agency so that investigation and enforcement may be initiated by those bodies, which will offer services in the City and, to the extent allowed by law, report their findings to the Commission. For complaints alleging an unlawful discriminatory 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 (c). For complaints alleging an unlawful discriminatory practice that falls outside the jurisdiction of the City, the Director or other designated professional staff will refer the complaint to the appropriate state or federal agency.~~

(c) ~~For all other complaints alleging an~~ Upon determination that an alleged unlawful discriminatory practice falls within the enforcement jurisdiction of the City, ~~as defined herein within the corporate limits 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. fact-finding, mediation, conciliation, and, if necessary, full investigation of the complaint as he or she deems appropriate to ascertain the facts underlying the charge of discrimination, provided that the~~ The complaint may be dismissed by the Director without further action ~~investigation~~ if it fails to adequately allege a violation of this ordinance or is otherwise deficient on its face. ~~Following the initial fact-finding inquiry, if~~

Deleted: jurisdiction

the complaint is not dismissed, and the Complainant wishes to pursue further action, the Director 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. Further action, as authorized by this ordinance, may include mediation, conciliation, and formal investigation of the complaint, as deemed appropriate by the Director. Upon completion of a formal ~~the initial~~ investigation, the Director shall render a written determination of whether there is probable cause to believe a violation of this ordinance has occurred, and the facts supporting such determination. The written determination shall promptly be served on the parties.

(d) If the Director determines that further action is appropriate ~~that there is probable cause to believe a violation has occurred~~, the Director will propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary mediation or other informal means. Nothing herein shall be interpreted as requiring any party to participate in mediation or any other conciliatory efforts. Materials used and communications made during a mediation or informal conciliation shall be confidential, and shall not be disclosed to the public by the Director, the Commission or its staff unless disclosure is authorized in writing by all parties to the dispute.

(e) 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 has been violated. No further action on the initial complaint will be taken by the Commission or its staff once the agreement is executed.

(f) If mediation or conciliation is not successful, and the Complainant wishes to pursue further action, the Director or designee may conduct ~~further~~ 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. ~~or~~, If further investigation is not warranted, the Director may either dismiss the complaint as not constituting a violation. ~~or~~ 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 (b).

(g) In order to fulfill the requirements of this section, the City Manager is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discriminatory conduct as prohibited in section 2-431, for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is probable cause to believe a violation of this ordinance has occurred, conducting mediations or conciliations of complaints and advising the Director of the Commission of the results of any investigation, mediation or conciliation of complaints.

**Sec. 2-438. Reserved.**

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

(a) If the Director determines that there is insufficient probable 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) business 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 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 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 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 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 ~~he or she~~ they deems 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 ~~he or she~~ 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.**

(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 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.**

Text Legend

<p><del><b>Bold Strike Through</b></del> = deleted language</p> <p><u>Underline</u> = new language</p> <p>Existing language</p>
---