



**Human Rights Commission
Regular Meeting
October 20, 2022
Virtual/Electronic Meeting
6:30pm**

Agenda Packet Attachments

1. Agenda
2. 09/15/2022 DRAFT HRC Regular Meeting Minutes
3. 10/06/2022 DRAFT HRC Committee Meeting Minutes
4. OHR Director Report
5. Human Rights Commissioner Service Description
6. DRAFT Memo to City Council Regarding Ordinance Revisions
7. DRAFT Charlottesville Human Rights Ordinance Revisions
8. DRAFT Annual Legislative Agenda Recommendations

Attachment 1



**Human Rights Commission
AGENDA
Regular Meeting
October 20, 2022
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 presented 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 or that pertain to topics outside the scope of this Agenda. This will be a virtual/electronic meeting open to the public and registration information is available at www.charlottesville.gov/zoom.

The Commission welcomes comments and questions and commits to listening carefully and thoughtfully to what is presented. A maximum of sixteen public comment time slots are allotted per meeting. Each speaker will have three minutes to speak. The Commission requests that members of the public refrain from engaging in personal attacks against Commissioners and staff members and asks that comments and questions focus on matters related to human rights within the City.

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. 09-15-2022 HRC Regular Meeting Minutes*
- b. 10-06-2022 HRC Committee Meeting Minutes*

4. BUSINESS MATTERS

- a. CHAIR UPDATE
- b. OHR STAFF REPORT

5. WORK SESSION

- a. Draft Charlottesville Human Rights Ordinance Revisions*
- b. Annual Legislative Agenda Recommendations*
- c. 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. 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
September 15, 2022
Virtual/Electronic Meeting
6:30 pm**

Click [HERE](#) to access rebroadcasts of past Human Rights Commission meetings on YouTube.

Click [HERE](#) to access an archive of past Human Rights Commission work on the City website.

1. WELCOME

- a. CALL TO ORDER
 - i. Chair, Jessica Harris, called the meeting to order on virtual Zoom platform at 6:33 pm
- b. ROLL CALL
 - i. Jessica Harris
 - ii. Ernest Chambers
 - iii. Jeanette Abi-Nader
 - iv. Mary Bauer
 - v. Wolfgang Keppley
 - vi. Lyndele 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
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

3. BUSINESS MATTERS

- a. Director asks if there is any dissent about the new City policies outlined in the agenda packet
 - i. Can meet online for 25% of meetings per year or 2 per year (whichever is greater)
 1. Went into effect in September, so after this meeting, the Commission can meet online once more in 2022 for regular meetings
 2. Each committee gets its own rule for 25% or 2 per year
 - ii. Commissioners now must publicly notice any meeting with 2 or more Commissioners in attendance (not more than 2) conducting business
 - iii. The HRC are still allowed to hold more than one meeting a month requiring a presence of a City staff person
 - iv. Meeting locations must now be approved by City Manager
 1. City Space is an option
 2. Two-person meetings must take place in a publicly-accessible area
 - v. If Commission is meeting in person but someone wants to meet

- virtually, they must notify the Chair and meet the criteria outlined in the Rules & Procedures (set within FOIA Section 2.2-3708.3(b)(1)-(4))
- vi. HRC will need to amend their Rules & Procedures with these changes
 - vii. HRC has support for hybrid meetings, so members of the public can join virtually while the Commission meets in person
 - 1. Members of the public can comment verbally or by written comment (for chat functions, there will be extra steps to prevent trolls from disrupting the meeting)
 - viii. No opposition to the new rules by the Commission
- b. General Assembly legislation review with Delegate Sally Hudson
- i. General Assembly will reconvene in January for a short session, which is 6 weeks long
 - 1. Therefore, there are still about 4 months to talk about legislation
 - ii. Political landscape has changed a lot in Richmond in the past year; Republicans now have a majority in the House, Democrats have a majority in the Senate, and Youngkin's administration is in the executive branch
 - 1. This has changed Delegate Hudson's top legislative priorities
 - a. Housing, LGBTQ+ rights, and mental health care are top topics to talk about in this meeting
 - 2. Some of these topics are being revisited by those in office
 - iii. Housing
 - 1. There is some bipartisan interest in addressing the rising cost of living
 - 2. A lot of places, including rural communities, are beginning to talk about affordable housing and homelessness
 - 3. Governor has talked about revisiting rezoning policies and expediting permitting, things already being talked about in this community
 - 4. Delegate Hudson believes that a desire to expedite housing construction should not come at the expense of protections for workers and the planets
 - 5. The administration is discovering that some bigger changes will require Virginian constitutional reform, as property tax rates are constrained by the state Constitution
 - a. More aggressive solutions like progressive property taxation and land valuation taxation are more challenging
 - b. Delegate Hudson will advocate for taking on affordable housing solutions, but constitutional amendments take years
 - 6. Hudson is disappointed that the administration seems to be pitting supply side reforms against imports and subsidies, but she will continue advocating to relevant needs
 - 7. Need to renew emphasis on eviction prevention since federal eviction preventions expired this summer, which the community has already been feeling effects from
 - a. Need to address inconsistent enforcement of eviction protections

- iv. LGBTQ+ rights
 - 1. Virginia Values Act was passed during the last term, but there have been efforts to repeal parts of this legislation
 - 2. Now, it is under attack from the majority party
 - 3. There is a lot of using public office as a bully pulpit to target LGBTQ+ youth
 - 4. As long as there is a Democratic majority in the Senate, the bills are threatening, but likely will not pass
 - 5. In the Charlottesville-Albemarle area, there are important protections in place that ensure that residents are protected in public institutions
 - 6. A new resource by Equality Virginia put out a School Board Tracker so Virginians can keep tabs on School Board meetings and how their divisions are doing with passing model policies for LGBTQ+ students
- v. Mental health care
 - 1. New laws will only do so much; the issue is the lack of resources
 - a. Need to increase the workforce, especially in community-based settings
 - 2. There is a budget surplus again this year, and Delegate Hudson believes the excess funds need to be allocated into long-neglected resources
 - 3. Believes it is important to diversify the voices that have a role in behavioral health policy
 - a. Has mostly been under the purview of legislators, but there have been efforts to include behavioral health care clients on the state commission
 - b. This effort had bipartisan support but died in the Senate
- vi. Q&A session
 - 1. Commissioner asks Delegate Hudson to speak about abortion rights
 - a. Made progress last term in making VA a true haven for abortion rights
 - b. There is an influx of people coming to VA for health care needs
 - c. In Virginia, abortion is legal in the first and second trimesters, as well as the third given special protections to the health of mothers and in cases of rape and incest
 - d. There is still work to do in expanding access, but VA is in a good place for now despite the Governor making it a top priority to repeal these measures
 - e. In the next session, Delegate Hudson would like to elevate the voices and stories of patients and providers
 - 2. Commissioner asks about current policy options Delegate Hudson is tracking for permanent housing
 - a. Most legal vehicles for permanent supportive housing are already in place; the issue is funding
 - b. The biggest goal right now is investing more money into

- existing resources instead of making policy changes
3. Commissioner has concerns about how there is such a wide range of median incomes around different Charlottesville locales and agrees that it is important to invest in people more so than programs
 - a. Delegate Hudson says empowering workers who power critical services in the community is important
 - b. Housing and labor policy are related
 - c. As the new Comprehensive Plan update continues, some inclusionary zoning measures and density bonuses exist
 4. Director recognizes how landlords who own more than 4 rental properties cannot deny housing vouchers, but rental prices continue to rise; HUD tries to match market rates, but rising rent is outpacing HUD's changes; asks whether there are talks of any legislation that would enable localities to require landlords set prices within payment standards
 - a. Delegate Hudson that this would be a large step for Virginia
 - b. DHCD put out a through report this summer about the current state of the affordable housing shortage; one relevant section talked about "project-based vouchers"
 - c. A solution that would address a similar problem to what the Director mentioned would be putting lots of state funding into project-based vouchers
 5. Commissioner asks about the status of a bill regarding tenant assertion and complaints, as well as whether there are talks about putting more funds into advocacy for evictions (legal aid lawyers representing tenants)
 - a. Delegate Hudson explains that the bill the Commissioner mentioned would have empowered localities to address substandard living standards in large apartment complexes
 - i. Is unsure when the Governor will come around on it; the bill's patron will likely re-introduce it
 - b. Delegate Hudson would like to advocate for more funding for legal aid lawyers
 - c. A big political point of disagreement is whether there will be any money left over and whether certain resources need more funding
 - i. In VA, the vast amount of revenue growth is coming from investment income and corporate profits, which government will need to discuss
 6. Director asks whether site-based Section 8 vouchers are controlled by the state
 - a. Site-based Section 8 vouchers are federal; DHCD is advocating for the state to step up and add an additional funding stream with similar project-based tag
 7. Commissioner asks about holistic policies and how the

Commission can best elevate stories from the public to Delegate Hudson

- a. Delegate Hudson will include her contact information; and she encourages people to contact her directly, as well
- b. Is also willing to help individuals get connected with relevant Boards and Commissions since they work year-round, unlike the part-time General Assembly

4. MINUTES

- a. Review of Housing Committee minutes from 6/28/2022 (2 of 2 Commissioners present who attended committee meeting)
 - i. Motion to approve: Wolfgang
 - ii. Second: Mary
 - iii. Vote
 1. In favor: 2
 2. Opposed: 0
 3. Abstained: 4
- b. 8/18/22 Regular Meeting minutes and 8/30/22 Community Engagement Committee Meeting minutes will be reviewed at the next meeting due to recency of publication

5. BUSINESS MATTERS

- a. CHAIR UPDATE
 - i. Chair is unable to access survey unless logged into HRC account, so it is not live; also asks about the optional status of some questions
 1. OHR Community Outreach Specialist says that the survey is supposed to redirect the respondent if they choose the option to follow up with the Commission, but she will check to make sure
 2. Will talk to Communications about making the survey viewable to the public
 - ii. Asks Community Engagement committee to summarize their meeting
 1. Went over the survey to get community input
 2. **There will be a signup going out for outreach events, including events for the coming weekend**
 - a. Sin Barreras is having their annual Sabroso celebration at Washington Park on 9/17, and Cville Pride is 9/18
 - b. On 9/22 from 10am-12pm, Mahalia Dryden-Mason from the Department of Occupational Regulation in Housing will be discussing fair housing; will be remote or in person at the CRHA office
 3. **Director will upload Resolution A22-1 to website**
 - iii. Asks Housing committee to summarize their meeting
 1. Anna Mendez gave some constructive feedback about looking into service provision data
 - a. Will be in the HMIS database
 - b. Looking at how organizations track referrals, how organizations track referral completion, or if referrals were refused by individuals or service providers
 2. Wolfgang had a conversation about Anthony Haro, and he recommended the Commission look into access to housing as

health care and what UVA is doing with that, as well as look into permanent supportive housing units as a part of new Charlottesville development projects

a. Legal infrastructure is already in place, so it could be doable

3. Can look into next steps, whether it be looking at service provision data or permanent supportive housing

b. OHR STAFF REPORT

i. Outreach Specialist

1. Systematizing the way that the Commission discusses events is an idea

ii. HRC Director

1. Director suggests establishing standing times for committees to ensure the Commission gets a space

2. Director suggests creating a legislative agenda standing committee to ensure that recommendations are completed in time

a. Lisa Robertson, City Attorney, is working as Council's liaison; she does not know what Council's schedule is yet

b. Also have option of lumping committee meetings together

3. Ordinance is attached

a. Still a work in progress

4. Monthly report is not attached, but still averaging 13 contacts per day in August

a. 2,023 incoming contacts for the year as of September (last year's total was 1,962)

b. Indicates that more people are coming to the Office for support, but that there are many people who need support

5. Final Annual Report is attached in the packet and can be voted upon tonight

6. Draft Ordinance and draft Ordinance memo are attached for Commissioners to review for next meeting

a. Commissioners should send feedback by 10/3/22

b. Meeting with Erik Steinecker on 10/11/22 to discuss changes to the OHR if Ordinance changes are accepted

c. 11/7 will be the day of presentation to Council, and 11/3 and 11/4 there will be 2-2-1 meetings with Councilors to discuss the Ordinance

7. Rules & Procedures are attached and will probably need amendments

a. Need to address changes to Martha's Rules, ad-hoc committees, and virtual meeting policy

8. Language Advocacy Plan has been sent to Council

9. Resolution is on the website; letter still needs to be uploaded to the website

a. May talk about it during a Council meeting's public

- comment
- b. Deputy City Manager is currently already working on procuring services to improve language access in the City, so Commissioners should make sure to support this effort when talking to Council
- 10. Commissioner asks Director if the virtual meeting policy in the current Rules & Procedures should be repealed now
 - a. The City's new clause already nullifies the old one; Kathryn had offered to look over the Rules & Procedures with Jessica to look over other sections like about Robert's Rules

6. WORK SESSION

- a. HRC Rules & Procedures
 - i. Director suggests establishing standing times for committees
 - ii. Director suggests creating a legislative agenda standing committee to ensure that recommendations are completed in time
- b. Committee meeting coordination
 - i. Wolfgang and Mary can do 1st and 2nd Thursdays at 6:30pm
 - 1. Todd will check about 1st Thursdays
 - ii. Legislative committee creation
 - 1. Mary, Wolfgang, and Jessica volunteer
 - 2. Committee will likely only have to meet once
 - iii. Director suggests first Thursday 6:30pm meeting to be set aside for all committees
 - 1. Commissioners generally prefer Zoom meetings
- c. Annual Report vote
 - i. Motion to approve: Jeanette
 - ii. Second: Lyndele
 - iii. Vote
 - 1. In favor: 5
 - 2. Opposed: 0
 - 3. Abstained: 0
- d. Committee meeting coordination (continued)
 - i. Director will book the first Thursdays of the next two months for committee meetings
- e. Meeting status
 - i. Will do October regular meeting online
 - ii. Will do October and November committee meetings online
 - iii. Could be hybrid, which would be on the schedule as in person
 - iv. Virtual participation would probably still allow a Commissioner to vote
 - v. Nominating Committee is also on the horizon for the end of the year
 - vi. The first Thursday of every month from 6:30-8:30pm will be reserved for committee meetings
- f. October committee meeting order
 - i. Legislative agenda creation
 - ii. Housing
 - iii. Community Engagement
 - iv. Equity committee
- g. Rules & Procedures amendments can be done at any point

- i. Mayor Snook is working with a UVA law clinic to develop standard operating procedures for all Boards and Commissions, so waiting to review Rules & Procedures may be wise

7. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT
 - i. None
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
 - i. None

8. COMMISSIONER UPDATES

- a. None

9. NEXT STEPS

- a. Todd
 - i. Connect Jessica with Ashley to discuss Language Access Plan
 - ii. Post Language Access Plan letter to the website
- b. Victoria
 - i. Look into viewing capabilities for the survey
- c. Everyone
 - i. Sign up for events on Outreach Specialist's document
 - ii. Review HRC Ordinance before 10/3
 - iii. Committee meetings will take place on 10/6 starting at 6:30pm—
Legislative, Housing, Community Engagement, Equity

10. ADJOURN

- a. Meeting adjourned at 8:18 pm

Pending HRC Approval

Attachment 3



**Human Rights Commission
Meeting Minutes
Committee Meetings
October 6, 2022
Virtual/Electronic Meeting
6:30 pm**

Click [HERE](#) to access rebroadcasts of past Human Rights Commission meetings on YouTube.

Click [HERE](#) to access an archive of past Human Rights Commission work on the City website.

Housing, Legislative, and Equity in City Government committees were not called to order.

Community Engagement Committee

1. WELCOME

- a. CALL TO ORDER
 - i. HRC Director, Todd Niemeier, called the meeting to order at 7:39 pm
- b. ROLL CALL
 - i. Jeanette Abi-Nader
- 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. None
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
 - i. None

3. WORK SESSION

- a. Legislative agenda poll update by OHR Outreach Specialist
 - i. 100 English responses, 1 Spanish response
 - 1. More detail in October regular meeting's agenda packet that will go out
 - ii. Affordable housing was consistently ranked highest
 - 1. Closest competitor was mental health
 - iii. Many respondents made use of the write-in question
 - iv. Great response rate even despite technical difficulties
- b. Outreach Specialist describes upcoming events
 - i. There is an additional event on the spreadsheet: Fry Springs Neighborhood Association Oktoberfest tabling on 10/9/22 3-5pm
 - 1. A resource fair for families in the area
 - ii. Also planning a community workshop for the OHR this year, as well as some kind of school system event like a parent/family night
 - iii. Holiday season may bring more opportunity for events
- c. Commissioner says Community Climate Collaborative is hosting party for the planet on 10/7/22; volunteers to bring tabling materials

- i. **Jeanette will stop by the OHR to pick up materials**
- d. Commissioner says on 10/22/22, Wildrock is hosting a children's event at Washington Park called Festival in the Bog
- e. Outreach Specialist is working on a Human Rights Jeopardy for tabling events
 - i. Will be a Velcro-felt board targeted to most audiences (especially children)
- f. Commissioner suggests providing flyers at Wes Bellamy's turkey giveaway; asks how Outreach Specialist has been flyering so far
 - i. Outreach Specialist had already spent some time flyering around Charlottesville already
- g. Market Days are still occurring; end-of-year Market Day will be 10/22/22
 - i. Could also table these, but the environment would be very casual
- h. Review of previous Community Outreach committee meeting
 - i. Can follow up about potential Downtown Mall tabling and doing another town hall
 - ii. Up to the Commission for the time frame; could still do Downtown Mall tabling in this fall if there is interest
 - 1. Outreach Specialist suggests setting up a hot chocolate table in front of the Regional Library
 - 2. There are a couple flyers there already
- i. Outreach Specialist would like to do a community workshop as a general intro to human rights law
 - i. Asks if there is interest/availability in doing a small community workshop about the HRC
 - ii. Could do these two workshops together
 - iii. Commissioner suggests doing it during a Commission meeting or publishing an informal video
 - iv. There are sometimes requests that come in for the OHR to do talks for student groups; could do a presentation about this if there is an invitation for it
 - 1. HRC Director could assist with this project
 - v. Commissioner says her organizations get invited to speak about food justice at UVA frequently, though the OHR may prefer to reach a wider Charlottesville audience
 - 1. And UVA is non-jurisdictional for the OHR
 - 2. In the presentation, could also include what the OHR can do on a state and federal level in addition to local

4. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT
 - i. None
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
 - i. None

5. COMMISSIONER UPDATES

- a. None

6. NEXT STEPS

- a. **Jeanette**
 - i. **Pick up tabling materials for 10/7/22 Community Climate Collaborative event**

7. ADJOURN

- a. Meeting adjourned at 7:59 pm

Pending HRC Approval

Attachment 4

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Complaints: P.A. - Private Education	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Complaints: P.A. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total employment discrimination allegations	0	0	0	0	0	0	0	1	3	1	0	0	5
Employment allegations in Charlottesville	0	0	0	0	0	0	0	0	1	0	0	0	1
Employment allegations in Albemarle Co.	0	0	0	0	0	0	0	1	1	1	0	0	3
Emp. allegations in Cville referred to EEOC	0	0	0	0	0	0	0	0	0	0	0	0	0
Emp. allegations in Alb. Co. ref. to EEOC	0	0	0	0	0	0	0	0	0	0	0	0	0
Total housing discrimination allegations	1	0	1	0	0	0	0	1	0	0	0	0	3
Housing allegations in Charlottesville	1	0	0	0	0	0	0	0	0	0	0	0	1
Housing allegations in Albemarle	0	0	1	0	0	0	0	0	0	0	0	0	1
Total public accommodation discrimination allegations	0	0	0	0	0	0	0	0	3	0	0	0	3
Public accommodation allegations in Cville	0	0	0	0	0	0	0	0	2	0	0	0	2
Total credit discrimination allegations	0	0	0	0	0	0	0	0	0	0	0	0	0
Credit allegations in Charlottesville	0	0	0	0	0	0	0	0	0	0	0	0	0
Total private education discrimination allegations	0	0	0	0	0	0	0	0	0	0	0	0	0
Private education allegations in Charlottesville	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Other (Unprotected) activity allegations	0	0	0	0	0	0	0	0	0	1	0	0	1
Total I&C: P.C. - Age	0	0	0	1	0	0	1	0	0	0	0	0	2
Total I&C: P.C. - Disability	2	1	0	4	1	0	1	5	3	0	0	0	17
Total I&C: P.C. - Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total I&C: P.C. - National Origin	0	0	0	0	0	1	0	1	1	1	0	0	4
Total I&C: P.C. - Pregnancy	0	0	0	0	0	0	0	0	0	0	0	0	0
Total I&C: P.C. - Childbirth or Related Medical Conditions	0	0	0	1	0	0	0	0	0	0	0	0	1
Total I&C: P.C. - Race	0	2	1	1	1	1	1	1	5	2	0	0	15
Total I&C: P.C. - Color	0	0	0	0	0	0	0	0	1	0	0	0	1
Total I&C: P.C. - Religion	0	0	0	1	0	0	0	0	0	0	0	0	1
Total I&C: P.C. - Sex	0	0	0	0	0	0	0	0	1	0	0	0	1
Total I&C: P.C. - Gender Identity	0	1	0	0	0	0	1	0	0	0	0	0	2
Total I&C: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	1	0	0	1
Total I&C: P.C. - Source of Funds	0	0	0	0	0	0	1	0	0	0	0	0	1
Total I&C: P.C. - Veteran Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total I&C: P.C. - Not specified	3	0	2	5	8	10	5	3	2	0	0	0	38
Total I&C: P.C. - Other (Unprotected)	0	1	0	1	0	0	0	3	0	0	0	0	5
Total Counseling Contacts	6	7	5	9	7	9	5	9	10	3	0	0	70
Total Employment Counseling	1	0	0	1	2	1	0	1	1	0	0	0	7

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Housing Complaints: P.C. - Race	0	1	0	0	0	0	0	0	0	0	0	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. - Source of Funds	0	0	0	0	0	0	1	0	0	0	0	0	1
Total Housing Complaints: P.C. - Veteran Status	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	1	0	0	0	0	0	0	0	0	1
Total Pub. Accom. Comp.: P.C. - Disability	0	0	0	1	0	0	0	0	2	0	0	0	3
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	1	0	0	0	1
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	1	0	0	0	0	0	0	0	0	1
Total Pub. Accom. Comp.: P.C. - Race	0	0	0	0	0	0	0	0	2	0	0	0	2
Total Pub. Accom. Comp.: P.C. - Color	0	0	0	0	0	0	0	0	1	0	0	0	1
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. - Veteran Status	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													5
Total Closed Inquiries													61
Total Dismissed Inquiries													1
Total Open Complaints													5
Total Closed Complaints													4
Total Dismissed Complaints													1
Primary Service: Appointment Set-up	3	3	0	3	7	4	4	17	20	4	0	0	65
Primary Service: Clerical Assistance	0	1	1	4	1	2	8	21	2	0	0	0	40
Primary Service: Counseling	6	7	5	9	7	9	5	9	10	3	0	0	70
Primary Service: Event Information	0	0	0	0	0	1	0	1	0	0	0	0	2

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
<i>Primary Service: Investigation Activity</i>	18	1	9	12	7	1	6	5	11	0	0	0	70
<i>Primary Service: Information</i>	260	166	191	242	388	410	348	399	463	62	0	0	2929
<i>Primary Service: Mediation Related Services</i>	10	6	10	22	12	3	14	29	36	3	0	0	145
<i>Primary Service: Outreach Coordination</i>	0	0	0	2	0	0	0	0	0	0	0	0	2
<i>Primary Service: Public Hearing</i>	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Primary Service: Volunteer Coordination</i>	0	0	0	0	0	0	0	0	0	0	0	0	0

Administrative Tasks:

- Fair Housing Assistance Program (FHAP) workshare agreement
 - All ordinance amendments for substantial equivalence to federal fair housing law completed and informally reviewed by HUD and legally reviewed by City Attorney.
 - If adopted by the HRC at the October 20, 2022 regular meeting:
 - To be reviewed with Council during 2-2-1s on November 3 and 4, 2022.
 - To be presented to Council during the November 7, 2022 meeting.
- Fair Employment Practices Agency (FEPA) workshare agreement
 - Recall that the FHAP agreement provides substantial opportunities and resources to expand and improve the OHR, whereas the FEPA increases workload with insufficient support to increase staffing or training.
- OHR Staffing
 - On August 15, 2022, Council approved \$176,000 in American Rescue Plan Act (ARPA) Fund Allocations for the purpose of hiring a Human Rights Intake Counselor and Human Rights Investigator.
 - Draft position descriptions, interview questions, and short answer essay questions are completed and under review.
 - Current OHR staff
 - Todd Niemeier, Director
 - Victoria McCullough, Outreach and Administrative Specialist
 - Lily Gates, Intern
 - Ginny Helmandollar, Intern
- OHR Budget
 - The FY2024 budget process is underway.
 - Budgets are due on November 4, 2022.
 - Anticipated revisions
 - Increased personnel budget to accommodate the balance not covered by ARPA funds for the Intake Counselor and Human Rights Investigator.
 - Creation of a line item for paid OHR Internships.
 - Minor adjustments to operation line items in line with FY2023 expenditures.

Reporting:

Report	Status
CY2021 Department Scorecard	Completed. Published.
CY2021 HRC & OHR Annual Report	Completed. To be presented to City Council during the November 7, 2022 meeting.

Active Cases of Discrimination:

Case #	Protected Activity	Protected Class(es)	Status
2020-2	Housing	Race	Mediation in progress.
2021-2	Employment	Race	Settlement reached through mediation. Closure notices served, respondent notice returned.
2021-4	Employment	Sex	Investigation in progress.
2021-5	Employment	Sexual Orientation, Race	Investigation in progress.
2021-11	Housing	Disability	Mediation completed. Awaiting final settlement.
2021-12	Housing	Disability	Case closed due to inability to reach Complainant for clarification on complaint.
2022-1	Housing	Disability	Mediation in progress.
2022-2	Housing	Disability, Race, Color	Mediation impasse. OHR assisted Complainant with DPOR complaint. Awaiting DPOR response.
2022-3	Housing	Disability	Complainant withdrew complaint. Case closed.
2022-4	Employment	Age, Color, Race	Complainant accepted offer of mediation. Awaiting response from Respondent.
2022-5	Housing	Gender Identity, Source of Funds, Disability	Complainant requests that Director engage in informal dialogue with Respondent.
2022-6	Housing	Color, Race	Notice and offer of mediation served. Awaiting response.
2022-7	Housing	Color, Race	Further action authorized. Notice to be served.

Attachment 5

Human Rights Commission Service

The intention of this document is to provide prospective Human Rights Commissioners a sense of what to anticipate should they be appointed by Council. Below is a general summary of duties held by Human Rights Commissioners, which may average 5 to 8 hours per month. This is not an exhaustive list, and duties may vary based upon the annual priorities of Council or the Commission. Applicants may reach out to the Director of the Human Rights Commission with any additional questions: 434-970-3023 or humanrights@charlottesville.gov.

- Completing IT security training and opening a City email account (approximately 30-45 minutes, one time).
- Completing an initial orientation meeting with the Commission Chair and the Director of the Human Rights Commission (approximately 1 hour, one time).
- Regularly (at least twice weekly) checking a City email account and responding to requests for information and action (approximately 1 hour weekly).
- Attending monthly regular meetings of the Human Rights Commission (approximately 2 hours monthly).
 - The full Commission meets every third Thursday at 6:30pm
- Volunteering to serve on at least one ad hoc committee of the Human Rights Commission and attending regular ad hoc committee work sessions (approximately 1-2 hours monthly).
 - Committees meet every first Thursday at 6:30pm
- Engaging in the review and editing of documents between regular meetings of the Commission and ad hoc committee work sessions to further the work of the Commission (approximately 1-2 hours monthly).
- Attending community outreach and engagement events outside of regular monthly meetings and ad hoc committee meetings (approximately 1-2 hours, every 2-3 months).
- Optional: participating in quarterly meetings of the Virginia Human Rights Association (VAHR) to network with other Commissioners throughout Virginia (1-2 hours, every 3 months).

Charlottesville Human Rights Commission Annual Calendar

Actual activities may vary, but this presents a general summary of activities that occur throughout the year.

Month	Activities
January	<ul style="list-style-type: none"> • Officer Elections
February	<ul style="list-style-type: none"> • Retreat planning
March	<ul style="list-style-type: none"> • Start of new Commissioner terms & new Commissioner orientation
April	<ul style="list-style-type: none"> • Commission retreat • Form ad hoc Legislative Agenda Committee
May	<ul style="list-style-type: none"> • First Expert Panel <ul style="list-style-type: none"> ○ For more information regarding focus areas defined in retreat
June	<ul style="list-style-type: none"> • First Town Hall Meeting <ul style="list-style-type: none"> ○ Legislative Priorities ○ Feedback on focus areas from retreat
July	<ul style="list-style-type: none"> • HRC/OHR previous calendar year annual report to Council
August	<ul style="list-style-type: none"> • Finalize legislative recommendations to City Council
September	<ul style="list-style-type: none"> • Adopt and submit legislative recommendations to City Council
October	<ul style="list-style-type: none"> • Second Expert Panel <ul style="list-style-type: none"> ○ For more information regarding focus areas defined in retreat
November	<ul style="list-style-type: none"> • Second Town Hall <ul style="list-style-type: none"> ○ Solicit ideas for focus areas during the next calendar year • Officer nomination committee formation
December	<ul style="list-style-type: none"> • Officer nomination slate presented

Attachment 6

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	November 7, 2022
Action Required:	Review the proposed revisions to the Charlottesville Human Rights Ordinance (Code of the City of Charlottesville, Chapter 2, Article XV) and propose next steps for revision or approval.
Presenters:	Jessica Harris, Chair, Human Rights Commission Todd Niemeier, Director, Human Rights Commission
Staff Contacts:	Todd Niemeier, Director, Human Rights Commission Alyson Manson Davies, Senior Deputy City Attorney
Title:	1st Reading: Proposed Revisions to the Charlottesville Human Rights Ordinance (Code of the City of Charlottesville, Chapter 2, Article XV)

Background:

On February 1, 2021, City Council approved amendments to the Charlottesville Human Rights Ordinance (Code of the City of Charlottesville, Chapter 2, Article XV), hereinafter referred to as the CHRO. These amendments included revisions to Sec. 2-433 of the CRHO, “Role of the Human Rights Commission.” Sec. 2-433 (d) was amended by Council to read as follows:

Seek work share agreements with the Equal Employment Opportunity Commission (“FEPA”) and the Department of Housing and Urban Development (“HUD-FHAP”) 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.

The Charlottesville Human Rights Commission (HRC) and Office of Human Rights (OHR) present the work done since January 2021 to fulfill the role described in Sec. 2-433 (d) of the CHRO. This presentation includes proposed amendments to the CHRO to meet the requirements for entering a Fair Housing Assistance Program (FHAP) workshare agreement with the federal Housing and Urban Development (HUD) Fair Housing Office, referenced in the CHRO as “HUD-FHAP.”

The City’s entry into FEPA and FHAP workshare agreements has been a topic of discussion since 2011, when the Policy Action Team from Government Work Group of the Charlottesville Dialogue on Race proposed the formation the HRC. Since the establishment of the HRC and OHR in 2013, the previous two Directors of the HRC periodically explored the readiness of the HRC and OHR to take on the additional responsibilities that come with the FEPA and FHAP work share agreements.

Since the creation of the HRC and OHR in 2014, employment and housing have remained the most

often identified protected activities associated with individual complaints and inquiries received by the OHR. The OHR defines complaints as individual contacts that present a jurisdictional allegation of discrimination and defines inquires as individual contacts that either present a non-jurisdictional allegation of discrimination or a non-discriminatory concern related to a protected activity. Since 2018, when the OHR refined data collection to capture a more nuanced picture of the types of inquiries and complaints received by the office, housing has been the predominantly identified protected activity. Over the past five years, from 2018 through 2021, the OHR received a total of 222 housing inquiries and 79 employment inquiries and 14 housing complaints and 11 employment complaints.

While service provision data for CY2022 is still being tallied, the OHR has already surpassed the total number of incoming contacts recorded in CY2021. At the time of this report, service provision data had been counted through September and partially for October 2022. Total CY2022 incoming contacts were already at 2,487, which included 10 new complaints, in addition to those still in process from CY2021 and CY2020. Of the 10 complaints received this year, 5 allege housing discrimination. In CY2022, average daily incoming contacts has not fallen below eight per day (in February and March) and rose to as high as twenty-one per day in September. While OHR staffing now includes a full-time Community Outreach and Administrative Specialist, two part-time interns, and the Director, the workload still exceeds that which current staffing can efficiently accommodate and still requires outsourcing some components of the complaint process to the Deputy City Manager for REDI.

Discussion:

In early 2021, the HRC began the work of researching the process of entering FHAP and FEPA workshare agreements by holding meetings with representatives from the HUD Fair Housing Office and the EEOC. During its regular, publicly noticed meeting on January 21, 2021, the HRC hosted a question-and-answer session with Erik Steinecker from the HUD Fair Housing Office about the FHAP workshare program. Mr. Steinecker outlined the details of the program and the prerequisites for a locality's entrance into a workshare agreement with HUD. On February 23, 2021, the HRC Chair and Vice Chair, along with OHR staff, held a work session with Cheryl Mabry (Director) and James Yao (Deputy Director) of State, Local, and Tribal Programs for the U.S. Equal Employment Opportunity Commission (EEOC) to discuss the process of applying and qualifying for a Fair Employment Practices Agency (FEPA) workshare agreement with the EEOC.

During the HRC's publicly noticed annual retreat on February 27, 2021, OHR staff presented a comparative overview of the entry requirements, timeframes, potential benefits, and potential challenges of entering into a FEPA workshare, a FHAP workshare, or maintaining the current enforcement authority under the amended CHRO approved by City Council on February 1, 2021. An updated version of this comparative overview can be found as an attachment to this memo. The HRC decided during the retreat that the pursuit of both the FEPA and FHAP workshare agreements should continue.

OHR staff assumed the responsibility of drafting a revised version of the CHRO to meet the requirement of substantial equivalence to federal fair housing, a prerequisite for entering a FHAP workshare. OHR staff also assumed the duty of beginning a draft request letter to the EEOC for pursuit of a FEPA workshare. As stated above, housing has been the protected activity identified most often by individuals bringing complaints and inquiries to the OHR. Staffing levels in the OHR could likely only accommodate entering into one workshare agreement at a time. The FHAP

workshare offered the most potential financial and training support of the two workshares, such that entering the FHAP workshare might permit staffing increases that would facilitate future pursuit of the FEPA workshare. OHR staff therefore prioritized work on the FHAP workshare over the FEPA workshare in 2021 and 2022.

To enter a FHAP workshare, a locality must have an active ordinance with language that is substantially equivalent to federal fair housing law. Throughout 2021 and 2022, OHR staff worked closely with Erik Steinecker in the HUD Fair Housing Office and Allyson Davies in the Charlottesville City Attorney's Office to draft the attached version of the CHRO which meets this requirement. The proposed amendments also include refinements to the CHRO overall to improve the enforcement process and clarify the scope of the human rights protections it provides. The following is a section-by-section summary and explanation of the major changes to the CHRO, including citations of enabling state and federal legislation from which the changes are derived. One amendment that appears throughout the proposed revisions is a change from "probable cause" as the standard in determinations rendered on a complaint to "reasonable cause." The use of reasonable cause is consistent with the Virginia Human Rights Act, per Va. Code §§ 2.2-3907.D. – F. and Federal Civil Rights Act, per 42 U.S. Code § 2000e-5.(b). Reasonable cause is also the standard used in federal fair housing law, per 42 U.S. Code §3610.

Section by section summary of amendments to the CHRO:

Sec. 2-430.2.

- This is a new section.
- Rather than defining the many terms used throughout the CHRO, this section instead cites the state and federal laws from which the terms used in the ordinance originate.

Sec. 2-431.

- This section has been replaced with a general policy statement. Secs. 2-431.1., 2-431.2., and 2-431.3 address the subjects from Sec. 431.
- In previous versions of the CHRO, prohibited discrimination within all protected activities was described in a single section. Because there are specific differences in what is protected within the protected activities, employment (Sec. 2-431.1.) and housing (Sec. 2-431.2.) have been separated into distinct sections, while public accommodation, credit, and private education (Sec. 2-431.3.) remain combined in another section.

Sec. 2-431.1.

- This is a new section.
- This section cites the specific state and federal laws that regulate unlawful employment discrimination rather than re-stating the protections verbatim within the CHRO.

Sec. 2-431.2.

- This is a new section.
- The language in this section is substantially equivalent to 42 U.S. Code §§ 3604-3606 and is required for FHAP qualification.
- Note that elderliness, source of funds, sexual orientation, gender identity, and status as a veteran are not protected classes under 42 U.S. Code §§ 3604-3606 but are protected under Va. Code § 36-96.1. and are therefore included here.
- Note that marital status is not a protected class under 42 U.S. Code §§ 3604-3606 or Va. Code § 36-96.1. but is protected within housing under Va. Code § 15.2-965.A.

Sec. 2-431.3.

- This is a new section.
- This section cites the specific state and federal laws that regulate unlawful public accommodation, credit, and private education discrimination rather than re-stating the protections verbatim within the CHRO.

Sec. 2-432.(f)

- Minor changes were made to improve clarity.
- A clause was added to ensure continuity of leadership in the absence of a Director.

Sec. 2-432.(g)

- Minor changes were made to improve clarity.
- This section was amended by City Council on February 1, 2021. It includes reference to policies and procedures (“operating procedures”) that City Council will create for the Commission.

Sec. 2-432.(h)

- This section was changed to ensure that the City Manager is authorized to retain outside counsel and is linked to Secs. 2-437.2.(d), (g), and (h), which involve the City filing a civil action related to a complaint of housing discrimination.

Sec. 2-433.

- Minor changes were made to improve clarity.

Sec. 2-433.(a)

- Minor changes were made to improve clarity.

Sec. 2-433.(d)

- This section was added by City Council on February 1, 2021.
- Minor changes were made to improve clarity.

Sec. 2-435.(a)(2)

- Minor changes were made to improve clarity.

Sec. 2-436.

- This section was formerly reserved.
- Previous versions of the CHRO made no mention of the Charlottesville Office of Human Rights. This section is being used to codify the existence and function of the Office of Human Rights.

Sec. 2-437.

- This section has been subdivided into Secs. 2-437.1., 2-437.2., and 2-437.3.
- In previous versions of the CHRO, the investigation of individual complaints of discrimination within all protected activities was described in a single section. Because there are specific differences in the investigation procedures within the protected activities,

employment (Sec. 2-437.1.) and housing (Sec. 2-437.2.) have been separated into distinct sections, while public accommodation, credit, and private education (Sec. 2-437.3.) remain combined in another section.

Sec. 2-437.1.

- This is a new section, based upon revisions to the former Sec. 2-437., dedicated exclusively to the investigation of employment discrimination complaints.

Sec. 2-437.1.(a)(1)

- Minor changes were made to improve clarity.

Sec. 2-437.1.(a)(2)

- This is a new clause.
- In accordance with Va. Code § 2.2-3907.A this clause establishes a statute of limitations and basic requirements for the filing of employment discrimination complaints.

Sec. 2-437.1.(a)(3)

- Minor changes were made to improve clarity.

Sec. 2-437.1.(a)(3)(A)

- Minor changes were made to improve clarity.

Sec. 2-437.1.(a)(3)(B)

- This is a new clause that addresses what the Office of Human Rights will do when presented with a complaint of employment discrimination in which the City of Charlottesville is the named respondent.

Secs. 2-437.1.(a)(4) – 2-437.(a)(4)

- Content was reorganized and minor changes were made to improve clarity.

Sec. 2-437.1.(a)(4)(B)

- Minor changes were made to improve clarity.

Sec. 2-437.1.(b)(2)

- This is a new clause that mirrors the language used in Sec. 2-437.2.(b)(1) to ensure a consistent process for all protected activities.

Secs. 2-437.1.(b)(2)(A)(i) – (v)

- Minor changes were made to improve clarity.
- “Informal dialogue” was added as a means of complaint resolution.
- The term “conciliation” was removed for clarity throughout, as “conciliation” has a specific meaning in Sec. 2-437.2., which should not be confused with “informal dialogue” and “mediation” as alternate means of complaint resolution.

Sec. 2-437.1.(b)(2)(B)

- Additional language added to clarify the process of opening a formal investigation.
- “Probable” was replaced with “Reasonable” cause, per Va. Code §§ 2.2-3907.D. – F. and 42 U.S. Code § 2000e-5.(b).

Sec. 2-437.1.(b)(2)(B)(i)

- A timeframe for completing an investigation of employment discrimination was added in accordance with Va. Code § 2.2-3907.H.
- While not expressly defined, all timeframes presented in state and federal law are presumed by default to refer to calendar days rather than business days. In the CHRO “calendar days” is used expressly to improve clarity.

Secs. 2-437.1.(b)(2)(B)(i)(I) – (III)

- These clauses were added to define the actions the OHR will take when an investigation takes longer than 180 calendar days to complete, or when a complainant or respondent is non-responsive to the Investigator.

Sec. 2-437.1.(b)(2)(B)(ii)

- This clause was added to clarify that statements received as part of an investigation should be under oath.
- While state law does not stipulate this requirement, this is consistent with 42 U.S. Code § 3610 and ensures consistent process is applied to investigations within all protected activities.

Sec. 2-437.1.(b)(2)(B)(iii)

- This clause affirms that an investigative report will be submitted to the Director at the conclusion of the investigation and is consistent with Va. Code § 2.2-3907.D.

Sec. 2-437.1.(b)(2)(C)

- Minor changes were made to improve clarity.
- “Probable” was replaced with “reasonable” cause per Va. Code §§ 2.2-3907.D. – F. and 42 U.S. Code § 2000e-5.(b).

Sec. 2-437.1.(b)(2)(C)(i)

- This is a new clause that specifies the action to be taken following a finding of reasonable cause in an employment discrimination complaint and is consistent with Va. Code § 2.2-3907.F.

Secs. 2-437.1.(b)(2)(C)(I)(i) – (ii)

- This is a new clause that specifies the actions to be taken following a finding of reasonable cause in which the complaint cannot be resolved through informal dialogue or mediation and the complaint is passed to the HRC for a vote on whether to hold a public hearing.

Sec. 2-437.1.(b)(2)(C)(ii)

- This is a new clause that specifies the actions to be taken following a finding of insufficient reasonable cause.

Sec. 2-437.1.(c)

- Minor changes were made to improve clarity.
- “Conciliation” was removed to avoid confusion with the use of this term in Sec. 2-437.2.

Sec. 2-437.2

- This is a new section that contains language that is substantially equivalent to 42 U.S. Code §§ 3610 and 3612, which is required for FHAP qualification.

- This section will have a significant impact on the function of the OHR and City Attorney's Office.

Sec. 2-437.3

- This is a new section, based on the former Sec. 2-437., that consolidates the procedures for addressing complaints of public accommodation, credit, or private education discrimination.
- The intent of this consolidation was to separate these procedures from those for employment and housing discrimination complaints.
- The procedural changes in this section mirror those in Section 2-437.1, which addresses employment discrimination, except for the provisions specific to employment discrimination.

Sec. 2-438.

- This is a new section, which was formerly "Reserved."
- This anti-retaliation clause mirrors federal law.
- The language in this section is substantially equivalent to 42 U.S. Code § 3617 and is required for FHAP qualification.

Sec. 2-439.1.

- Revised to clarify that this section only applies to the protected activities of employment, public accommodation, credit, and private education discrimination.
- "Probable" cause is changed to "reasonable" cause throughout this section.

Sec. 2-439.1.(c)

- Minor revision made for clarity.

Sec. 2-439.1.(e)(2)

- Gendered language replaced with "their."

Sec. 2-439.1.(e)(5)

- Minor punctuation correction.

Sec. 2-439.1.(f)

- Minor grammar and punctuation corrections.

Sec. 2-439.2.

- Revised to clarify that this section only applies to the protected activities of employment, public accommodation, credit, and private education discrimination.

Sec. 2-440

- Reference to the Office of Human Rights added.

In addition to the amendments listed above, the following sections contain revisions created and approved by City Council on February 1, 2021, which were not reviewed by the Commission prior to their creation and approval by Council, and may merit further review and revision:

Sec. 2-432.(a)

- This section was amended by City Council on February 1, 2021. These amendments limit

both the size and composition of the Commission.

- Some Commissioners expressed concern about limiting the appointed membership of the Commission to nine (9) members.
- Some Commissioners expressed concern about requiring two members to have professional expertise in employment or housing discrimination, personal experience with employment or housing discrimination, or membership within a group that experiences discrimination.

Sec. 2-432.(i)

- This section was amended by City Council on February 1, 2021. These amendments require quarterly reports to City Council and mention that the schedule for such reports would be included within the Commission’s operating procedures.
 - To date, the Commission has not received a copy of the operating procedures or a schedule or format for quarterly reports.

Sec. 2-433.(f)

- This section was added by City Council on February 1, 2021, and references “operating procedures” approved by City Council.
 - To date, the Commission has not received a copy of the operating procedures.

Sec. 2-435.(c)

- This section was amended by City Council on February 1, 2021. The amendment requires that the Commission conduct a research project or review every two years. It also mentions the requirement for quarterly reports to City Council.

Alignment with City Council’s Vision and Strategic Plan:

The pursuit of the FHAP and FEPA workshare agreements aligns with City Council’s vision of Charlottesville as a “leader in social and economic justice, and healthy race relations” that is “flexible and progressive in anticipating and responding to the needs of our citizens” and is a “united community that treasures diversity.” Adopting the recommendations proposed below helps to ensure that Charlottesville moves toward becoming a “Community of Mutual Respect” with a “Smart, Citizen-Focused Government” that supports and protects “Quality Housing Opportunities for All,” as well as “Economic Sustainability.”

Community Engagement:

The HRC received a draft of this memo and the proposed revisions to the CRHO in the publicly posted agenda packet for its regular meeting on September 15, 2022. During this meeting, the Director requested that Commissioners review both documents and provide feedback on or before October 3, 2022. Members of the public did not provide feedback during the September 15, 2020 meeting. Commissioners recommended no revisions on or before October 3, 2022.

The HRC will complete its public review of the proposed revisions to the CRHO at its regular meeting on October 20, 2022. During this meeting, the Commission is likely to adopt the amended CRHO for recommendation to City Council at its meeting on November 7, 2022.

Budgetary Impact:

At its meeting on August 15, 2022, City Council approved the use of \$176,000 in American Rescue Plan Act Fund Allocations for the purpose of hiring a “Human Rights Commission Investigator and Administrative Support.” Below is a breakdown of potential costs for the hiring of a Human Rights Intake Counselor and a Human Rights Investigator.

Within the City’s current position descriptions, the position most similar to a Human Rights Intake Counselor may be the Senior Social Services Assistant, a Non-Exempt, Technical, Zone 3, Hiring Level II position. If hired at a starting wage of \$23.10 per hour, a civilian position with a defined benefits plan would cost an estimated \$74,116.50 per year. This position will also require one-time funding for a laptop computer and computer software. The additional cost for these items is estimated to be approximately \$2,000.00 or less.

Within the City’s current position descriptions, the position most similar to a Human Rights Investigator may be the DSS Senior Benefit Program Specialist and Fraud Investigator, a Non-Exempt, Professional, Zone 2, Hiring Level II position. If hired at a starting wage of \$32.70 per hour, a civilian position with a defined benefits plan would cost an estimated \$101,147.98 per year. This position will also require one-time funding for a laptop computer, computer software, and a cell phone. The additional cost for these items is estimated to be \$2,500.00 or less.

The combined personnel cost for these two positions is estimated to be \$175,264.48, which can be covered for the remainder of FY23 and part of FY24 with the \$176,000.00 in American Rescue Plan Act Fund Allocations. Continuing these positions beyond the mid-point of FY24 will require additional funding, some of which may come through the FHAP workshare, if the City is awarded interim certification, but will likely need to be covered by the City’s general budget in the long term.

The combined office equipment cost for these two positions is \$4,500 and can be covered by the OHR’s existing budget.

The current Community Outreach and Administration Specialist in the OHR is also a Non-Exempt, Professional, Zone 2, Hiring Level II position, with the same salary range as the DSS Senior Benefit Program Specialist and Fraud Investigator. The FY22 personnel budget for the OHR was insufficient to offer the individual hired for this position the midpoint wage. Considering class and compensation equity between the Intake and Administrative Specialist, Outreach and Administrative Specialist, and Investigator positions will be an essential step in the process of building this team.

Recommendation:

The HRC and OHR request that Council consider the proposed amendments to the CHRO and the potential entry into a FHAP workshare agreement with the HUD Fair Housing Office through the lens of feasibility, given the current staffing and workload of the OHR and the additional requirements of entering into a FHAP workshare agreement. The HRC and OHR are exploring entry into the FHAP workshare first, as it provides more financial support and other incentives than the FEPA workshare. If entry into the FHAP proves successful, the HRC and OHR are prepared to take the necessary steps toward entry into a FEPA workshare. It is the view of the HRC and OHR that

entry into either a FHAP or FEPA workshare agreement is only feasible with adequate staffing, both within the OHR and the City Attorney's Office given the specific requirements of the FHAP program.

Regardless of whether City Council elects to approve the proposed revisions to the CRHO, to maintain efficient and effective service provision to the community, the HRC and OHR recommend that City Council consider appropriating funding for two additional full-time OHR staff positions, as follows

Human Rights Intake Counselor

- The person in this position would be responsible for receiving and screening incoming phone, email, and walk-in contacts.
- This individual would enter service provision data into the OHR service provision database and may assist with preparing minutes for publicly noticed meetings of the HRC, roles currently held by the two part-time OHR Interns,
- This individual would also assume daily intake and referral duties currently held by the Community Outreach and Administrative Specialist and the Director.
- Upon successful interim certification into the FHAP workshare, this individual would also be responsible for entering service provision data into the HUD Enforcement Management System (HEMS). This individual would also submit the required service provision data to the EEOC, should the City enter a FEPA workshare.

Human Rights Investigator

- The person in this position would be responsible for investigating complaints of discrimination and compiling investigative reports.
- This individual would assume the investigative duties currently held by the Director, which would allow the Director to assume the duties of authorizing cases for further action and rendering findings, thereby relieving the Deputy City Manager for REDI of this responsibility.
- It is assumed that, upon successful interim certification into the FHAP workshare, the OHR will see an uptick in the number of housing discrimination cases it receives. Based on the workload during the three-year FHAP interim certification period, the City should evaluate whether a second Investigator should be hired prior to entry into a FEPA workshare.

Alternatives:

Should City Council elect not to fund the additional staffing recommended above, the HRC and OHR do not believe the City can successfully enter into the FHAP or FEPA workshare agreements, and the OHR will struggle to maintain efficient and effective service to the community.

Attachments:

1. Draft of the Code of the City of Charlottesville, Chapter 2, Article XV, with proposed amendments.
2. Comparative overview of the entry requirements, timeframes, potential benefits, and

potential challenges of entering a FEPA workshare, a FHAP workshare, or maintaining the current enforcement authority under the amended CHRO approved by City Council on February 1, 2021.

DRAFT

Comparative Overview of FEPA, FHAP, & the amended Charlottesville Human Rights Ordinance

Revised 07/10/2022

Considerations	Fair Employment Practices Agency (FEPA)	Fair Housing Assistance Program (FHAP)	Current Ordinance
Entry Requirements	<ol style="list-style-type: none"> 1. Request letter based on 29 CFR Subpart G - §1601.70. 2. Review and approval process by EEOC District Office, AG’s Office, and EEOC Commissioners. 3. Execution of a workshare agreement. 4. Execution of a financial contract. 	<ol style="list-style-type: none"> 1. Ordinance revisions to attain substantial equivalence to 24 CFR § 115.204-206 and 42 USC § 3604-3617. 2. Initial review of ordinance and agency for substantial equivalence. 3. Interim certification. 4. Full certification. 	<ol style="list-style-type: none"> 1. None.
Timeframes	<ol style="list-style-type: none"> 1. Initial review and approval: 1 to 3 years. 2. Contract term: 3 years. <ol style="list-style-type: none"> a. Annual review of case data. b. Recertification every 3 years. 	<ol style="list-style-type: none"> 1. Initial review: up to 1.5 years. 2. Interim certification: lasts up to 3 years. 3. Full certification: lasts up to 5 years. <ol style="list-style-type: none"> a. Assessment every 2 years. b. Recertification every 5 years. 	<ol style="list-style-type: none"> 1. Currently in effect.
Potential Benefits	<ol style="list-style-type: none"> 1. Financial (per figures from 2020) <ol style="list-style-type: none"> a. \$800 for completed cases b. \$1,000 for joint training events w/ Charlotte, NC district office 2. Case referrals from EEOC regional office. 3. Ability to provide local federal filing. 4. Automatic dual state/federal filing of cases and clear line of communication across EEOC, AG, and OHR. 5. Avoidance of separate filings with EEOC, AG, and OHR. 	<ol style="list-style-type: none"> 1. Financial (per figures from 2020) <ol style="list-style-type: none"> a. Complaint processing reimbursement (\$1,500 - \$3,200) b. Capacity-building funds up to \$120K during interim certification c. Administrative funds for hearings (\$5000) d. Training funds 2. Training Opportunities 3. Technical guidance from HUD 4. Referrals from the Regional HUD Office 5. Automatic dual state/federal filing of cases and clear line of communication across HUD and OHR. 	<ol style="list-style-type: none"> 1. Under the current Ordinance and state laws, the OHR has authority to investigate and issue determinations of employment and housing complaints <i>mostly</i> equivalent to federal law. <ol style="list-style-type: none"> a. Because employment complaints are not dually filed, cases filed with the OHR do not start the 180-day clock for the right to sue in federal court. b. Remedies for housing complainants are not as robust as they could be if the ordinance had substantial equivalence to federal law.
Potential Challenges	<ol style="list-style-type: none"> 1. OHR needs additional staff: <ol style="list-style-type: none"> a. Intake Counselor b. Investigator 2. Additional reporting requirements. 3. Unknown future caseloads under the Values Act and updated Ordinance. <ol style="list-style-type: none"> a. Will the number of cases justify the added work of maintaining FEPA status based on the potential benefits? 4. May need to contract investigator services if caseloads go up and City hiring does not keep pace. 	<ol style="list-style-type: none"> 1. OHR needs additional staff: <ol style="list-style-type: none"> a. Intake Counselor b. Investigator 2. Additional reporting requirements. 3. Minimum of 4 processed cases per year to remain certified. 4. OHR/HRC needs to demonstrate meaningful support from City. <ol style="list-style-type: none"> a. City Attorney’s Office must bring cases forward in court. b. Council must commit financial resources to ensure 20% of OHR work committed to fair housing. 	<ol style="list-style-type: none"> 1. OHR needs additional staff: <ol style="list-style-type: none"> a. Intake Counselor b. Investigator 2. No access to Fair Housing enforcement training through HUD if not a FHAP. 3. The Ordinance does not have retaliation provisions for employment and housing complaints, though state law does. 4. The Ordinance does not mandate that the City Attorney’s Office pursue findings of reasonable cause in court. 5. The Ordinance does not grant the HRC the authority to grant relief to Complainants. 6. The Ordinance does not provide for assisting either the Complainant or Respondent with affording legal counsel.

Attachment 7

Underlined text of any color indicates new content.

~~Strike-through text~~ in black indicates existing content to consider removing.

Purple is new content created by OHR staff in consultation with the City Attorney.

Red is language that is substantially equivalent to federal fair housing law.

Yellow highlighting is text not recommended by the HRC but approved by Council on 2/1/21.

Blue highlighting is existing text that had grammar or formatting problems that needed fixing

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., it is the policy of the City of Charlottesville to:

- (a) Safeguard all individuals within the City from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability in places of public accommodation, including educational institutions and in real estate transactions;
- (b) Safeguard all individuals within the City from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or military status;
- (c) Preserve the public safety, health, and general welfare for the City of Charlottesville;
- (d) Further the interests, rights, and privileges of individuals within the City; and
- (e) 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 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. 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 affect** 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.
 - 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. 2-437.2. 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 as may be appropriate, which 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 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 ~~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.

Approved by Council

February 1, 2021

Kyna Thomas

Kyna Thomas, CMC
Clerk of Council

DRAFT

Attachment 8

Legislative Priorities:

- I organized the survey's 50 respondents legislative priorities by theme:
 - Housing Equity:
 - Increase assistance for those experiencing homelessness and maintain stable housing
 - Rent control
 - Limits on reportable items in background checks
 - Transportation Equity & Accessibility:
 - Improved sidewalk accessibility
 - Increase frequent & reliable transit, improved bike and pedestrian infrastructure
 - Improve disability access in public spaces; seating, shade, water availability
 - Law Enforcement:
 - Increase enforcement of existing laws to reduce panhandling in public areas
 - Expand speed camera enforcement areas to improve traffic calming and increase pedestrian and bicycle safety, while considering racial equity in their installation
 - Reshape policing by enabling alternatives to police response
 - Health Equity:
 - Improved access to health care for minority and disadvantaged communities
 - Provide professional/medical mental health support and addiction services for unhoused population
 - Food Equity:
 - Access to nourishing food, provide low-cost healthy food options
 - Other:
 - Strong collective bargaining ordinances/procedures for public workers
 - Increase LGBTQ protections
 - Protect abortion rights
 - Fund schools and teachers
- Out of 100 people surveyed, 66 respondents were from Charlottesville, and 38 were open to being contacted with additional questions regarding their responses. Might this be an opportunity for the Community Engagement Sub-Committee?

Commented [KW1]: Please review and comment at will! Thanks y'all

Commented [GU2R1]: Thanks Wolfgang for putting this doc together!

Commented [OA3R1]: oops, didn't log in, that was me

Commented [KW4]: Link to 2022 Charlottesville Legislative Agenda Community Survey:
<https://forms.office.com/pages/designpagev2.aspx?lang=en-US&origin=OfficeDotCom&route=Start&subpage=design&id=5UjIODvxjkSgstegL0DkG3f-roC7jLVHiaVMX1x6LJUMjUxWkMwT01XRjUxSOEOWjg4MFI-DTzc0QyQIQCN0PWcu&analysis=true>

Commented [KW5]: I've included some of the enforcement policy recommendations, in order to have a representative summary of the public's requests. We likely will want to discuss which of them we recommend as productive solutions to address challenges faced by unhoused VA residents.

Commented [OA6R5]: For speed limits - I'd like to see expanded areas that allow speed camera enforcement. I believe it's currently restricted to school zones. I'd also like to see ways to address the first point without relying on increased enforcement.

Commented [KW7R5]: I agree - if we can also mention "thoughtful implementation of speed cameras that consider racial equity in their installation". A ProPublica article highlights some of the unintended racial impacts of speed camera installation:
<https://www.propublica.org/article/chicagos-race-neutral-traffic-cameras-ticket-black-and-latino-drivers-the-most>