

CITY OF HIGH POINT AGENDA ITEM



Title: Human Relations Commission Fair Housing Recommendation

From: Jeron Hollis, Managing Director

Meeting Date: May 16, 2022

Public Hearing: N/A

**Advertising Date /
Advertised By:** N/A

Attachments: A. Amendment to the Fair Housing Ordinance

PURPOSE:

To consider the Human Relations Commission's (HRC) favorable recommendation that the City of High Point become a Fair Housing Assistance Program.

BACKGROUND:

On Feb. 1, 2021, City Council approved the Commission's January to June 2021 work plan by a vote of 9-0, which included tasking the Commission to explore the feasibility of High Point becoming a Fair Housing Assistance Program (FHAP).

At the May 17, 2021, Manager's Briefing, Human Relations staff reported the Commission's initial Fair Housing findings to inform Council's consideration of potentially including an additional Human Relations position in the FY 2021-2022 budget; if High Point were to become a FHAP. This position would offer additional Fair Housing trainings and process Fair Housing complaints.

In July and August of 2021, the HRC hosted a Housing Security Workshop series to seek public feedback on the feasibility of High Point becoming a FHAP. Over fifty attendees representing a diverse body of community stakeholders, including housing providers, the Family Justice Center, and other community advocates, attended these workshops and provided input.

On August 12, 2021, after the conclusion of the Workshop Series, the Commission voted 7-0 to recommend that the City of High Point become a FHAP agency, including adopting a substantially equivalent Fair Housing ordinance.

On May 3, 2022, the Community Development Committee received both the Commission's recommendation, as presented by Communications and Public Engagement staff, and an overview of a substantially equivalent Fair Housing ordinance, as presented by the City Attorney's office. The Committee voted 4-0 to send the recommendation to Council for full consideration at the May 16 regular City Council meeting.

BUDGET IMPACT:

Based on comparable roles in the City of Greensboro, City of Durham, and City of Winston-Salem, an additional Human Relations position to offer additional trainings and process complaints is estimated to cost between \$60,000 and \$75,000. Additional training and supplies are estimated at \$15,000 for a total estimated program budget of \$72,000-\$90,000. HUD provides annual funds for FHAP agencies that may offset some program costs.

RECOMMENDATION / ACTION REQUESTED:

Staff recommends the Council adopt the following three recommendations of the HRC for the City of High Point to become a FHAP:

Accept the HRC recommendation that High Point become a Fair Housing Assistance Program and direct City staff to undertake the required steps for FHAP certification.

Adopt an Amendment to the Fair Housing Ordinance that is substantially equivalent to federal fair housing laws. This will require an amendment to the City of High Point's Code of Ordinance amending Sec 4.3.1, Article A, Chapter 3, Title 4.

Create a "Human Relations Specialist" position, enabling the Division to offer additional Fair Housing trainings to residents and housing professionals and to process Fair Housing complaints.

**AN ORDINANCE AMENDING SECTION 4.3.1, ARTICLE A, CHAPTER 3,
TITLE 4 OF THE CITY OF HIGH POINT CODE OF ORDINANCES
ENTITLED “FAIR HOUSING ORDINANCE”**

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of High Point that Section 4, Article A, Chapter 3, Title 4 of the City of High Point Code of Ordinances is amended as follows:

Sec. 4-3-1. - ~~Procedures.~~ Title.

~~The manager will establish a procedure for addressing citizens' concerns relating to fair housing issues.~~

This article shall be known and may be cited as the “Fair Housing Ordinance” of the City of High Point.

Sec. 4-3-2. Purpose.

The general purpose of this article is to:

- (a) Provide for all individuals within the City of High Point freedom from housing discrimination because of race, color, national origin, religion, sex, familial status, and handicap or disability in real estate transactions, including, but not limited to, the sale, rental, or advertising of dwellings, the provision of brokerage services, and the availability of residential real estate-related transactions; and
- (b) Provide for local resolution of housing discrimination disputes in a timely and effective manner; and
- (c) Provide rights and remedies for violation of the Fair Housing Ordinance that are substantially equivalent to the rights and remedies embodied in Title VIII of the Federal Civil Rights Act of 1968, as amended.

The City of High Point may adopt ordinances prohibiting discrimination on the basis of race, color, national origin, religion, sex, familial status, handicap or disability in real estate transactions. Such ordinances may regulate or prohibit any act, practice, activity or procedure related, directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability, accessibility or desirability of housing on an equal basis to all persons; may provide that the City of High Point may apply to the court or the aggrieved persons in a private right of action instituted under the ordinance may apply to the court for appropriate legal and equitable remedies including mandatory and prohibitory injunctions, temporary restraining orders, orders of abatement, actual and punitive damages, the assessment of civil penalties in accordance with the

Fair Housing Amendments Act, and attorney's fees to the prevailing party and the court shall have the power to grant such remedies.

Sec. 4-3-3. Severability.

The provisions of this article are severable, and, if any part or provision of this article is held invalid, the remainder of the article, and the application of the provision to other persons not similarly situated or to other circumstances, shall not be affected or impaired thereby.

Sec. 4-3-4. Definitions.

When used in this article, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

“Aggrieved person” includes any person who:

- (a) Claims to have been injured by a discriminatory housing practice; or
- (b) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

“Broker or Agent” includes any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts, and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.

“Complainant” means a person (including the Director) who files a complaint under this article.

“Conciliation” means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Director.

“Conciliation agreement” means a written agreement setting forth the resolution of the issues in conciliation.

“Covered multifamily dwellings” means:

- (a) Buildings consisting of four (4) or more residential units if such buildings have one or more elevators; and
- (b) Ground floor residential units in other buildings consisting of four (4) or more residential units.

“Director” means the Director of the City's Department overseeing the Human Relations Division, or the designee of the Director.

“Disability” or “Handicap” means, with respect to an individual:

- (a) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (b) A record of having such an impairment; or
- (c) Being regarded as having such an impairment.
 - (1) This term does not apply to current, illegal use of, or addiction to, a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

“Discriminatory housing practice” means an act that is unlawful under this article.

“Division” means the City’s Human Relations Division.

“Dormitory” means a residential dwelling located on the premises of a college, business college, trade school, university, or other educational institution utilized for the primary purpose of housing students registered and attending such institution.

“Dwelling” means:

- (a) Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families; and
- (b) Any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Familial status” means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (a) A parent or another person having legal custody of such individual or individuals; or
- (b) The designee of such parent or other person having such custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of 18 years.

“Family” includes a single individual.

“Person” includes one or more individuals, political subdivisions of the state and instrumentalities thereof, including the city or any governmental entity or agency thereof, corporations,

partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, bankruptcy trustees, receivers, fiduciaries, or any other legal or commercial entity.

“Prevailing party” has the same meaning as such term has in Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

“Race” and “National origin” include hair texture and hairstyles that are commonly associated with race or national origin.

“To rent” includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

“Residential real estate–related transaction” means:

- (a) The making or purchasing of loans or providing other financial assistance:
 - (1) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (2) Secured by residential real estate.
- (b) The selling, brokering, or appraising of residential real property.

“Respondent” means:

- (a) The person or other entity accused in a complaint of an unfair housing practice; and
- (b) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under Section 16(a) of this article.

“Sex” includes sexual orientation, gender expression, and gender identity.

Sec. 4-3-5. Exemptions – Sales and Rentals

- (a) Nothing in Section 9 of this Article (entitled “Discrimination in Sale or Rental”) other than subsection (b) of this section shall apply to:
 - (1) The sale or rental of any single-family house by an owner: Provided that such private individual owner does not own or have any interest in more than three (3) such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall only apply with respect to one such sale within any twenty-four (24) month period: Provided further, that

such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time: Provider further, that the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented:

- (i) Without the use in any manner of the sales or rental facilities or the sales or rental services of any person in the business of selling or renting dwellings, or of any employee of any such broker, agent or salesman, or person; and
- (ii) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of the ordinance.

Nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title; or

- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his, her, or their residence.
- (b) For purposes of subsection (a) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) He, she, or they have, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or;
 - (2) He, she, or they have, within the preceding twelve (12) months, participated as agent, other than in the sale of their own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (3) He, she, or they are the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (c) This article does not prohibit conduct against a person because such person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance as defined in Section 201 of the Controlled Substances Act (21 U.S.C. 802).

Sec. 4-3-6. Exemptions – Religious Organizations, Private Clubs, and Dormitories.

- (a) Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (b) Nothing in this article shall prohibit the rental or leasing of dwelling accommodations based on sex in single-sex dormitories that involve shared bedrooms or bathrooms to the extent such single-sex dormitory designation is predicated on protecting values of personal safety or privacy.

Sec. 4-3-7. Exemptions – Housing for Older Persons.

- (a) The provisions of this article relating to familial status do not apply to housing for older persons.
- (b) “Housing for Older Persons” means housing:
 - (1) Provided under any State or Federal program that the U.S. Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Intended and operated for occupancy by persons 55 years of age or older, and:
 - (i) At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 - (ii) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

- (iii) The housing facility or community complies with rules issued by the U.S. Department of Housing and Urban Development for verification of occupancy, which shall:
 - (A) Provide for verification by reliable surveys and affidavits; and
 - (B) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subsection b(3)(B). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
- (c) Housing shall not fail to meet the requirements for housing for older persons by reason of:
 - (1) The existence of unoccupied units, if such units are reserved for occupancy by persons who meet the age requirements of this section;
 - (2) The existence of units occupied by employees of the housing (and family members residing within the same unit) provided they perform substantial duties directly related to the management or maintenance of the housing.
- (d) A person shall not be held personally liable for monetary damages for a violation of this article if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons. A person may only show good faith reliance on the application of this exemption by showing that:
 - (1) Such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
 - (2) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 4-3-8. Effect on Other Law.

- (a) Nothing in this article repeals any other section of this Code or any other City ordinance relating to discrimination on the basis of race, color, national origin, religion, sex, familial status, handicap or disability. However, all such ordinances and portions thereof that are in conflict with this article are repealed to the extent of such conflict.
- (b) Nothing in this article limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress.

- (c) Nothing in this article limits any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (d) Nothing in this article nullifies any provisions of the North Carolina Building Code applicable to the construction of residential housing for persons with disabilities.

Sec. 4-3-9. Discrimination in Sale or Rental and Other Prohibited Acts.

- (a) Except as otherwise exempted by this article, it shall be unlawful to:
 - (1) Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or fail to transmit or refuse to receive, consider, or accept a bona fide offer to sell or rent a dwelling, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, sex, familial status, handicap or disability;
 - (2) 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, national origin, religion, sex, familial status, handicap or disability;
 - (3) Make print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, national origin, religion, sex, familial status, handicap or disability, or an intention to make any such preference, limitation, or discrimination based on race, color, national origin, religion, sex, familial status, handicap or disability;
 - (4) Represent to any person because of race, color, national origin, religion, sex, familial status, handicap or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
 - (5) 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, national origin, religion, sex, familial status, handicap or disability;
 - (6) Restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying, or renting a dwelling to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood, or development on the basis of particular race, color, national origin, religion, sex, familial status, handicap or disability;

- (7) Discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap or disability of (a) that buyer or renter, (b) a person residing in or intending to reside in that dwelling after it is sold, rented or made available, or (c) any person associated with that buyer or renter;
 - (8) Discriminate against any person in the terms, conditions, or privileges of sale of rental or a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap or disability of (a) that person, (b) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or (c) any person associated with that person.
- (b) For purposes of this subsection, discrimination includes:
- (1) A refusal to permit, at the expense of the handicapped or disabled person, 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 renter, 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;
 - (2) 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
 - (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the enactment of this article, a failure to design and construct those dwellings in a manner that:
 - (i) The public use and common use portions of the dwellings are readily accessible to and usable by handicapped or disabled persons;
 - (ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped or disabled persons in wheelchairs; and
 - (iii) All premises within such dwellings contain the following features of adaptive design:
 - (A) An accessible route into and through the dwelling;

- (B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (C) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (D) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.
- (c) The requirements of subsection (b)(3)(C) of this section can be satisfied through compliance with the appropriate requirements of:
 - (1) The fair housing accessibility guidelines established by the United States Department of Housing and Urban Development; and
 - (2) The American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as “ANSI A117.1”).
- (d) Nothing in this article shall be construed to require the Director to review or approve the plans, designs or construction of covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph (b)(3).
- (e) Nothing in this article should be construed to invalidate or limit any law that requires dwellings to be designed and constructed in a manner that affords handicapped or disabled persons greater access than is required by this article.
- (f) Nothing in this subsection 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.

Sec. 4-3-10. Discrimination in Residential Real Estate-Related Transactions.

- (a) 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, national origin, religion, sex, familial status, handicap or disability.
- (b) As used in this section, the term “residential real estate-related transaction” means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate;
 - (2) The selling, brokering, or appraising of residential real estate property.
- (c) Unlawful residential real estate-related transactions under this section including, but are not limited to:
- (1) Using a form of application for financial assistance, or making or keeping a record or inquiry in connection with applications for financial assistance, that indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, color, national origin, religion, sex, familial status, handicap or disability;
 - (2) Failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, or procedures or standards for the review and approval of loans or financial assistance or providing information that is inaccurate or different from that provided other, because of race, color, national origin, religion, sex, familial status, handicap or disability.
 - (3) Discriminating against the applicant in the sale, brokerage, or appraisal of real property because of race, color, national origin, religion, sex, familial status, handicap or disability.
- (d) Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, sex, familial status, handicap or disability.

Sec. 4-3-11. Discrimination in Provision of Brokerage Services.

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 any person in the terms or conditions of such access, membership, or participation, of making available such services, or in the performance of such services, because of race, color, national origin, religion, sex, familial status, handicap or disability.

Sec. 4-3-12. Interference, Coercion, or Intimidation.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of, his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 9, 10, and 11 of this article.

Sec. 4-3-13. Administration, Rules, and Regulations.

- (a) The Director will administer this article in consultation with the City Attorney's Office.
- (b) The Director may delegate any of its functions, duties, and authority to a designee; the Director, or its designee, has the authority to:
 - (1) Initiate, receive, investigate, seek to conciliate, and take action on complaints arising from alleged violations of this article;
 - (2) Make recommendations to the parties to complaints;
 - (3) Approve or disapprove internal policies and procedures to assist in the reduction or elimination of discriminatory housing practices, and to monitor compliance with such policies and plans; and
 - (4) Report, or otherwise manage and engage in any business arising out of, or related to, administration of this article.
- (c) The Director, or its designee, has the authority, but is not obligated, to engage in studies regarding the nature and extent of discriminatory housing practices within the City of High Point.
- (d) The Director, or its designee, may adopt, promulgate, amend, and rescind interpretive and procedural guidelines, rules and regulations necessary to implement this article, so long as such guidelines, rules, and regulations do not intend to limit, or have the effect of limiting, the protections contained in the Federal and State rules and regulations regarding race, color, national origin, religion, sex, familial status, handicap, or disability. A copy of the text of the rule, amendment, or rescission will be available for public inspection and copying at the office of the Director.

Sec. 4-3-14. Cooperation.

- (a) The City of High Point shall cooperate with Federal and State fair housing agencies and, as appropriate, may provide technical and other assistance to Federal, State, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.
- (b) The City of High Point may apply for recognition by the United States Department of Housing and Urban Development as having adopted an ordinance that provides rights and remedies that are substantially equivalent to those granted under federal law. In furtherance of such cooperative efforts, the City of High Point may enter into written agreement(s) reflecting same.

Sec. 4-3-15. Complaints.

- (a) An aggrieved person may, no later than one year after an alleged discriminatory housing practice occurred or was terminated, file a complaint with the Director alleging such discriminatory housing practice. An authorized representative, including an organization, may assist an aggrieved person in filing the complaint. The Director, on the Director's own initiative, may also file such a complaint.
 - (1) The Director may also investigate housing practices to determine whether a complaint should be brought under this section.
 - (2) The Federal or State government may refer a complaint alleging a discriminatory housing practice or defer jurisdiction over the subject matter of such a complaint, to the Division.
- (b) A complaint shall be in writing and shall contain such information and be in such form as the Director requires:
 - (1) A complaint must be signed and affirmed by the aggrieved person filing the complaint;
 - (2) If the complaint is filed by the Director on behalf of the Division, it must be signed and affirmed by the Director;
 - (3) A complaint may be reasonably and fairly amended at any time.
- (c) Upon the filing of a complaint, the Division shall:
 - (1) Serve the aggrieved person with notice that the complaint has been filed;
 - (2) Advise the aggrieved person of the time limits and choice of forums under this article.
- (d) The Director shall, no later than ten days after the filing of the complaint, or the identification of an additional respondent under Section 17 of this article, serve on each respondent:
 - (1) A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of respondents under this article, together with a copy of the original complaint.
- (e) Documents required to be served under this article may be served as described in Section 20(d) of this article.

Sec. 4-3-16. Answers to Complaints.

- (a) Each respondent may file an answer to the complaint no later than 10 days after receipt of notice from the Director.
- (b) An answer must be in writing, in the form prescribed by the Director, and must be signed and affirmed by the respondent.
 - (1) An answer may be reasonably and fairly amended at any time.
 - (2) The substance of an answer will not inhibit the Director's ability to investigate the allegations contained in the complaint.

Sec. 4-3-17. Additional or Substitute Respondents.

- (a) 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 from the Director to such additional or substitute respondent.
- (b) Such notice, in addition to meeting the requirements of Section 15(d)(1), shall explain the basis for the Director's belief that such person is properly joined as an additional or substitute respondent.

Sec. 4-3-18. Investigations and Investigative Reports.

- (a) The Director will initiate an investigation within 30 days of a complaint being filed with, or otherwise referred to, the Division. The Director will investigate all complaints.
- (b) Except as provided by subsection (b)(1) of this section, the Director shall, within 100 days after filing 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.
 - (1) If the Director is unable to make the determination within 100 days after the filing of the complaint, the Director shall notify the complainant and respondent in writing of the reasons for not doing so.
- (c) At the end of each investigation, the Director will prepare a final investigative report showing:
 - (1) The names and dates of contacts with witnesses;
 - (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

- (3) A summary description of other pertinent records;
 - (4) A summary of witness statements; and
 - (5) Answers to interrogatories.
- (d) A final report under this section may be amended if additional evidence is discovered.
 - (e) Documents required to be served under this article may be served as described in Section 20(d) of this article.

Sec. 4-3-19. Subpoenas.

The Director may issue subpoenas and compel the production of documents and the giving of testimony, as provided by Section 20 of this article.

Sec. 4-3-20. Right to Examine and Copy Evidence; Summoning Witnesses and Documents; Taking Testimony; Right to Counsel; Court Aid; Process; Service and Return; Witness Fees.

- (a) In connection with the investigation of a complaint filed under this article, the Director, or its designee, shall at all reasonable times have access to, for the purpose of examination, and have the right to copy any evidence of any person being investigated, provided such evidence relates to unlawful practices covered by this article and is relevant to the subject matter of the investigation or hearing.
- (b) For all investigations conducted by the City of High Point under this article:
 - (1) The Director, on his, her, or their own initiative or upon application of any party to the proceeding, may issue subpoenas compelling the attendance and testimony of witnesses or requiring the production for examination or copying of documents, provided such evidence relates to unlawful practices covered by this article and is relevant to the subject matter of the investigation. Within five (5) days after the service of a subpoena on any person requiring the production of evidence in his, her, or their possession or under his, her, or their control, such person may petition the Director to revoke, limit, or modify the subpoena. The Director shall revoke, limit, or modify the subpoena if in his, her, or their opinion, the required evidence:
 - (i) Does not relate to unlawful practices covered by this article;
 - (ii) Is not relevant to the subject matter of the investigation;
 - (iii) Does not describe with sufficient particularity the evidence whose production is required; or

- (iv) Is unduly burdensome or oppressive.
 - (2) The Director, may administer oaths or affirmations, examine witnesses, and receive evidence.
 - (3) Any person appearing before the Director, or its designee, has the right to be represented by counsel.
 - (4) The Director, in consultation with the City Attorney, may file a petition in the Superior Court in the County where the discriminatory housing practice allegedly occurred, or the County wherein respondent resides or regularly transacts business, requesting enforcement of a subpoena and other appropriate temporary relief. A copy of the petition must be filed in Superior Court with the relevant record, and a copy must be served on all parties to the proceeding by personal delivery or registered mail.
- (c) The Superior Court, upon application by the Director, its designee, the subpoenaed individual, or its counsel, shall have jurisdiction to issue an order:
- (1) Requiring an individual to appear before the Director, or its designee, to produce evidence relating to the subject matter of the investigation or action;
 - (2) Revoking, limiting, or modifying the subpoena or conditioning issuance of the subpoena upon payment of costs or expenses incurred to comply with the subpoena if in the Court's opinion the required evidence does not relate to unlawful practices covered by this article, is not relevant to the investigation or action, does not describe with sufficient particularity the evidence whose production is required, or is unduly burdensome or oppressive;
 - (3) Finding punishable contempt for the failure to obey an order of the Court issued under this Section.
- (d) Complaints, notices, charges, orders, and other process and papers of the Director may be served either personally or by registered mail. The verified return by the individual so serving the same, setting forth the manner of such service, will be proof of service. The return post office receipt, when registered and mailed as described in this subsection, will be proof of service.
- (e) Witnesses summoned by a subpoena under this article shall be entitled to the same witness and mileage fees that are paid witnesses in the Superior Court, and witnesses whose depositions are taken, and the persons taking the same, are entitled to the same fees as are paid for like service in the Superior Court.

- (1) Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Division.

Sec. 4-3-21. Conciliation.

- (a) The Director shall, to the extent feasible, engage in conciliation, including mediation or other alternative dispute resolution methods, with respect to the complaint.
- (b) A conciliation agreement arising out of such conciliation shall be a written agreement between a respondent and the complainant and is subject to approval by the Director.
- (c) A conciliation agreement may provide for binding arbitration of the dispute or another method of alternative dispute resolution. Any such arbitration, or alternative dispute resolution, that results from a conciliation agreement may award appropriate relief, including monetary relief.
- (d) A conciliation agreement will be made public unless all parties otherwise agree and the Director determines that disclosure is not required to further the purposes of this article.
- (e) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.
- (f) Whenever the Director has reasonable cause to believe that a respondent has breached a conciliation agreement, the Director will refer the matter to the City Attorney with a recommendation that a civil action be filed under Section 26 of this article for the enforcement of such agreement.

Sec. 4-3-22. Confidentiality.

- (a) Materials in the investigative file may be disclosed to any party to the extent reasonably necessary to further the investigation or conciliation discussions.
- (b) Materials in the investigative file may be disclosed to the complainant for the purpose of deciding whether to file a complaint in court and may be disclosed to the respondent for the purpose of formulating its answer.
- (c) Except as prohibited by Section 21(e) of this article:
 - (1) The Division, upon completion of the investigation, will make available to the aggrieved person and the respondent, at any time upon request,

information derived from an investigation and any final investigative report relating to that investigation.

- (2) After a court action has been filed, information derived from the investigation and the final investigation report relating to the investigation will be subject to discovery.

Sec. 4-3-23. Temporary or Preliminary Relief.

- (a) If the Director and the City Attorney conclude at any time after the filing of a complaint that prompt judicial action is necessary to carry out the purpose of this article, the City Attorney will file a civil action for appropriate temporary or preliminary relief, pending final disposition of the complaint. The commencement of a civil action under this section does not affect the initiation or continuation of administrative proceedings under this article.

Sec. 4-3-24. Dismissal of Complaints.

- (a) If the Director determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director will promptly dismiss the complaint and shall make public disclosure of the dismissal, including written notice of the dismissal to the complainant(s) and respondent(s).

Sec. 4-3-25. Reasonable Cause Determinations.

- (a) The Director will consult with the City Attorney regarding any case in which there is evidence that a discriminatory housing practice has occurred or is about to occur. The Director and the City Attorney will determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.
- (b) The Director and the City Attorney will make the determination under subsection (a) of this Section within 100 days after the filing of the Complaint unless either:
 - (1) It is impracticable to make the determination; or
 - (2) The Director has approved a conciliation agreement with respect to the complaint.
- (c) If it is impracticable to make the determination within the period prescribed by subsection (b) of this Section, the Director must notify the complainant(s) and respondent(s) in writing of the reasons for not doing so.
- (d) If the Director and the City Attorney determine that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the

City Attorney shall file a civil action under Section 26 of this article, absent a conciliation agreement being reached.

Sec. 4-3-26. Civil Action by City Attorney.

- (a) If the Director and the City Attorney determine that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the City Attorney may attempt conciliation in furtherance of effectuating a conciliation agreement, and the City Attorney shall file a civil action in Superior Court, absent a conciliation agreement being reached.
 - (1) In an action under this subsection, the Court may:
 - (i) Award, on behalf of the complainant, actual and punitive damages;
 - (ii) Except as described in Section 29(b) of this article, issue a permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
 - (iii) Award court costs and reasonable attorney's fees to the aggrieved person if the person incurred such costs and fees. The City Attorney will not be awarded court costs and attorney's fees.
- (b) If the Director and the City Attorney find reasonable cause to believe that a respondent has breached a conciliation agreement, the City Attorney will immediately file a civil action for enforcement of the agreement.
 - (1) In an action under this subsection, the Court may:
 - (i) Award, on behalf of the complainant, actual and punitive damages;
 - (ii) Except as described in Section 29(b) of this article, issue a permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
 - (iii) Award court costs and reasonable attorney's fees to the aggrieved person if the person incurred such costs and fees. The City Attorney will not be awarded court costs and attorney's fees.
- (c) A person aggrieved by the alleged discriminatory housing practice or damaged by the alleged breach of the conciliation agreement may intervene in a civil action brought under this Section or commence a civil action under Section 27 of this article.

Sec. 4-3-27. Civil Actions by Private Persons.

- (a) An aggrieved person may commence a civil action in Superior Court, or any appropriate United States District Court or State Court, no later than two (2) years after either of the following, whichever occurs last:
 - (1) An alleged discriminatory housing practice occurred or was terminated; or
 - (2) A conciliation agreement entered into under this article was breached.
- (b) The computation of such two-year period does not include any time during which an administrative proceeding under this article was pending with respect to a complaint or the filing of any court proceeding under this article based upon such discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.
- (c) An aggrieved person may file a civil action under this section whether or not a complaint has been filed under this article and without regard to the status of any such complaint, but if the Director has obtained a conciliation agreement with the consent of an aggrieved person, such person may not file an action relating to the same alleged discriminatory housing practice(s) which form the basis of such complaint, except to enforce the terms of such agreement.
- (d) The filing of an action under this Section does not affect the Director's power and duty to investigate and make determinations based on such complaint.
- (e) An aggrieved person may intervene in a civil action filed by the City Attorney if based on such aggrieved person's complaint.
- (f) Upon timely application, the City Attorney may intervene in such civil action, if the City Attorney certifies that the case is of general public importance. Upon such intervention, the City Attorney may obtain such relief as would be available to the City Attorney under Section 26 in a civil action to which such section applies.
- (g) Any party aggrieved by any final determination of the Director under this article has the right to petition the Superior Court for any such temporary relief, restraining order, or other order as the Court determines is just and proper, or to affirm, modify, or set aside, in whole or in part, the determination for further proceedings; or to enforce the determination to the extent that the determination is affirmed or modified.
- (h) The rights granted by 42 U.S.C. §§ 3603, 3604, 3605, and 3606 may be enforced in a civil action brought pursuant to this section.

Sec. 4-3-28. Court-appointed Attorneys.

- (a) Upon application by a person alleging a discriminatory housing practice or a person against whom a discriminatory housing practice is alleged, the court may:
 - (1) Appoint an attorney for the person; or
 - (2) Authorize the commencement or continuation of a civil action under Section 27 of this article without the payment of fees, costs, or security, if in the opinion of the Court such person is financially unable to bear the costs of such action.

Sec. 4-3-29. Relief Which May Be Granted.

- (a) In a civil action under Section 27 of this Article, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff:
 - (1) Actual and punitive damages; and
 - (2) Except as described in subsection (b) of this section, and as the court deems appropriate, a 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; and
 - (3) Court costs and reasonable attorney's fees to the prevailing party, other than the City of High Point, as within the Court's discretion. The City of High Point shall be liable for such fees and costs to the same extent as a private person.
- (b) Relief granted under Section 26, Section 27, and Section 30 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 article.

Sec. 4-3-30. Pattern or Practice.

- (a) The City Attorney may file a civil action in Superior Court whenever the City Attorney has reasonable cause to believe that either:
 - (1) A person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any rights granted by this article; or
 - (2) Any group of persons has been denied any of the rights granted by this article and such denial raises an issue of general public importance.
- (b) In an action under this section, the Court may:

- (1) Except as described in Section 29(b) of this article, award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this article as is necessary to assure the full enjoyment of the rights granted by this article;
- (2) Award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and
- (3) To vindicate the public interest, assess a civil penalty against the respondent(s) in an amount that does not exceed:
 - (i) \$50,000 for a first violation.
 - (ii) \$100,000 for a second or subsequent violation.
- (c) Upon timely application, any person aggrieved by the alleged discriminatory housing practice or damaged by the alleged breach of the conciliation agreement may intervene in a civil action brought under this section.

Adopted this the 16th day of May, 2022.

Mayor Jay W. Wagner

ATTEST:

Lisa B. Vierling, City Clerk



Fair Housing Updates

Jeron Hollis

Managing Director



Fair Housing Timeline (pre-2021)

Based on the City's recent *Analysis of Impediments*, High Point City Council adopts a local Fair Housing ordinance

Nov. 2007

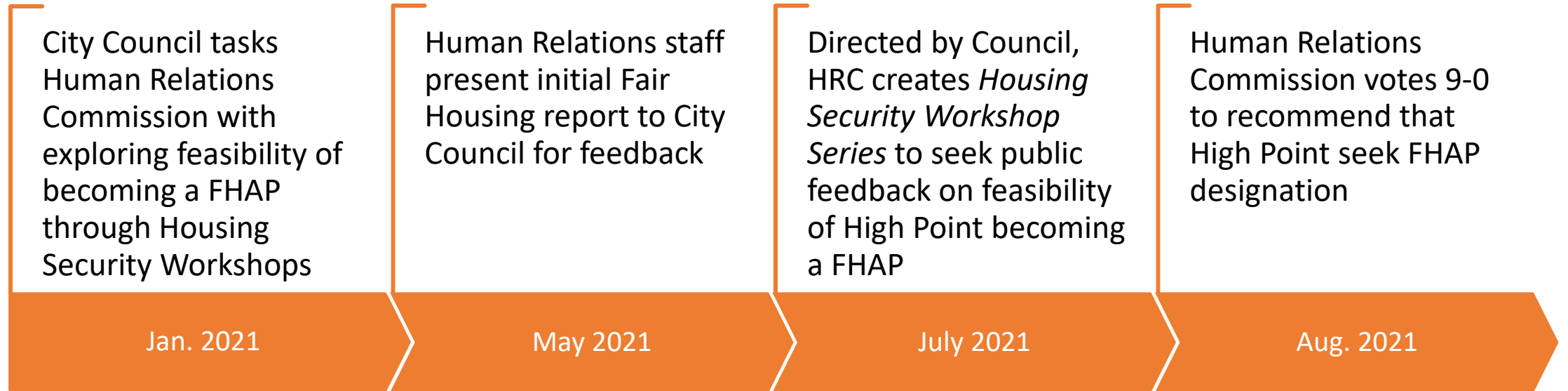
HUD declines High Point's application for substantial equivalence as not compatible with Title VII

Oct. 2009

City Council adopts amended Fair Housing ordinance to reflect actual practice of Human Relations Division

Jan. 2016

Fair Housing Timeline (2021)





Purpose of Fair Housing Assistance Programs

- Local access to highly-trained Fair Housing experts and data systems
- Robust Fair Housing education, outreach, and partnership opportunities
- Local Fair Housing complaint processing and conciliation
- Services designed for High Point residents and housing professionals

Criteria for Substantial Equivalency

Ordinance must offer same protections, rights, and remedies as Fair Housing Act

- Must provide a civil enforcement action, including judicial power to award damages and grant relief as appropriate

FHAP agency must be empowered with decision-making authority

- To receive, accept, process, and dismiss complaints
- To investigate the allegations of complaints, including to issue and seek enforceable subpoenas
- To fully conciliate complaints
- To decide whether a particular matter will or will not be pursued

Acknowledgements

- City Attorney's Office
- U.S. Housing and Urban Development: Office of Fair Housing
- North Carolina Human Relations Commission
- Hight Point Regional Association of REALTORS
- Guilford County Family Justice Center
- Community Builders

Summary of HRC Recommendation

If the will of Council is that the City of High Point should become a FHAP, the HRC recommends the following three actions:

- Adopt a resolution to accept the HRC recommendation that High Point become a Fair Housing Assistance Program and direct City staff to undertake the required steps for FHAP certification
- Adopt an amended Fair Housing Ordinance that is substantially equivalent to federal fair housing laws
- Create a “Human Relations Specialist” position, enabling the Division to offer additional Fair Housing trainings to residents and housing professionals and to process Fair Housing complaints