

CITY OF HIGH POINT

AGENDA ITEM



Title: Amendment of City of High Point's Fair Housing Ordinance

From: Jeron Hollis, CPE Director

Meeting Date: January 18, 2016

Public Hearing: No

Advertising Date /

Advertised By:

NA

Attachments: Memo
Amended Ordinance

PURPOSE:

The Council is asked to consider amending the current Fair Housing Ordinance in order appropriately reflect the city's capacity and authority to handle fair housing issues.

BACKGROUND:

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

Staff recommends that the current Fair Housing ordinance be amended. The City will continue to handle resident fair housing concerns in line with HUD and the North Carolina Human Relations Commission's recommended practices for municipalities without recognized enforcement authority.

Jeron Hollis, MPA
DIRECTOR



MEMORANDUM

Date: January 13, 2016

To: City Council

From: Jeron Hollis, Communications and Public Engagement Director

Subject: **Amending Fair Housing Ordinance**

The City of High Point's Fair Housing Ordinance was adopted in 2007 as part of an effort to address education, assist in the prevention of discriminatory practices and abuses in housing accommodations and to prepare for substantial equivalency, a status granted through HUD that would have given the City of High Point investigative and enforcement authority over Fair Housing cases. Once passed, the ordinance did not meet the minimum standard for HUD to grant such authority. Best practices call for cities without such authority to refer fair housing issues to the North Carolina State Human Relations Commission in order to remain compliant with legal precedent and to ensure such cases are handled properly.

In spite of the lack of enforcement authority, the current fair housing ordinance was never changed to reflect the recommended and observed practices for handling such cases. The 2007 ordinance included language that provides the Human Relations Commission with investigative power, the ability to conduct hearings and other enforcement mechanisms that are not recognized by HUD and are not in line with recent actions to simplify and clarify what has been a confusing method to handle fair housing issues.

Currently, the human relations function exists as a division of the Communications and Public Engagement department. Resident concerns involving housing issues are received by city staff and referred to the appropriate agencies that have the resources and authority to investigate and respond.

Communications and Public Engagement

Jeron Hollis, MPA
DIRECTOR



The current Fair Housing ordinance confuses the process and erroneously assigns authority and duties to the Human Relations Commission that are designed for HUD, the State of North Carolina and substantially equivalent municipalities. While the City of High Point remains committed to the tenets of Fair Housing the current ordinance does not adequately reflect the city's capacity or authority to handle fair housing issues.

Staff recommends that the current Fair Housing ordinance be amended to reflect language that aligns with the City's current practices. The City will continue to handle resident fair housing concerns in line with HUD and the North Carolina Human Relations Commission's recommended practices for municipalities without recognized enforcement authority.

**AN ORDINANCE AMENDING TITLE 4 ENTITLED “GOVERNMENT AND
ADMINISTRATION”, CHAPTER 3 “BOARDS AND COMMISSIONS”, ARTICLE A,
ENTITLED “HUMAN RELATIONS COMMISSION”**

WHEREAS, the City of High Point has imposed a Fair Housing Ordinance giving the Human Relations Department authority to investigate and mediate complaints about discrimination in housing; and

WHEREAS, during a Special Meeting of the High Point City Council on September 11, 2015 the council voted to direct the city manager to develop a system for intake and facilitation of Fair Housing Claims to the North Carolina Human Relations Commission; and

WHEREAS, the following amendment more accurately describes the responsibility of the City of High Point as such pertains to Fair Housing issues within the City, and the following amendment is in the best interest of the City and the community.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of High Point that:

1. The Fair Housing Ordinance is hereby eliminated and the Code of Ordinances of the City of High Point is hereby amended by repealing Title 4, Chapter 3, Article A, Sections 4-3-1 through 4-3-13, inclusive.

TITLE 4 - Government and Administration

CHAPTER 1 - Reserved

Note— See the Editor's Note following title 4.

CHAPTER 2 - Reserved

Note— See the Editor's Note following title 4.

CHAPTER 3 - Boards and Commissions

ARTICLE A - ~~Human Relations Commission~~ Fair Housing

Sec. 4-3-1—~~Purpose.~~ Procedures.

The Manager will establish a procedure for addressing citizens’ concerns relating to fair housing issues.

~~The general purposes of this article are to:~~

(a) ~~— Provide for execution within the city of the policies embodied in title VIII of the Federal Civil Rights Act of 1968, as amended.~~

- (b) ~~Secure for all persons within the city freedom from discrimination because of race, color, religion, national origin, sex, handicap or familial status in real estate transactions.~~

~~(Ord. No. 6503/07-98, § 2, 11-5-07)~~

~~Sec. 4-3-2 Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Commission means the High Point Human Relations Commission.~~

~~Director means Director of Human Relations Department of the City of High Point.~~

~~Discriminatory practice means an act that is unlawful under this article.~~

~~Dwelling means any building, structure, manufactured home or mobile home, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.~~

~~Dwelling unit means any room or group of rooms located within a dwelling and forming a single, habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating.~~

~~Familial status means one (1) or more individuals, who have not attained the age of 18 years, being domiciled with:~~

- ~~(1) — A parent or other person having legal custody of such individual; or~~
- ~~(2) — The designee of such parent or other person having such custody with the written permission of such 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.~~

~~Handicap means, with respect to a person:~~

- ~~(1) — A physical or mental impairment, which substantially limits one (1) or more major life activities;~~
- ~~(2) — A record of having such an impairment; or~~
- ~~(3) — Being regarded as having such an impairment; but such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (21 USC 82).~~

~~National origin includes the national origin of an ancestor.~~

~~Person includes one (1) or more individuals, political subdivisions of the state and instrumentalities thereof, including the city or any governmental entity or agency thereof, partnerships, associations, corporations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or any other legal or commercial entity.~~

~~Real estate broker and real estate salesperson mean a person, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who, with the intention or expectation of receiving or collecting a fee, commission, salary, or other valuable consideration, lists, sells, purchases, exchanges, rents, or leases real property, or the improvements thereon, including options; who negotiates or attempts to negotiate on behalf of others such an activity or who advertises or holds himself out as engaged in such activities; who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon real property; who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.~~

~~Real estate transaction includes the sale, exchange, rental, or lease of real property, or of an interest therein.~~

~~Real property includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.~~

~~(Ord. No. 6503/07-98, § 3, 11-5-07)~~

~~Sec. 4-3-3 Discriminatory practices unlawful.~~

~~It is unlawful to commit or to attempt to commit, directly or indirectly, a discriminatory practice as defined in this article.~~

~~(Ord. No. 6503/07-98, § 4, 11-5-07)~~

~~Sec. 4-3-4 Discrimination in real estate transactions.~~

~~Except where exempted pursuant to section 4-3-6 of this article, it shall be unlawful to:~~

- ~~(1) — Refuse to sell or rent or receive or fail to transmit a bona fide offer to engage in a real estate transaction because of race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.~~
- ~~(2) — Refuse to negotiate or engage in a real estate transaction with a person because of race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.~~

- ~~(3) — Otherwise make unavailable or deny a dwelling based on discrimination because of the race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.~~
- ~~(4) — Discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the provision of services or facilities in connection therewith because of the race, color, religion, national origin, sex or familial status of a person or of any other person residing with that person or of friends or associates of that person.~~
- ~~(5) — Represent to any person that real property is not available for inspection, sale, rental or lease when, in fact, it is so available or fail to bring a property listing to a person's attention or refuse to permit a person to inspect real property because of the race, color, religion, national origin, sex, handicap or familial status of a person or of any other person residing with that person or of friends or associates of that person.~~
- ~~(6) — Make, print, circulate, post, mail or cause to be so published a statement, advertisement or sign or use a form of application for a real estate transaction or make a record or inquiry in connection with a prospective real estate transaction which indicates, directly or indirectly, an intent to make a limitation, preference or discrimination based on race, color, religion, national origin, sex, handicap or familial status of a person or of any other person residing with that person.~~
- ~~(7) — Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the provision of facilities or services in connection therewith because of race, color, religion, sex, handicap, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.~~

~~(Ord. No. 6503/07-98, § 5, 11-5-07)~~

~~Sec. 4-3-5 — Discrimination based on disability.~~

- ~~(a) — For the purposes of this article, discrimination based on disability includes the following:~~
 - ~~(1) — A refusal to permit, at the expense of the handicapped 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, for a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's 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 March 13, 1991, a failure to design and construct those dwellings in such a manner that:~~
 - ~~a. — The dwellings have at least one (1) building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.~~
 - ~~b. — With respect to dwellings with a building entrance on an accessible route:~~
 - ~~1. — The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;~~
 - ~~2. — All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and~~
 - ~~3. — All premises within such dwellings contain the following features of adaptive design with:~~
 - ~~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 the 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.~~

~~Compliance with requirement 1, section 5, Guidelines of Department of Housing and Urban Development Fair Housing Accessibility Guidelines (24 CFR 1) suffices to satisfy the requirements of subsection (a)(3)a. of this section.~~

~~Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") or comparable standards suffices to satisfy the requirements of subsection (a)(3)b.3 of this section except where the city's building standards exceed those requirements.~~

~~For purposes of this subsection, covered multifamily dwellings shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if they are occupied by that date or if the last building permit or renewal thereof for those dwellings is issued on or before January 13, 1990. As used in this subsection, the term "covered multifamily dwellings" means buildings consisting of four (4) or more units if such buildings have one (1) or more elevators and ground floor units in other buildings consisting of four (4) or more units.~~

~~(b) — Except where exempted pursuant to section 4-3-6 of this article, it shall be unlawful to discriminate:~~

~~(1) — In the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap 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.~~

~~(2) — 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 handicap of:~~

~~a. — That person;~~

~~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.~~

~~(Ord. No. 6503/07-98, § 6, 11-5-07)~~

~~Sec. 4-3-6 Exemptions.~~

~~(a) — The provisions of section 4-3-4, other than subsection (6), do not apply:~~

~~(1) — To the rental of a dwelling unit in a building containing dwelling units for not more than four (4) families living independently of each other if the lessor resides in one (1) of those dwelling units.~~

~~(2) — To the rental of a room in a dwelling unit by an individual if the lessor resides therein.~~

~~(3) — With respect to discrimination based on sex, the rental or leasing of dwelling units in single sex dormitory property.~~

~~(4) — With respect to discrimination based upon religion, dwelling units owned and operated for other than a commercial purpose by 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; the sale, rental or occupancy of such dwelling unit being limited or~~

~~preference being given to persons of the same religion unless membership in such religion is restricted because of race, color, national origin, sex, handicap or familial status.~~

~~(5) — To any person subject to this article who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to ensure equal opportunity in real estate transactions if the plan is part of a conciliation agreement entered into by that person under this article and is filed with the commission under the rules of the commission and the commission has not disapproved the plan.~~

~~(b) — With respect to discrimination based upon familial status, nothing in this article limits the applicability of any reasonable city, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit, nor does any section in this article regarding familial status apply with respect to housing for older persons.~~

~~(1) — As used in this subsection, housing for older persons means housing:~~

~~a. — Provided under any local, state, or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the local, state, or federal program;~~

~~b. — Intended for, and solely occupied by, persons 62 years of age or older; or~~

~~c. — Intended and operated for occupancy by persons 55 years of age or older and:~~

~~1. — At least 80 percent of the occupied units are occupied by at least one (1) person who is 55 years of age or older;~~

~~2. — The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subsection; and~~

~~3. — The housing facility or community complies with rules issued by the United States Secretary of Housing and Urban Development for verification of occupancy, which shall:~~

~~i. — Provide for verification by reliable surveys and affidavits; and~~

~~ii. — Include examples of the types of policies and procedures relevant to the determination of compliance with the requirement of subsection (b)(1)c.2 of this section. Such surveys and affidavits shall be admissible in~~

~~administrative and judicial proceedings for the purposes of such verification.~~

- (2) ~~Housing shall not fail to meet the requirements for housing for older persons by reason of:~~
- ~~a. Persons residing in such housing as of December 28, 1995, who do not meet the age requirements of subsection (b)(1)b. or (b)(1)c. of this section, provided that new occupants of such housing meet the age requirements of subsection (b)(1)b. or (b)(1)c. of this section; or~~
 - ~~b. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsection (b)(1)b. or (b)(1)c. of this section.~~
- (3) ~~Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substance Act (21 USC 802).~~
- (4) ~~a. 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.~~
- ~~b. For the purposes of this subsection, a person may show good faith reliance on the application of the exemption only 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 of such exemption.~~

~~(Ord. No. 6503/07-98, § 7, 11-5-07)~~

~~Sec. 4-3-7 Discrimination in residential real-estate-related transactions.~~

- (a) ~~It shall be unlawful for any person 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, handicap or familial status.~~
- (b) ~~As used in this section, the term "residential real-estate-related transaction" means:~~

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

~~(Ord. No. 6503/07-98, § 8, 11-5-07)~~

~~Sec. 4-3-8 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 him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.~~

~~(Ord. No. 6503/07-98, § 9, 11-5-07)~~

~~Sec. 4-3-9 Other unlawful practices.~~

- (a) ~~It is an unlawful practice for any person against whom a complaint has been filed under this article to fail to preserve or to fail to make available to the commission or its duly authorized representative any evidence or possible sources of evidence with regard to that complaint.~~
- (b) ~~It is an unlawful practice for a person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, national origin, sex, handicap or familial status.~~
- (c) ~~Restrictive covenants and conditions are subject to the following:~~
 - (1) ~~Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof to individuals of a specified race, color, religion, national origin, sex, handicap or familial status is a discriminatory practice and is void.~~
 - (2) ~~Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, religion, national origin, sex, handicap or familial status is a discriminatory practice and is void, except a limitation of use on the basis of religion of real property held by a religious or charitable organization operated, supervised or controlled by a religious~~

~~institution or organization and used for religious or charitable purposes.~~

(3) — ~~It is an unlawful practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.~~

(d) — ~~It is an unlawful practice for a person, as a party to a conciliation agreement made under this article, to violate the terms of the agreement.~~

(e) — ~~It is an unlawful practice to:~~

(1) — ~~Retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this article;~~

(2) — ~~Aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this article;~~

(3) — ~~Obstruct or prevent a person from complying with this article or any order issued under this article;~~

(4) — ~~Resist, prevent, impede, or interfere with the commission or any of its members or representatives in the lawful performance of duty under this article; or~~

(5) — ~~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 this article.~~

~~(Ord. No. 6503/07-98, § 10, 11-5-07)~~

~~Sec. 4-3-10 — Acting for another person no defense.~~

~~It shall be no defense to a violation of this article by a person that the violation was requested, sought, or otherwise procured by another person.~~

~~(Ord. No. 6503/07-98, § 11, 11-5-07)~~

~~Sec. 4-3-11 — Enforcement, relief.~~

(a) — ~~An action alleging a violation of this article may be filed in the Superior Court by the City of High Point by authorization of the High Point City Council. Such an action may also be filed by an aggrieved person not later than two (2) years after the occurrence or termination of an alleged discriminatory practice. If the city has filed an action, an aggrieved person's timely motion to intervene shall be granted.~~

- ~~(b) — If it shall be determined by the court that a discriminatory practice has occurred, an order shall issue granting relief to those persons who have suffered the effects of such discrimination. Before relief may be granted, it shall not be necessary for the court to find that intentional discrimination has occurred. It shall be sufficient that the respondent's action or failure to act was intentional and has resulted in unlawful discrimination.~~
- ~~(c) — The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages, including compensation for humiliation and embarrassment, and punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff.~~

~~(Ord. No. 6503/07-98, § 12, 11-5-07)~~

~~Sec. 4-3-12 — Additional powers of commission.~~

~~The Commission shall, in addition to its powers as otherwise set forth in this article, have power to:~~

- ~~(1) — Receive, initiate, investigate, seek to conciliate and conduct hearings on complaints filed under this article; make recommendations to parties named in such complaints; and approve or disapprove plans to eliminate or reduce the effects of discriminatory practices and monitor compliance with such plans.~~
- ~~(2) — With the approval of the city manager and the city attorney, require answers to interrogatories and the production of documents and other tangible things for the purpose of inspection, copying or translating; administer oaths and examine witnesses under oath or affirmation and compel the attendance of witnesses at hearings, depositions and other examinations by the commission or its agents and the production of documents and other tangible things. Witnesses whose depositions are taken or who are summoned before the commission or its agents shall be entitled to the same witness and mileage fees as are paid to witnesses in the courts of this state.~~
- ~~(3) — With the approval of the city manager and city attorney, submit to parties in a complaint requests for admission of the truth of any matter, not privileged, that is relevant to the complaint. A request for admission submitted under the authority of this subsection shall be governed, so far as practically possible, by the procedures for requests for admission provided in the North Carolina Rules of Civil Procedure, except that any admission made by a party under this subsection shall be for the purpose of the pending complaint, any subsequent public hearing by the commission upon the complaint, and any subsequent civil action, arising from the complaint, filed by the commission or by any aggrieved person pursuant to section 12 of this article.~~

- ~~(4) — With the approval of the city manager and city attorney, apply to the court, upon the failure of any person to respond to or comply with a lawful interrogatory, subpoena, request for admission, or request for the production of relevant evidence or possible sources of evidence, for an order requiring such person to respond to or comply with the interrogatory, subpoena, request for admission, or request for the production of relevant evidence or possible sources of evidence. The court shall have jurisdiction to issue such order after notice to all proper parties. On petition of the person to whom the subpoena is directed, the court may vacate or modify the subpoena.~~
- ~~(5) — Recommend that the city apply to the court for appropriate temporary or preliminary relief pending final disposition of a complaint if the commission concludes that such action is necessary to carry out the purposes of this article.~~
- ~~(6) — Adopt, promulgate, amend, and rescind such rules and regulations to effectuate the purposes and policies of this article and the policies and practices of the commission in connection therewith, including regulations requiring the posting or inclusion in advertising material of notices prepared or approved by the commission, and regulations as to filing, approval or disapproval of plans to eliminate or reduce the effects of discriminatory practices. The commission may authorize any member or member of its staff to exercise the powers of the commission set forth in this article in the performance of its official duties as specified in this article and the rules and regulations. Such rules and regulations shall be approved by the city council and shall only be adopted, amended or rescinded after holding a public hearing, notice of which shall be published once at least 10 days before the date of the hearing in a newspaper published within the jurisdiction of the local governing body. A copy of the text of the proposed rule, amendment or rescission shall be available for public inspection and copying at the offices of the commission.~~

~~(Ord. No. 6503/07-98, § 13, 11-5-07)~~

~~Sec. 4-3-13 — Procedures for conciliation.~~

- ~~(a) — Under this article, a person claiming to be aggrieved by a discriminatory practice, his agent or a member of the commission may file a written complaint with the commission within one (1) year after the alleged violation occurred or terminated, setting forth the facts upon which the complaint is based and setting forth facts sufficient to enable the commission to identify the person charged (referred to as "respondent"). Upon the filing of a complaint, the commission shall:~~
 - ~~(1) — Serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law; and~~

- (2) — Promptly serve notice of the complaint on the respondent, advising the respondent of his procedural rights and obligations under this article, together with a copy of the complaint. The respondent may file an answer to the complaint.
- (b) — The commission shall begin the investigation of a complaint within 30 days after receipt of the complaint and shall complete the investigation within 100 days after receipt unless it is impractical to do so. If the investigation is not completed within that time, the commission shall notify the complainant and respondent in writing of the reason for not doing so. The commission shall make final administrative disposition of a complaint within one (1) year after the receipt of a complaint unless it is impractical to do so. If the commission is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.
- (c) — If it is decided by the commission that, based on the results of its investigation, there is not reasonable cause to believe the respondent has engaged in a discriminatory practice, the commission shall notify the complainant and the respondent in writing of its decision within 10 days after such decision has been made. A finding of no reasonable cause by the commission shall not preclude the complainant's private right of action.
- (d) — Unless the commission has notified the complainant and the respondent that there is not reasonable cause to believe the respondent has engaged in a discriminatory practice, the commission shall endeavor to eliminate the alleged discriminatory practice by conference, conciliation and persuasion. Any conciliation agreement arising out of conciliation efforts by the commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the commission. Each conciliation agreement shall be made public unless the complainant and the respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this article.
- (e) — A conciliation agreement negotiated by the commission may include, but is not limited to, the following:

 - (1) — Sale, exchange, lease, rental, assignment, or sublease of real property to a person.
 - (2) — Extension to all persons of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.
 - (3) — Reporting as to the manner of compliance.
 - (4) — Posting of notices in conspicuous places in the respondent's place of business in a form prescribed by the court or the committee.
 - (5) — Payment to the complainant of actual damages, including compensation for humiliation and embarrassment, and reasonable attorney's fees.

- ~~(f) — At any time but not later than one (1) year from the date of a conciliation agreement, the commission shall investigate whether the terms of the agreement are being complied with by the respondent. Upon deciding that the terms of the agreement are not being complied with by the respondent, the commission shall take appropriate action to ensure compliance.~~
- ~~(g) — Hearings shall be conducted as follows:~~

 - ~~(1) — Unless the commission has decided that there is no reasonable cause to believe that a discriminatory practice has occurred, or unless it has negotiated a conciliation agreement, the commission shall hold a hearing, after proper notice and under rules and procedures adopted by the commission under this article, at which the presence of the complainant, the respondent, and any witnesses and records designated by the commission may be required.~~
 - ~~(2) — If the commission determines as a result of the hearing that the respondent has not engaged in a discriminatory practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the city attorney, and such other persons as the commission deems proper.~~
 - ~~(3) — If the commission determines that the respondent has engaged in a discriminatory practice, the commission shall state its findings of fact and conclusions of law and, if a conciliation agreement has not been negotiated, shall file an action alleging a violation of this article in the court. A copy of the findings and of any negotiated conciliation agreement shall be delivered to the complainant, the respondent, the city attorney, and such other persons as the commission deems proper.~~
- ~~(h) — After a finding is made by the commission following a hearing, the commission may publish or cause to be published the name of a person whom it has determined to be engaged in a discriminatory practice and the terms of any conciliation agreement.~~
- ~~(i) — Every person subject to this article shall make, keep, and preserve records relevant to the determination of whether discriminatory practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder. Nothing in this article shall be interpreted to require the making, keeping, and preserving of records other than and except as required under the Civil Rights Acts of 1968 and any regulations promulgated thereunder.~~
- ~~(j) — In connection with a complaint filed under this article, the commission or its designated representative shall have access at any reasonable time to premises, records and documents relevant to the complaint, and the right to examine, photograph, and copy evidence.~~

- ~~(k) — Neither a complaint filed pursuant to this article nor the results of the commission's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under G.S. ch. 132.~~
- ~~(l) — The provisions of G.S. 143-318.9 et seq. shall not be applicable to the activities of the commission to the extent that it is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to this article.~~
- ~~(m) — No portion of this article shall be construed to authorize the commission to make a final determination concerning the allegations of a complaint. The commission's authority and power shall not exceed receiving, investigating and attempting to conciliate complaints, monitoring compliance with the terms of conciliation agreements, and, where warranted, commencing an action in the court alleging the violation of this article and any other powers granted by this article.~~

~~(Ord. No. 6503/07-98, § 14, 11-5-07)~~

This Ordinance shall become effective upon adoption.

Adopted this the 19th day of January, 2016.

Lisa B. Vierling, City Clerk