

## **Chapter 12 HUMAN RIGHTS<sup>1</sup>**

### ***ARTICLE I. IN GENERAL***

#### **Sec. 12-1. Director of human rights.**

The director of human rights of the city shall be appointed by the city manager and shall be under the supervision and control of the city manager. It shall be the duty of the director of human rights to:

- (1) Supervise and coordinate the functions and activities of the human rights department of the city.
- (2) Serve as the executive director to the human rights commission and the commission on the status of women.
- (3) Perform such other duties as may be assigned to him/her/them by the city manager.

(Code 1961, § 5A-22; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

#### **Sec. 12-2. Functions and duties of the human rights department.**

In the implementation of the duties of the director of human rights, the human rights department shall be responsible for the following additional functions:

- (1) To promote and secure mutual understanding and respect by reviewing complaints of unfair treatment and seek voluntary resolution thereof among all citizens in the city.
- (2) To receive and investigate complaints of discrimination based on the provisions of this chapter, particularly with respect to the denial of equal access to and discrimination in public accommodations and employment when such denial and discrimination against either individual or group is based on race, religion, color, national origin or sex, and to act as the administrative enforcement body to receive and process fair housing complaints filed under division 5 of this chapter. Throughout this Chapter, term 'sex' shall explicitly include sexual orientation, gender expression, or gender identity. Throughout this Chapter, the terms 'race' and 'national origin' shall explicitly include discrimination on the basis of hair texture and hairstyles that are commonly associated with race or national origin.
- (3) To resolve any complaint over which it has jurisdiction under the procedures of this chapter, impose civil penalties, and when necessary, seek equitable enforcement remedies pursuant to N.C.G.S. 160A-175 for violations of Article IV of this Chapter.
- (4) To submit periodic reports at regular intervals to the city manager setting forth the activities of the department, the results of any studies and any recommendations which will result in the improvement of human rights.

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<sup>1</sup>Cross reference(s)—Minority/women's participation in city procurement and construction contracts, § 2-117; youth planning board, § 19-36 et seq.

State law reference(s)—Human relations program, G.L. § 160A-492.

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- (5) To conduct research projects, make studies and reports on the status of women and human rights and related social concerns in the city.
  - (6) To cooperate with federal, state, county and city agencies in an effort to develop harmonious intergroup and interracial relations.
  - (7) To endeavor to enlist the support of educational and civil leaders for the improvement of intergroup and interracial relations in the city.

(Code 1961, § 5A-23; Ord. No. 91-133, § 1, 10-31-91; Ord. No. 92-116, § 1, 9-3-92; Ord. No. 20-131, 10-6-20)

**Secs. 12-3—12-20. Reserved.**

***ARTICLE II. COMMISSION ON HUMAN RIGHTS<sup>2</sup>***

**Sec. 12-21. Created.**

There is hereby created a commission to be known as the commission on human rights.

(Ord. No. 20-131, 10-6-20)

Charter reference(s)—General authority to create boards, commissions, etc., § 4.01(b)(2).

**Sec. 12-22. Membership.**

The commission on human rights shall be composed of nine (9) members who shall be appointed by the city council for terms to expire on August 15. All members of the commission shall be bona fide adults maintaining a permanent residence inside the corporate limits of the city. The terms of office of the members of the commission shall be three (3) years.

(Code 1961, §§ 2-253, 2-254; Ord. No. 89-119, § 1, 8-31-89; Ord. No. 18-119, § 1, 9-25-18; Ord. No. 20-131, 10-6-20)

**Sec. 12-23. Duties.**

The duties of the commission on human rights shall be as follows:

- (1) To study and make recommendations concerning problems in any or all fields of human relationship and encourage fair treatment and mutual understanding among all racial and ethnic groups in the city.
- (2) To anticipate and discover those practices and customs most likely to create animosity and unrest among racial and ethnic groups and by consultation seek a solution as these problems arise or are anticipated.
- (3) To make recommendations to the city council designed to promote good will and harmony among racial and ethnic groups in the city.

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<sup>2</sup>Editor's note(s)—Ord. No. 20-131, adopted October 6, 2020, amend the title of Ch. 12, Article II to read as herein set out. Formerly said article was entitled Human Relations.

Cross reference(s)—Boards and commissions generally, § 2-136 et seq.

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- (4) To appoint, at its discretion, subcommittees to concern themselves with specific human rights problems. These subcommittees shall be composed of bona fide adult residents of the city but need not be members of the commission; except that the chairperson of each subcommittee must be a bona fide member of the commission. Provided, however, a multicultural committee created by the commission may include adults who are not residents of the city nor is the chairperson of this committee required to be a member of the commission.
  - (5) To serve as a citizens advisory committee for the purpose of coordinating, studying and making reports concerning citizen involvement in various projects.
  - (6) To seek and enlist the cooperation of various groups in the city in order to fulfill the purposes of this article.
  - (7) To receive general statistical reports and studies from the human rights director concerning complaints involving discrimination based on race, color, religion, sex, handicap, familial status, or national origin, and to appoint members to a complaint review committee to assist the human rights director in the complaint review process of complaints involving discrimination under article IV, division 2 of this chapter.
  - (8) To cooperate with federal, state, county and city agencies in developing presentations in public and private schools, public libraries, museums and other suitable places, on techniques for achieving harmonious intergroup relations within the city.
  - (9) To enlist the cooperation of the various racial, religious and ethnic groups, community organizations and other groups in the city, in programs and campaigns devoted to eliminating group prejudice and discrimination.
  - (10) To hold such meetings as the commission may deem necessary or proper to assist in carrying out its functions.
  - (11) To perform such other duties as may be assigned it from time to time by the city council.

(Code 1961, § 2-252; Ord. No. 90-114, § 1, 8-30-90; Ord. No. 00-216, § 1, 12-5-00; Ord. No. 13-114, § 1, 8-20-13; Ord. No. 19-13, § 1, 2-19-19; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

**Secs. 12-24—12-40. Reserved.**

### ***ARTICLE III. GREENSBORO COMMISSION ON THE STATUS OF WOMEN<sup>3</sup>***

#### **Sec. 12-41. Created.**

There is hereby created a commission to be known as the Greensboro Commission on the Status of Women.

(Code 1961, § 2-350)

Charter reference(s)—General authority to create boards, commissions, etc., § 4.01(b)(2).

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<sup>3</sup>Cross reference(s)—Boards and commissions generally, § 2-136 et seq.

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## **Sec. 12-42. Membership.**

The commission on the status of women shall be composed of nine (9) members appointed by the city council for terms of two (2) years each expiring on the day of August 15.

(Code 1961, § 2-351; Ord. No. 92-1, § 1, 1-2-91; Ord. No. 016-93, § 1, 8-16-16)

## **Sec. 12-43. Duties.**

The duties of the commission on the status of women shall be as follows:

- (1) To work towards the betterment of the status of women as it is affected by employment and educational opportunities, health services, child care services, welfare services, financial services and community leadership opportunities.
- (2) To conduct surveys, public hearings, seminars, and informational programs, receive and investigate complaints with the aim of harmoniously resolving these complaints, accumulate information on subjects affecting women, and to prepare a leadership roster of women in the city.
- (3) To make recommendations to the city council for action it deems necessary in improving and upholding the opportunities in employment, education, and community services for all people regardless of sex.
- (4) To appoint at its discretion, subcommittees to concern themselves with specific problems relating to the status of women.
- (5) To perform such other duties as may be assigned it from time to time by the city council.

(Code 1961, § 2-350; Ord. No. 94-105, § 1, 10-3-94)

## **Secs. 12-44—12-60. Reserved.**

# ***ARTICLE IV. DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND EMPLOYMENT<sup>4</sup>***

## ***DIVISION 1. GENERALLY***

## **Sec. 12-61. Declaration of policy.**

Recognizing that the practice of discrimination against any individual or group is contrary to good public policy and detrimental to the peace, progress, and welfare of the city, it is hereby declared to be the policy of the city for the promotion of the public health, safety and welfare of the citizens:

- (1) To encourage understanding and good will between all persons;

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<sup>4</sup>Charter reference(s)—Antidiscrimination ordinances, § 3.62 et seq.

State law reference(s)—Discrimination, G.S. § 41A-1 et seq.

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- (2) To promote and develop mutual respect among all citizens toward each other;
  - (3) To encourage the elimination of discriminatory practices between and among its citizens because of race, color, religion, sex, handicap, familial status, or national origin.
  - (4) To encourage the elimination of discriminatory practices between and among its citizens, it is necessary to interpret the term 'sex' to explicitly include sexual orientation, gender expression, or gender identity.
  - (5) To encourage the elimination of discriminatory practices between and among its citizens, it is necessary to interpret the terms 'race' and 'national origin' to include discrimination on the basis of hair texture and hairstyles that are commonly associated with race or national origin.

(Code 1961, § 5A-1; Ord. No. 91-133, § 3, 10-31-91; Ord. No. 21-013, § 1, 1-19-21, eff. 7-1-21)

### **Sec. 12-62. Severability.**

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any existing federal or state law. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this article is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this article, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this article.

(Ord. No. 21-013, § 1, 1-19-21, eff. 7-1-21)

### **Secs. 12-63—12-75. Reserved.**

## ***DIVISION 2. COMPLAINTS<sup>5</sup>***

### **Sec. 12-76. Purpose.**

The purpose of this division is to provide a standard administrative procedure for processing a complaint of discrimination relating to public accommodations or employment, and request for assistance filed with the human rights department and shall include filing, investigation, findings and conciliation efforts.

(Code 1961, § 5A-24; Ord. No. 91-133, § 4, 10-31-91; Ord. No. 20-131, 10-6-20)

### **Sec. 12-77. Filing complaint.**

Any person claiming to be aggrieved by a discriminatory practice in violation of any provisions of this article may file a written complaint with human rights department within sixty (60) days after the alleged violation occurred, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the human rights department to identify the person against whom the complaint is filed (hereinafter called the respondent). Notice of the complaint (including the date, place and circumstances of the alleged unlawful discriminatory practice) shall be served by the human rights director upon the respondent by certified mail within

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<sup>5</sup>Charter reference(s)—Complaints, etc., § 3.64.1 et seq.

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ten (10) days after filing. The human rights director shall commence an investigation by initiating a review of the allegations set forth in the complaint.

(Code 1961, § 5A-24.1; Ord. No. 20-131, 10-6-20)

### **Sec. 12-78. Initial investigation and evidentiary hearing.**

Not later than thirty (30) days after the complaint is filed, unless for good reason the time is extended for an additional thirty (30) days by the human rights director, the human rights director or his/her/their designee shall conclude the investigation into the allegations of the complaint. During his/her/their investigation, the human rights director may at his/her/their discretion interview any witnesses that he/she/they reasonably believes may have information concerning the allegations of the complaint, including but not limited to, the complainant and the respondent. Once the human rights director has completed his/her/their review, the human rights director shall send all of the evidence collected to both the complainant and the respondent, and the human rights director shall set a date for an evidentiary hearing within thirty days of the date evidence collected is sent to the complainant and respondent. The complainant and respondent may be represented by counsel and the human rights director or his/her/their designee shall preside over the evidentiary hearing. Within thirty (30) days of the evidentiary hearing, the human rights director or his/her/their designee shall determine by the preponderance of the evidence whether the respondent has violated any of the provisions of this article.

(Code 1961, § 5A-25; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

### **Sec. 12-79. Human rights director finds no violation; appeal to committee.**

- (a) After the investigation and evidentiary hearing are concluded, if the human rights director finds by the preponderance of the evidence that the respondent did not violate a provision of this article, the human rights director shall notify the complainant and the respondent in writing of his/her/their determination within ten (10) days after such determination has been made. The human rights director shall also notify the parties of the complainant's right to appeal this determination pursuant to Sec. 12-79(b).
- (b) The complainant, within ten (10) days after receiving a copy of the human rights director's decision that the respondent did not violate a provision of this article, may file a written appeal with the human rights director for review by a complaint review committee, which shall be composed of three (3) members with a minimum of two (2) such members to be from the human rights commission; the remaining member shall either be from the commission on the status of women or from the human rights commission. However, all members shall be appointed by the human rights commission. Upon receiving such appeal, the human rights director shall forward all of the evidence collected during his/her/their investigation to a complaint review committee. The committee shall review the human rights director's decision under the whole record test standard of review and complete its review and determination within thirty (30) days after the appeal is filed. The committee, at its discretion, may set a hearing date for a hearing to be held within thirty (30) days of receiving the case for oral arguments from the parties and/or their attorneys. No new evidence may be received. If the committee finds that the human rights director's decision is supported by competent evidence pursuant to the whole record test standard of review, the committee shall notify the complainant and the respondent in writing of its determination within ten (10) days after such determination has been made, and the committee's decision shall be final. If the committee finds that the human rights director's decision is not supported by competent evidence pursuant to the whole record test standard of review, the committee shall send the matter back to the human rights director for further investigation. The human rights director shall conduct an additional investigation and/or issue a new decision that is supported by competent evidence within thirty (30) days. This new decision is subject to appeal by the aggrieved party pursuant to this section or Sec. 12-80.

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(Code 1961, § 5A-26; Ord. No. 91-133, § 5, 10-31-91; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

**Sec. 12-80. Finding by human rights director that respondent violated article; appeal to committee.**

- (a) After the investigation and evidentiary hearing are concluded, if the human rights director finds by the preponderance of the evidence that the respondent has violated this article, the human rights director shall notify the complainant and the respondent in writing of his/her/their determination within ten (10) days after such determination has been made. The human rights director shall also notify the parties of the respondent's right to appeal this determination pursuant to Sec. 12-80(b). The human rights director may endeavor, by conference and conciliation with the parties, to reach a voluntary and amicable solution to the alleged discriminatory practice. Neither the human rights director nor any of the department's employees, shall make public, without the written consent of the complaining party and the respondent, information concerning efforts in a particular case to voluntarily conciliate an alleged discriminatory practice by conference and persuasion. If a conciliation agreement is reached between the complainant and the respondent, a written agreement, if mutually deemed by all parties to be needed, may be entered into and a copy shall be furnished to the complainant and the respondent and the complaint will be dismissed.

If within thirty (30) days after the conclusion of the investigation and evidentiary hearing, the human rights director is unable to effectuate a voluntary resolution of a complaint where he/she/they have found by the preponderance of the evidence that the respondent violated this article, he/she/they shall impose a civil penalty pursuant to Sec. 12-84 and so advise the complainant and respondent immediately in writing by certified or registered letter.

- (b) The respondent may appeal the decision and the imposition of the civil penalty to a complaint review committee by filing a Notice of Appeal with the human rights director within ten (10) days after the respondent receives the above-mentioned letter. The complaint review committee shall review the human rights director's decision under the whole record test standard of review and complete its review and determination within thirty (30) days after the appeal is filed. The committee, at its discretion, may set a hearing date for a hearing to be held within thirty (30) days of receiving the case for oral arguments from the parties and/or their attorneys. No new evidence may be received. If the committee finds that the human rights director's decision is supported by competent evidence pursuant to the whole record test standard of review, the committee shall notify the complainant and the respondent in writing of its determination within ten (10) days after such determination has been made. The committee's decision is final.

If the committee finds that the human rights director's decision is not supported by competent evidence pursuant to the whole record test standard of review, the committee shall dismiss the complaint and notify the complainant and the respondent in writing of its determination within ten (10) days after such determination has been made. The committee's decision is final.

(Code 1961, § 5A-27; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

**Sec. 12-81. Final letter setting forth information.**

In the event the complaint is still unresolved after the culmination of the administrative review procedures as outlined in section 12-78, 12-79 or 12-80 (whichever is applicable in the particular case), within five (5) days the human rights director shall notify the complainant and respondent in writing advising of the alternative remedies available which may include:

- (1) Referral of the complainant to the appropriate federal or state agency, and

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- (2) The right of the complainant to initiate a private right of civil action through application to the superior court division of the general court of justice.

(Code 1961, § 5A-28; Ord. No. 20-131, 10-6-20)

### **Sec. 12-82. Service of written correspondence.**

All written notifications required by this article shall be served either through personal service or mailed by certified or registered mail.

(Code 1961, § 5A-29)

### **Sec. 12-83. Clarification of purpose; confidentiality.**

- (a) The authority of the human rights director and complaint review committee shall be to fully administer and enforce the provisions of this article by receiving, investigating, receiving voluntary access to information, attempting to conciliate complaints and assisting in conciliation agreements, issuing civil penalties, and seeking equitable enforcement of the provisions of this article pursuant to N.C.G.S. 160A-175 in the Guilford County Superior Court.
- (b) In order to protect the legal rights of the parties involved, any complaint filed pursuant to this article and the results of reviews, investigations or attempts at conciliation in whatever form prepared and preserved, shall be maintained in a confidential and classified manner and shall not be subject to public review except upon application to and a final order issued by the superior court division of the general court of justice finding that the applicant is entitled to the information sought.
- (c) All meetings, conferences and reviews held by the human rights director pertaining to a complaint filed pursuant to this article shall be confined only to the parties affected, their counsel and their witnesses.

(Code 1961, § 5A-30; Ord. No. 20-131, 10-6-20)

### **Sec. 12-84. Civil Penalties.**

If the human rights director finds by the preponderance of the evidence that the respondent has violated this article, and is unable to effectuate a voluntary resolution of the complaint pursuant to Section 12-79 and/or 12-80, the human rights director shall levy a civil penalty against the respondent in the amount of Five Hundred Dollars (\$500.00).

- (a) In the case of a continuing violation, each 24-hour period in which the violation continues to exist shall constitute a separate violation. In the event the violator does not pay the civil penalty assessed within 30 days of service of the citation, the civil penalty shall be collected by the city in a civil action in the nature of debt.
- (b) In addition to or in lieu of other remedies available by law or set forth by this article, any person violating any provision of this article may be subject to an enforcement action brought by the City under G.S. 160A-175 for an appropriate equitable remedy, including but not limited to a mandatory or prohibitory injunction commanding the respondent to correct the conduct prohibited under this article. This article is not intended to limit the remedies available to any person under state or federal law.



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- (c) Respondent may appeal the issuance of the civil penalty by the human rights director as provided for appeals in Section 12-80(b).

**Sec. 12-85. Other remedies.**

- (a) Subject to the provisions of subsection (b) of this section, any aggrieved complainant may, on his/her/their own initiative, apply to the superior court division of the general court of justice for appropriate civil relief including any legal and equitable remedies. If it is determined by the court that a discriminatory practice has occurred in violation of this chapter, the court may issue such order as, in its discretion, is deemed appropriate, including injunctive relief, actual damages and court costs in the case of a prevailing plaintiff.
- (b) Within sixty (60) days after the complainant receives written notice from the human rights director pursuant to section 12-81, a civil action may be brought by the complainant against the respondent in the superior court division of the general court of justice, but not otherwise. Nevertheless, no private civil action shall be filed or commenced by the complainant in the superior court for alleged violations of this article unless the complainant has first exhausted the full administrative complainant procedures as required by this division.
- (c) Any remedies exercised or charges made hereunder for violations of this article shall be of a civil nature only and the provisions of North Carolina Statutes section 14-4 shall not apply.

(Code 1961, § 5A-31; Ord. No. 91-133, § 7, 10-31-91; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

Editor's note(s)—Ord. No. 91-133, §§ 6 and 7, adopted Oct. 31, 1991, amended the Code by deleting provisions contained in § 12-84 in their entirety and by renumbering former § 12-85 as § 12-84. The former provisions contained in § 12-84 pertained to the subpoena power of the complaint review committee and/or the executive director in regards to fair housing complaints and derived from the Code of 1961, § 5A-32; Ord. No. 87-138, § 1, adopted Oct. 15, 1987.

**Secs. 12-86—12-95. Reserved.**

*DIVISION 3. PUBLIC ACCOMMODATIONS<sup>6</sup>*

**Sec. 12-96. Definition.**

In this article "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation or transportation facility of any kind whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public.

In this article, the term 'sex' shall be defined to explicitly include sexual orientation, gender expression, or gender identity.

In this article, the terms 'race' and 'national origin' shall be defined to explicitly include hair texture and hairstyles that are commonly associated with race or national origin.

(Code 1961, § 5A-2; Ord. No. 21-013, § 2, 1-19-21, eff. 7-1-21)

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<sup>6</sup>Charter reference(s)—Antidiscrimination ordinance for places of public accommodations, § 3.62.

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### **Sec. 12-97. Prohibited acts.**

- (a) No person shall deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation because of race, color, religion, sex or national origin.
- (b) No person shall print, circulate, post, mail or otherwise cause to be published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation will be refused, withheld from, or denied an individual because of race, color, religion, sex or national origin, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable or undesirable because of race, color, religion, sex or national origin.
- (c) No person shall, because of race, color, religion, sex or national origin, intimidate, threaten or coerce another individual for the purpose of interfering with or denying such individual the full and equal enjoyment of a place of public accommodation.

(Code 1961, § 5A-3; Ord. No. 21-013, § 2, 1-19-21, eff. 7-1-21)

### **Sec. 12-98. Exception.**

The provisions of this division shall not apply to a private club or other establishment not, in fact, open to the public.

(Code 1961, § 5A-4)

### **Secs. 12-99—12-110. Reserved.**

## ***DIVISION 4. EMPLOYMENT<sup>7</sup>***

### **Sec. 12-111. Definitions.**

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

*Because of sex or on the basis of sex* includes pregnancy, childbirth or related medical conditions. Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected in their ability or inability to work, and nothing in this division shall be interpreted to permit otherwise. The term 'sex' in this division shall be defined to explicitly include sexual orientation, gender expression, or gender identity.

*Discriminatory practice* means an act that is prohibited under this division.

*Employee* means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any state or political subdivision of any state by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The

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<sup>7</sup>Charter reference(s)—Equal employment ordinances, G.S. § 3.36.

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exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a state government, governmental agency or political subdivision.

*Employer* means a person who has employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and an agent of such a person.

*Employment agency* means a person regularly undertaking, with or without compensation, to procure employees for an employer, or to procure for employees opportunities to work for an employer, and includes an agent of such a person.

*Person* includes individuals, associations, corporations, joint stock companies, legal representatives, mutual companies, partnerships, receivers, trusts, trustees, trustees in bankruptcy, unincorporated organizations, any other commercial entities, the city, county, or any governmental entities or agencies.

*Race* and *national origin* shall be defined to explicitly include hair texture and hairstyles that are commonly associated with race or national origin.

*Religion* means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he/she/they is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(Code 1961, § 5A-6; Ord. No. 20-163, § 3, 12-15-20; Ord. No. 21-013, § 3, 1-19-21, eff. 7-1-21)

### **Sec. 12-112. Purpose; construction.**

The purpose of this division is to secure for all individuals freedom from discrimination in connection with employment because of race, color, religion, sex or national origin. Hence the provisions herein shall be construed to achieve the above-mentioned purpose and to promote just and fair employment practices among employers.

(Code 1961, § 5A-5)

### **Sec. 12-113. Exemptions.**

- (a) This division shall not apply to a religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association or society of its religious activities.
- (b) It is not a discriminatory practice:
  - (1) For an employer to employ an employee or an employment agency to classify or refer for employment an individual, or for an employer to admit or employ an individual in the program, on the basis of his/her/their religion, sex or national origin if religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise.
  - (2) For a religious education institution, or an educational organization operated, supervised or controlled by a religious institution or organization, to limit employment or give preference to members of the same religion.
  - (3) For an employer, employment agency or training program:
    - a. To observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this article, except that no such employees' benefit plan shall excuse the failure to hire an individual.
    - b. To discharge or otherwise discipline an individual for good cause.

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- (4) For an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex or national origin; nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin.

(Code 1961, §§ 5A-11, 5A-12; Ord. No. 20-163, § 3, 12-15-20)

### **Sec. 12-114. Employers.**

It is a discriminatory practice for an employer:

- (1) To fail or refuse to hire, to discharge, or otherwise to discriminate against an individual with respect to compensation or terms, conditions or privileges of employment because of the individual's race, color, religion, sex or national origin.
- (2) To limit, segregate or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, religion, sex or national origin.

(Code 1961, § 5A-7)

### **Sec. 12-115. Employment agencies.**

It is a discriminatory practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against an individual, because of race, color, religion, sex or national origin, or to classify or refer for employment on the basis of race, color, religion, sex or national origin.

(Code 1961, § 5A-8)

### **Sec. 12-116. Training programs.**

It is a discriminatory practice for an employer to discriminate against an individual because of race, color, religion, sex or national origin in admission to or employment in a program established to provide apprenticeship or other training.

(Code 1961, § 5A-9)

### **Sec. 12-117. Other discriminatory practices.**

It is a discriminatory practice for an employer or employment agency to print or publish, or cause to be printed or published, a notice of advertisement relating to employment by the employer or membership in or a classification or referral for employment relating to a classification or referral for employment relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification or discrimination based on race, color, religion, sex or national origin; but a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex or national origin where religion, sex or national origin is a bona fide occupational qualification for employment.

(Code 1961, § 5A-10)

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**Secs. 12-118—12-130. Reserved.**

## *DIVISION 5. FAIR HOUSING<sup>8</sup>*

### **Sec. 12-131. Title and purpose.**

This division shall be known and may be cited as the "Fair Housing Ordinance of the City of Greensboro." The general purpose of this article is to secure for all individuals within the city freedom from discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental or advertising of dwellings, in the provision of brokerage services or in the availability of residential real estate-related transactions. By providing rights and remedies for violation of this division substantially equivalent to the rights and remedies provided by the Federal Fair Housing Act (42 U.S.C. 3601, et seq.).

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 97-183, § 1, 11-18-97)

### **Sec. 12-132. Definitions.**

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

*Aggrieved person* includes any person who claims to have been injured by a discriminatory housing practice; or believes that such person will be injured by a discriminatory housing practice that is about to occur.

*Charge* means the statement of facts issued by the City of Greensboro's Human Rights Department under this division upon which the department has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

*Commission* means the Human Rights Commission of the City of Greensboro.

*Committee* means the complaint review committee.

*Complaint* means a written complaint filed with the City of Greensboro's Human Rights Department in accordance with the provisions of chapter 12, article IV, division 5 of the Greensboro Code of Ordinances.

*Complainant* means a person(s), including the department, who has filed a complaint with the department under this division.

*Conciliation* means attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the department.

*Conciliation agreement* means a written statement setting forth the resolution of the issues in conciliation.

*Covered multifamily dwellings* means buildings comprising four (4) or more residential units if the building has one (1) or more elevators; and ground floor residential units in other buildings comprising four (4) or more residential units.

*Department* means the City of Greensboro's Human Rights Department.

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<sup>8</sup>Editor's note(s)—Ord. No. 91-133, § 9, adopted Oct. 31, 1991, amended Div. 5 to read as herein set out in §§ 12-131—12-146. Prior to inclusion of said ordinance, Div. 5, §§ 12-131—12-137 pertained to similar subject matter and derived from the Code of 1961, §§ 5A-14—5A-21.

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*Director* means the director of the human rights department.

*Director's designee* means an employee of the Greensboro Human Rights Department.

*Discriminatory practice* means an act that is prohibited under this division.

*Dormitory* means a residential dwelling located on the premises of a college, business college, trade school or university for the purpose of housing students registered and attending such an institution or a private dormitory within the meaning of chapter 30, Greensboro Code of Ordinances.

*Dwelling* includes any improved or unimproved real property or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one (1) or more individuals.

*Familial status* means one (1) or more persons who have not attained the age of eighteen (18) years being domiciled with a parent or another person having legal custody of the person or persons; or the designee of the parent or other person having custody, provided the designee has 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 any person who has not attained the age of eighteen (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 of such person's 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 U.S.C. 802).

*Hearing* means a proceeding conducted to receive evidence or argument on a matter before the department.

*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, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers or any other legal or commercial entity.

*Race* and *national origin* shall be defined to explicitly include hair texture and hairstyles that are commonly associated with race or national origin.

*Real estate broker or salesman* means 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 the same, lists, sells, purchases, exchanges, rents or leases real property, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity, or who advertises or holds himself/herself/themself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon real property, or 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.

*Residential real estate transaction* means the sale or rental of residential dwellings or real estate.

*Residential real estate-related transactions* means 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; or the selling, brokering or appraising of residential real property.

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

*Respondent* means a person accused of a discriminatory housing practice in a complaint filed pursuant to this division.

Sex shall be defined to explicitly include sexual orientation, gender expression, or gender identity.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 2, 9-3-92; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20; Ord. No. 21-013, § 4, 1-19-21, eff. 7-1-21)

## **Sec. 12-133. Discriminatory practices prohibited.**

It is prohibited to commit or to attempt to commit 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 or desirability of housing on an equal basis to all persons.

(Ord. No. 91-133, § 9, 10-31-91)

## **Sec. 12-134. Discrimination in housing practices.**

- (a) It is a discriminatory housing practice for an owner or any other person engaging in a real estate transaction or residential real estate-related transaction, because of the race, color, religion, sex, handicap, familial status, or national origin of a person or of a person residing with that person or of friends or associates of that person:
- (1) To refuse to sell, exchange, rent or lease any real property.
  - (2) To 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.
  - (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.
  - (4) To refuse to negotiate for a real estate transaction with a person.
  - (5) To represent to a person that real property is not available for inspection, sale, rental or lease, when in fact it is so available, or to intentionally fail to bring a property listing to a person's attention, or to refuse to permit a person to inspect real property.
  - (6) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
  - (7) To offer, solicit, accept, use or retain a listing of real property for sale, rental or lease with the understanding that a person may be discriminated against in the sale, rental or lease of that real property or in the provision of facilities or services in connection therewith.
  - (8) 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 or persons of a particular race, color, religion, sex, familial status, or national origin or with a handicap.
  - (9) Every condition, restriction or prohibition, including a right of entry or possibility of reverter, which limits the conveyance, lease, or use or occupancy of real property on the basis of race, color, religion, sex, handicap, familial status, or national origin, is a discriminatory practice and is void, except a

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limitation of conveyance or use of real property on the basis of religion, held by a religious or charitable organization operated, supervised or controlled by a religious institution or organization and used for religious or charitable purposes.

- (10) For any person, because of race, color, religion, sex, handicap, familial status, or national origin, to intimidate, threaten, coerce or interfere with any other individual on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this division.
- (11) For any person, because of race, color, religion, sex, handicap, familial status, or national origin, to 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 so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.
- (12) To refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to the handicapped person's full enjoyment of the premises; except that, in the case of a rental unit, the landlord may, where it is reasonable to do so, condition permission for modifications on agreement by the renter to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted.
- (13) To refuse to make reasonable accommodations in rules, policies, practices, or services, when these accommodations may be necessary to a handicapped person's equal use and enjoyment of a dwelling.
- (14) To fail to design and construct covered multifamily dwellings available for first occupancy after March 13, 1991, so that:
  - a. The dwellings have at least one (1) building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or
  - b. With respect to dwellings with a building entrance on an accessible route:
    - 1. The public and common use portions are readily accessible to and usable by handicapped persons;
    - 2. There is an accessible route into and through all dwellings and units;
    - 3. All doors designed to allow passage into, within, and through these dwellings and individual units are wide enough for wheelchairs;
    - 4. Light switches, electrical switches, electrical outlets, thermostats, and other environmental controls are in accessible locations;
    - 5. Bathroom walls are reinforced to allow later installation of grab bars; and
    - 6. Kitchens and bathrooms have space for an individual in a wheelchair to maneuver.

- (15) Otherwise make unavailable or deny housing.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 2, 9-3-92)

### **Sec. 12-134.1. Exemptions.**

- (a) Nothing in article IV, division 5:
  - (1) Prohibits 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



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- 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;
- (2) Prohibits 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;
  - (3) With respect to discrimination based on sex, prohibits the rental or leasing of housing accommodations in single-sex dormitory property to the extent that such a dormitory is segregated based on sex only for the purpose of protecting values of personal modesty or privacy.
  - (4) Limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling;
  - (5) 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 Substances Act (21 U.S.C. 802);
- (b) Nothing in article IV, division 5, other than sections 12-134(a)(6) and (10), applies to:
- (1) The sale or rental of any single-family house by an owner, provided the following conditions are met:
    - (i) The owner does not own or have any interest in more than three (3) single-family houses at any one (1) time;
    - (ii) The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in paragraph (b)(1) of this section applies to only one (1) such sale in any twenty-four-month period.
  - (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/their residence.
- (c) Nothing in article IV, division 5, regarding discrimination based on familial status applies with respect to housing for older persons. As used in this section, housing for older persons means housing:
- (1) Provided under any state or federal program that the Secretary of the United States 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 sixty-two (62) years of age or older. Housing satisfies the requirements of this section even though:
    - (i) There are persons residing in such housing on September 13, 1988, who are under sixty-two (62) years of age, provided that all new occupants are persons sixty-two (62) years of age or older;
    - (ii) There are unoccupied units, provided that such units are reserved for occupancy by persons sixty-two (62) years of age or over;
    - (iii) There are units occupied by employees of the housing (and family members residing in the same unit) who are under sixty-two (62) years of age provided they perform substantial duties directly related to the management or maintenance of the housing.
  - (3) Or, intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit. Housing qualifies as housing for older persons under this subsection if it satisfies the following requirements:

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- (i) At least eighty (80) percent of the units in the housing facility are occupied by at least one (1) person fifty-five (55) years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this paragraph until twenty-five (25) percent of the units in the facility are occupied; and
  - (ii) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.
  - (iii) The owner or manager complies with rules issued by the Secretary of the United States Department of Housing and Urban Development pursuant to the Housing for Older Peoples Act of 1995 (24 C.F.R., Part 100, Subpart E - Housing for Older Persons) for verification of occupancy, which provides for verification by reliable surveys and affidavits; and include examples of the types of procedures relevant to the determination of compliance with section 12-134.1(c)(3)(ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings under this division for the purposes of such verification.
- (4) Housing which otherwise satisfies the requirements of section 12-134.1(c)(3) shall not fail to meet the requirement of housing for older persons even though:
- (i) On September 13, 1988, under eighty (80) percent of the occupied units in the housing facility are occupied by at least one (1) person fifty-five (55) years of age or older per unit, provided that at least eighty (80) percent of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one (1) person fifty-five (55) years of age or older.
  - (ii) There are unoccupied units, provided that at least eighty (80) percent of such units are reserved for occupancy by at least one (1) person fifty-five (55) years of age or over.
  - (iii) There are units occupied by employees of the housing (and family members residing in the same unit) who are under fifty-five (55) years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(Ord. No. 92-116, § 4, 9-3-92; Ord. No. 97-183, § 2, 11-18-97)

### **Sec. 12-135. Discrimination in financial practices.**

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. Unlawful conduct under this section includes, but is not limited, as follows:

- (1) To discriminate against the applicant because of race, color, religion, sex, handicap, familial status, or national origin.
- (2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification or discrimination as to race, color, religion, sex, handicap, familial status, or national origin.
- (3) To fail or refuse 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, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, or national origin.

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- (4) With respect to a person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of race, color, religion, sex, handicap, familial status, or national origin.
  - (5) With respect to a person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, sex, handicap, familial status, or national origin.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 4, 9-3-92)

#### **Sec. 12-136. Discrimination in the provision of brokerage services.**

It is a discriminatory practice for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to deny any person who is otherwise qualified by state law, access to, or membership or participation in, any real estate broker's organization, multiple listing service or other service, organization or facility relating to the business of engaging in real estate transactions, or to discriminate against any person in the terms or conditions of such access, membership, or participation, making available such services, or in the performance of such services, because of race, color, religion, handicap, familial status, or national origin.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 6, 9-3-92)

#### **Sec. 12-137. Other discriminatory practices.**

- (a) It is a discriminatory practice for any person against whom a complaint has been filed under this division to fail to preserve or to fail to make available to the department or its duly authorized representative any evidence or possible sources of evidence with regard to that complaint.
- (b) It is a discriminatory practice for a person, as a party to a conciliation agreement made under this division, to violate the terms of the agreement.
- (c) Conspiracy to violate this division is unlawful. It is a discriminatory practice for a person or for two (2) or more persons to conspire to:
  - (1) Retaliate or discriminate in any manner against a person because that person has opposed a practice prohibited by this division, or because that person has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this division; or
  - (2) Aid, abet, incite, compel or coerce a person to engage in any of the acts or practices prohibited by this division; or
  - (3) Obstruct or prevent a person from complying with the provisions of this division or any order issued thereunder; or
  - (4) Resist, prevent, impede, or interfere with the department or any of its members or representatives in the lawful performance of a duty under this division.

(Ord. No. 91-133, § 9, 10-31-91)

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## **Sec. 12-138. Acting for another person no defense.**

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

(Ord. No. 91-133, § 9, 10-31-91)

## **Sec. 12-139. Provisions for enforcement.**

- (a) Any aggrieved person or the director on behalf of the department may file a complaint with the department no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated. The complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person. A complaint may be reasonably and fairly amended at any time.
- (b) Each complaint must be in writing and must be signed and affirmed by the aggrieved person filing the complaint, or if the complaint is filed by the director on behalf of the department it must be signed and affirmed by the director. The signature and affirmation may be made at any time during the investigation. The affirmation shall state: "I declare under penalty of perjury that the foregoing is true and correct."
- (c) Each complaint shall include, but not be limited to, the following information:
  - (1) The name and address of the aggrieved person;
  - (2) The name and address of the respondent;
  - (3) A description and the address of the dwelling which is involved, if appropriate; and
  - (4) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.
- (d) Upon the filing of a complaint, the director or his/her/their designee shall serve by certified mail or personal service upon each aggrieved person on whose behalf the complaint was filed a notice acknowledging the filing and advising each aggrieved person of the time limits and choice of forums provided under the law.
- (e) Within ten (10) days of the filing of a complaint the director or his/her/their designee will serve a notice on each respondent by certified mail or by personal service. The director shall also serve upon respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under this division, as a person who is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under this division within ten (10) days of the identification. Said notice shall further explain the basis for the director's belief that the person whom the notices are addressed are properly joined as a respondent. The respondent may file an answer not later than ten (10) days after receipt of the notice. The answer must be signed and affirmed by the respondent. The affirmation must state: "I declare under penalty of perjury that the foregoing is true and correct."
- (f) Within thirty (30) days of the filing of a complaint, the director or his/her/their designee will initiate an investigation. Unless it is impracticable to do so, investigations under this division will be completed within one hundred (100) days of the filing of the complaint. If the investigation is not completed within the one hundred-day period, the aggrieved person and the respondent, shall be notified of the reasons for the delay by certified mail or personal service. At the end of each investigation under this division, a final investigative

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report will be prepared. The information derived from an investigation, including the final investigative report will be made available to the aggrieved person and the respondent. Following the completion of investigation, the aggrieved person and the respondent shall be notified that the final investigation report is complete and will be provided upon request.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 7, 9-3-92)

## **Sec. 12-140. Powers of the complaint review committee and/or the director of human rights or his/her/their designee.**

To effectuate the purposes of this division the committee and/or the director or his/her/their designee shall have the power:

- (1) To receive, initiate, investigate, seek to conciliate and conduct hearings on complaints filed under this division, make recommendations to parties named in such complaints, approve or disapprove plans to eliminate or reduce the effects of discriminatory practices, and monitor compliance with such plans.
- (2) To adopt rules and regulations for carrying out the administrative and enforcement functions of the Fair Housing Ordinance of the City of Greensboro. Such rules and regulations shall be approved by the human rights commission and shall be adopted, amended or rescinded after the commission holds a public hearing. A copy of the text of the proposed rule, amendment or decision shall be available for public inspection and copying at the office of the department.
- (3) To issue a subpoena requiring the attendance and testimony of witnesses; after having first sought voluntary response, the production of evidence, including but not limited to, books, records, correspondence or documents, in the possession or under the control of the person subpoenaed; and access to relevant and material evidence for the purposes of examination and copying.
- (4) The subpoena shall state the name, title, capacity and address of its issuer; the authority under which it is issued; the identity of the person or evidence subpoenaed; the name of the person to whom and the place, date and the time at which it is returnable; the nature of the evidence to be examined or copied; and the date and time when access is requested. The complaint review committee and/or the director may in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this division. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the general court of justice. A subpoena shall be returnable to the department.
- (5) Any person served with a subpoena who fails to comply therewith may, within five (5) days (excluding Saturdays, Sundays and legal holidays) after the date of service of the subpoena upon him/her/them, directly petition the Guilford County Superior Court to revoke or modify the subpoena. For purposes of this section, service shall be made and proof thereof established pursuant to Rule 45 of the North Carolina Rules of Civil Procedure.
- (6) Upon the failure of any person to respond or comply with a lawful interrogatory, request for production of documents, or subpoena issued under this section, the director or complaint review committee, as applicable, may apply to the superior court division of the general court of justice for an order requiring such person to respond or comply with the interrogatory, request for production of documents, or subpoena. The court shall have jurisdiction to issue such orders after notice to all proper parties.
- (7) Neither a complaint filed pursuant to this article nor the results of the director's or complaint review committee's investigations, discovery or attempts at conciliation, in whatever form prepared and

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preserved shall be subject to inspection, examination or copying under Chapter 132 of the General Statutes of North Carolina.

- (8) The provisions of article 33C of Chapter 143 of the General Statutes of North Carolina [G.S. § 143-318.9 et seq.] shall not be applicable to the activities of the director or complaint review committee, to the extent that it is receiving a complaint or conducting an investigation, discovery or conciliation pertaining to a complaint filed pursuant to this section.
- (9) If the director concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this division, the director may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this division. Upon notification of the need for prompt judicial action, the city on behalf of the complainant shall commence and maintain such an action.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 20-131, 10-6-20; Ord. No. 20-163, § 3, 12-15-20)

### **Sec. 12-141. Conciliation procedures.**

- (a) During the period beginning with the filing of the complaint and ending with the filing of a charge or the dismissal of the complaint by the director or committee, the director or committee shall to the extent feasible, attempt to conciliate the complaint.
- (b) In conciliating a complaint, the director or committee will attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory housing practices, or the prevention of their occurrence, in the future.
- (c) The terms of a settlement of a complaint will be reduced to a written conciliation agreement. Any conciliation agreement arising out of conciliation efforts by the department or the committee shall be between the complainant and the respondent and shall be subject to the approval of the director. The conciliation agreement shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. Each conciliation agreement shall be made public unless the complainant and the respondent otherwise agree and the director or committee determines that disclosure is not required to further the purposes of this division.
- (d) A conciliation agreement negotiated by the director or committee may include but is not limited to the:
  - (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 director or the committee; and
  - (5) Payment to the complainant of actual damages, including compensation for humiliation or embarrassment, and reasonable attorney fees.
- (e) At any time, but not later than one (1) year from the date of a conciliation agreement, the director or committee 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 director or committee shall take informal action to seek voluntary compliance with the agreement. If informal action does not result in compliance, the director or committee, shall file a civil action for the enforcement of the terms of the conciliation agreement.

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(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 8, 9-3-92)

**Sec. 12-142. Reasonable cause determination and effect.**

- (a) If it is decided by the director that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice in violation of this division, the director shall issue a short and plain written statement of the facts upon which the director has based the no reasonable cause determination; dismiss the complaint, notify the aggrieved person and the respondent of the dismissal by certified mail or personal service.
- (b) If the director determines that reasonable cause exists, the director will immediately issue a charge under this division, on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.
- (c) *Such charge:*
  - (1) Shall consist of a short and plain statement of the facts upon which the director has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;
  - (2) Shall be based on the final investigative report; and
  - (3) Need not be limited to the facts or grounds alleged in the complaint filed under section 12-139. Provided that the director will not issue a charge based upon facts or grounds not alleged in the complaint unless the record of the investigation shows that the respondent has been given notice and an opportunity to respond to the allegation.
  - (4) May be amended once as a matter of right prior to the filing of a civil action under section 12-143(c), or pursuant to rules and regulations adopted for administrative enforcement under section 12-143(a) if an election has not been made pursuant to section 12-143(c); provided that the charge shall not be amended based upon facts or grounds not alleged in the complaint unless the record of the investigation shows that the respondent has been given notice and an opportunity to respond to the allegation, and further provided that the director may reopen the investigation under section 12-139 to give the respondent an opportunity to respond to the allegation.
- (d) Together with the service of the charge, the director shall provide the aggrieved person and the respondent the following:
  - (1) Information as to how to make an election under section 12-143(c), and the effect of such an election;
  - (2) A notice of an opportunity for a hearing under section 12-143(a) at a time and place specified in the notice unless that election is made.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 97-183, § 3, 11-18-97)

**Sec. 12-143. Administrative and judicial enforcement.**

- (a) If an election is not made under subsection (c), with respect to a charge filed under section 12-142, the director shall provide for an opportunity for a hearing on the record with respect to said charge. The director shall delegate the conduct of the hearing to the complaint review committee of the human rights commission. The hearing shall be conducted after proper notice to the parties under rules and procedures issued by the director.
- (b) With respect to a hearing under this section:

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- (1) *Rights of parties.* At a hearing under this section each party may appear in person, be represented by counsel, present evidence, cross examine witnesses, and obtain the issuance of subpoenas under section 12-140(c). Any aggrieved person may intervene as a party in the proceeding. The department shall be considered a party in the proceeding without the need to intervene and shall maintain the proceeding on behalf of the aggrieved person.
  - (2) The director shall have the authority to promulgate rules and regulations providing for expedited discovery.
  - (3) The complaint review committee shall have the authority to conduct hearings under this section, issue subpoenas under section 12-140(c), conciliate all matters in controversy and enter into binding conciliation agreements, make final findings of fact and conclusions of law, and enter all orders necessary to the conduct of hearings held under this section.
  - (4) If the complaint review committee finds that a respondent has engaged or is about to engage in a discriminatory housing practice, the complaint review committee shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief and a reasonable attorney's fee to an aggrieved person intervening in the proceeding pursuant to section 12-143(b)(1). Such order may, to vindicate the public interest, assess a civil penalty payable to the City of Greensboro:
    - a. In an amount not exceeding ten thousand dollars (\$10,000.00) if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
    - b. In an amount not exceeding twenty-five thousand dollars (\$25,000.00) if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of this charge; and
    - c. In an amount not exceeding fifty thousand dollars (\$50,000.00) if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven-year period ending on the date of the filing of this charge;

Except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice then the civil penalties set forth in subparagraphs b. and c. may be imposed without regard to the period of time within any subsequent discriminatory housing practice occurred; and except that no such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this division.

- (5) The complaint review committee shall commence the hearing under this section no later than one hundred twenty (120) days following the issuance of the charge, unless it is impracticable to do so. If the committee is unable to commence the hearing within one hundred twenty (120) days after the issuance of the charge, the committee shall notify the director, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.
- (6) The complaint review committee shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the committee is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty-day period thereafter, the committee shall notify the director, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.
- (7) The director shall have the authority to review any finding, conclusion, or order issued under this section not later than thirty (30) days after the finding, conclusion, or order is issued, otherwise the finding, conclusion, or order becomes final.



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- (8) The director shall cause any findings of fact and conclusion of law made with respect to any final orders for relief under this section, together with a copy of such order, to be served upon each aggrieved person and each respondent in the proceeding.
  - (9) The department shall make final administrative disposition of a complaint filed under section 12-139(a) within one (1) year of the date of filing of the complaint, unless it is impracticable to do so, in which case the director shall notify the complainant and respondent in writing of the reasons for not doing so.
  - (c) If a charge is issued, an aggrieved person or respondent may elect to file a civil action in the general court of justice. The election must be made not later than twenty (20) days after the receipt of service of the charge. The person making the election shall give notice to the director and all other complainants and respondents to whom the charge relates. The notification will be filed and served in accordance with the procedures established by the department. If a timely election is made for a civil action in lieu of the administrative hearing, the city shall commence and maintain the civil action seeking relief on behalf of the aggrieved person. If a timely election is not made in accordance with this division, the department shall provide an opportunity for an administrative hearing based on the charge.
  - (d) Venue for an action filed in the general court of justice is in the county in which the alleged discriminatory housing practice occurred.
  - (e) In an action brought in the general court of justice for violation of this division, the court may grant any relief, as it deems appropriate, including but not limited to the following:
    - (1) Award actual and punitive damages;
    - (2) Reasonable attorney's fees;
    - (3) Court costs;
    - (4) Award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this division as necessary to assure the full enjoyment of the rights granted by this division;
    - (5) Punitive damages may be awarded.
    - (6) Civil actions brought in the general court of justice are for trial de novo. The parties to the action shall have the right to trial by jury as provided for by North Carolina Rules of Civil Procedure.
    - (7) The above provisions do not preclude the issuance of a criminal summons in lieu of or in addition to a civil penalty. Each violation of any provision of this division shall constitute a misdemeanor, punishable by a fine of not more than three hundred dollars (\$300.00) or imprisonment of not more than thirty (30) days.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 9, 9-3-92; Ord. No. 97-183, § 4, 11-18-97; Ord. No. 20-131, 10-6-20)

## **Sec. 12-144. Judicial review and court enforcement of final decision.**

- (a) *Judicial review.*
  - (1) Any party aggrieved by a final order for relief under this division granting or denying in whole or in part the relief sought may obtain a review of such order under N.C.G.S. 150B-43 through N.C.G.S. 150B-52.
  - (2) Notwithstanding such chapter, venue of the proceeding shall be in the county in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than thirty (30) days after the order is entered.

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- (b) *Court enforcement of administrative order upon petition by director.*
- (1) The director may petition any superior court for the county in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the complaint review committee and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.
  - (2) The director shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the director to the parties to the proceeding before the complaint review committee.
- (c) *Relief which may be granted.* Upon the filing of a petition under this section, the court may:
- (1) Grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;
  - (2) Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and
  - (3) Enforce such order to the extent that such order is affirmed or modified.
- (d) Any party to the proceeding before the complaint review committee may intervene in the superior court.
- (e) No objection not made before the complaint review committee shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.
- (Ord. No. 91-133, § 9, 10-31-91)

## **Sec. 12-145. Civil action.**

Any aggrieved person may file a civil action in court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this division, whichever occurs last, to obtain appropriate relief as set forth in section 12-143(e) of this division.

(Ord. No. 91-133, § 9, 10-31-91; Ord. No. 92-116, § 10, 9-3-92)

## **Sec. 12-146. Records; confidentiality.**

- (a) 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 as amended, 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 Federal Act of 1968, 42 U.S.C.A. § 3601 et seq., and any regulations promulgated thereunder.
- (b) In connection with a complaint filed under this division, the committee or director or his/her/their designee, 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 in compliance with the North Carolina Rules of Civil Procedure.
- (c) Neither a complaint filed pursuant to this division, nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under Chapter 132 of the General Statutes of North Carolina. Each

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conciliation agreement shall be public record unless the aggrieved person and respondent otherwise agree and either the department or committee determine that disclosure is not required to further the purposes of this division.

- (d) The provisions of Article 33C of Chapter 143 of the General Statutes of North Carolina shall not be applicable to the activities of the committee to the extent that it is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to this division. Administrative hearings pursuant to this division shall not be private, but shall be public.
- (e) Nothing that is said or done in the course of conciliation under this division may be made public or used as evidence in subsequent hearings under this division without the written consent of the persons concerned.

(Ord. No. 91-133, § 9, 10-31-91)