

ORDINANCE NO. 2011

AN ORDINANCE to amend The Code of the City of Alexandria, Virginia, 1963, as amended, by adding thereto a new chapter numbered 18A entitled HUMAN RIGHTS; which new chapter numbered 18A adopts a HUMAN RIGHTS CODE PROHIBITING DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, SEX, ANCESTRY, NATIONAL ORIGIN, MARITAL STATUS, AGE OR PHYSICAL HANDICAP IN HOUSING, PROHIBITING DISCRIMINATION ON THE BASIS OF RACE, COLOR, SEX, RELIGION, ANCESTRY, NATIONAL ORIGIN, MARITAL STATUS OR AGE IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, CREDIT, HEALTH AND SOCIAL SERVICES AND CITY CONTRACTS, AND PROHIBITING DISCRIMINATION ON THE BASIS OF RACE, COLOR OR SEX IN EDUCATION; PROSCRIBES UNLAWFUL DISCRIMINATORY PRACTICES; PROVIDES FOR A HUMAN RIGHTS COMMISSION AND PRESCRIBES ITS POWERS AND DUTIES INCLUDING SUBPOENA POWER; PROVIDES FOR THE HUMAN RIGHTS ADMINISTRATOR AND PRESCRIBES THE POWERS AND DUTIES OF THIS OFFICE; PROVIDES FOR CONCILIATION HEARINGS, INJUNCTIVE RELIEF AND CRIMINAL PROCEEDINGS; AND PRESCRIBES PENALTIES FOR VIOLATIONS.

WHEREAS the city council of the City of Alexandria, Virginia, has had the subject of enjoyment of human rights for all persons in the City of Alexandria without regard to race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap brought to its attention; and

WHEREAS the city council has conducted public hearings, heard testimony, received exhibits and otherwise inquired on behalf of all persons in the City, into the matter of housing, public accommodations, employment, health and social services, education, credit facilities and city contract practices; and

WHEREAS as a result thereof the council is of the opinion that an ordinance on the matter is needed, has found and determined the facts recited hereinafter set forth and has agreed upon the policy recited in the chapter hereinafter set forth; therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS.

Section 1. That the Code of the City of Alexandria Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new chapter numbered 18A to read as follows:

CHAPTER 18A.

HUMAN RIGHTS

Sec. 18A-1. Short title.

This chapter shall be known and may be cited as the "Human Rights Code of the City of Alexandria, Virginia."

Sec. 18A-2. Findings of fact and declaration of policy

1. Findings - The city council of the City of Alexandria, Virginia, having conducted public hearings finds:

(a) The population of the City of Alexandria consists of people of different races, colors, sexes, religions, ancestries, national origins, marital status, ages, and physical conditions, many of whom because of their race, color, sex, religion, ancestry, national origin, marital status, age or physical handicaps, in some instances have been unjustly discriminated against with respect to housing, employment, public accommodations, health and social services, education, credit and city contracts.

(b) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age, or physical handicaps with respect to housing causes, at least in part, circumscribed and segregated areas within the city and deprives many persons of the opportunity to live in the city or the opportunity to live in decent housing.

(c) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age with respect to employment denies job opportunities to many citizens of Alexandria and causes depressed living conditions.

(d) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age in places of public accommodation causes embarrassment and inconvenience to citizens and visitors of the City and is detrimental to the welfare of the City.

(e) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age with respect to credit, credit-related services or credit ratings arbitrarily denies financial opportunities and purchasing power to many citizens.

(f) Discrimination because of race, color or sex with respect to education denies appropriate role models and career and athletic opportunities to the students, teachers and administrative staff.

(g) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age with respect to health and social services is detrimental to the health of many citizens and deprives many needy and unfortunate citizens of the bare essentials of life.

(h) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age with respect to city contract employment denies job opportunities to many citizens and causes depressed living conditions.

(i) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age is contrary to the law of the United States of America and the spirit of the Constitution of Virginia.

(j) It is in the public interest and in furtherance of the welfare and well being of all citizens of Alexandria, Virginia to assure that each citizen is treated fairly, provided equal protection of the law and afforded full and equal opportunity to enjoy life, liberty, property and the pursuit of happiness.

(k) The conditions set forth in subsections (a) through (i) above have caused or are capable of causing, or encouraging crime, riots, disturbances, disorders, delinquency, breach of peace, fires, poverty, slums, blighted areas, overcrowding, unhealthy and unsanitary conditions, disease, increased mortality, unstable family life, increased cost of government, excessive public assistance problems, unemployment, loss of manpower, loss of womanpower, loss of tax revenue, loss of trade, commerce, business and productivity.

2. Policy - The city council of the City of Alexandria, Virginia, hereby declares:

(a) That it is contrary to the policy of the city to permit the conditions mentioned in this section to exist or to arise.

(b) That it is the duty and policy of the city to exercise all available means and every power it possesses to protect the city and its citizens from such conditions and from the undesirable results that have been or may be caused or encouraged by the existence of such conditions.

(c) That, except as hereinafter provided, it is and shall be the policy of the city, in the exercise of its police power and all other powers it may possess, to protect the safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants, to assure all persons the opportunity to obtain housing, public accommodations, employment, health and social services, credit, education and city contracts without regard to race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap.

(d) That to carry out these goals and policies it is and shall be the policy of the city generally, except as hereinafter provided, to prohibit discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap with respect to housing, public accommodations, employment, health and social services, credit, education and city contracts.

#### Sec. 18A-3. Definitions.

**Affirmative Action Employment Program.** A positive program designed to insure that a good faith effort will be made to employ applicants without regard to race, color, or sex. Such program, to be developed by the commission and approved by city council, shall include, where applicable, but shall not be limited to, the following: recruitment and recruitment advertising, selection and selection criteria, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship; and shall include realistic and attainable goals, methodology and timetable for implementation of the program.

**Age.** Unless the context clearly indicates otherwise, the word "age" as used in this chapter shall refer exclusively to persons who are 18 years of age or older.

**Commission.** The Human Rights Commission created by section 18A-15 of this chapter.

**Complainant.** Any person filing a complaint or on whose behalf a complaint is filed by the Human Rights Administrator pursuant to this chapter.

**Credit.** The right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

**Discriminate, Discrimination, Discriminatory Practice.** Any arbitrary difference in treatment not permitted by this chapter.

**Educational Institution.** Any nursery, day care center, kindergarten, elementary or secondary school, academy, college, university, extension course, or nursing, secretarial, business, vocational, technical, trade or professional school or joint apprenticeship program.

**Employer.** Any person who employs four or more employees for wages, salaries or commission within the city, exclusive of parents, spouse or children and excluding any bona fide religious, fraternal or sectarian organization not supported in whole or in part by governmental appropriations.

**Employment agency.** Any person regularly undertaking with or without compensation to advertise for or otherwise procure opportunities to work or to procure, recruit, refer or place employees.

**Family.** One or more individuals living together on the premises as a single housekeeping unit.

**Health or Social Service Agency.** Any person rendering health or social services. The term includes but is not limited to any hospital, clinic, dispensary, nursing home, convalescent home, rehabilitation center, social work agency, community service center, group work-recreation center, counseling and guidance services agency, day camp or resident camp, protective service organization or facility; but except for a hospital clinic or dispensary, said term shall not include any health or social service agency operated, supervised or controlled by or in conjunction with a religious organization, association or society exclusively or primarily for members of its own faith.

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

**Human Rights Administrator.** That person appointed pursuant to Section 18A-14 of this chapter.

**Labor organization.** Any organization which exists for the purpose in whole or in part of collective bargaining or of dealing with employers on behalf of employees concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

**Lending institution.** Any person, including but not limited to a bank, insurance company or savings and loan association, regularly engaged in the business of lending money, guaranteeing loans or furnishing consumer credit or other credit-related services.

**Owner.** Any person, including but not limited to a lessee, sublessee, assignee, manager, or agent, and also including the city and its departments, boards, commissions, authorities, committees and agencies, having the right of ownership or possession or the authority to sell or rent any dwelling.

**Pattern or Practice of Discrimination.** Any event, course of conduct or way of doing business with respect to housing, employment, public accommodations, credit, health and social services or city contracts which happens on several occasions and which actually or predictably results in different treatment which is discriminatory on the basis of race, color, sex, religion, ancestry, national origin, marital status or age, or with respect to housing opportunities on the basis of physical handicap.

**Physical handicap.** Any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness, including epilepsy, and including without limitation, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog for the blind, wheelchair, or other remedial appliance or device, but not including any communicable disease in its communicable phase.

**Public accommodation.** Includes every business, professional, or commercial enterprise, refreshment, entertainment, sports, recreation or transportation facility in the city, whether licensed or not, public or private, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available in any manner to the general public. Public accommodation does not include a bona fide private club or other establishment not in fact open to the general public.

**Public funds.** Any funds derived from any governmental body or agency.

**Real estate broker.** Any person who for a fee or other valuable consideration, manages, sells, purchases, exchanges, rents, or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of, the real property of another, or holds himself or herself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, including real estate salespersons, agents, or any other persons employed by a real estate broker to perform or to assist in the performance of his or her business.

**Respondent.** Any person against whom a complaint is filed pursuant to this chapter.

**Restrictive covenant.** For purposes of this chapter, this is a provision written into a deed, lease, mortgage, deed of trust, or contract that bars any person from owning or occupying housing on the basis of race, color, religion or national origin.

**To rent.** Includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 18A-4. Unlawful housing practices.

1. Unlawful housing practices--sale or rental.

Except as provided in subsection 5 of this section, it shall be unlawful for any person:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, housing to any person because of race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of housing, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of housing that indicates any preference, limitation or discrimination based on race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap, that any housing is not available for inspection, sale or rental, when such housing is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or not sell or rent or not rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, ancestry, national origin, marital status, age or having a physical handicap.

(f) Except in connection with a written affirmative action plan, to make an oral inquiry or to use a written inquiry or form of application or photograph, as a condition of the transaction in connection with the sale or rental of housing that elicits or attempts to elicit information concerning race, color, religion, ancestry or national origin.

2. Unlawful housing practices--financing.

(a) It shall be unlawful for any lending institution to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap of such person.

It shall also be unlawful for any lending institution to deny such a loan or other financial assistance because of the race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap of the present or prospective owners, lessees, tenants or occupants of the housing in relation to which such loan or other financial assistance is to be made or given.

It shall also be unlawful for any lending institution to deny such a loan or other financial assistance to any person because of the race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap of any person associated with such person in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance.

(b) It shall also be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to discriminate against any person applying for a loan or other financial assistance, the proceeds of which are to be used for the purchase, construction, improvement, repair, or maintenance of housing by:

(1) denying a loan or other financial assistance, or  
(2) discriminating in the fixing of the amount, interest rate, duration, or other terms or conditions of a loan or other financial assistance, because of the race, color, religion, ancestry, national origin, sex, marital status, age or physical handicap of the residents of the neighborhood in which such housing is located.

3. Unlawful housing practices--brokerage services.

(a) It shall be unlawful for any person 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 housing, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, color, sex, religion, ancestry, national origin, marital status, age or physical handicap of such persons.

(b) It shall be unlawful for any real estate broker or salesperson or other person in the business of selling or renting housing to solicit the sale or rental of housing or discourage the purchase or rental of housing by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of a particular race, color, sex, ancestry, national origin, marital status, age or having a physical handicap.

4. Unlawful housing practices--restrictive covenants, as defined.

(a) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, lease or contract affecting title to or any interest in land or housing in the City willfully and knowingly to include therein any restrictive covenant that discriminates on the basis of race, color, religion, or national origin, except that nothing in this subsection shall be construed to prohibit any person from conveying, or preparing any legal document for any conveyance, housing or land to a religious organization for use only by members of such religious organization.

(b) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, lease or contract affecting title to or any interest in land or housing in the City, where any restrictive covenant is incorporated by reference to another document or instrument, to fail to include therein a statement that such restrictive covenant is invalid and unenforceable.

(c) The Clerk of the Circuit Court for the City of Alexandria, Virginia, is hereby authorized and directed:

(1) To post in a conspicuous location in the Clerk's Office and in the land record room the following notice printed in fourteen-point type:

It is a violation of the Human Rights Code of the City of Alexandria, Virginia, for any person to include any provision in a deed, mortgage, deed of trust, lease or contract affecting title or any interest in land which purports to restrict or affect, on the basis of race, color, religion or national origin the holding, occupancy or transfer of any interest in land, and any such provisions are invalid and unenforceable.

(2) When a copy of any deed, mortgage, deed of trust, lease or contract affecting title or interest in land or housing recorded in his or her office is requested, to affix to such copy a statement that any provision contained in such legal instrument which purports to restrict or affect the holding, occupancy, ownership, rental, lease or transfer of any interest on the basis of race, color, religion or national origin is invalid or unenforceable.

## 5. Exemptions and exceptions

(a) Nothing in section 18A-4 shall prohibit a religious organization, association, or society or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) Nothing in section 18A-4 other than subsection (c) of subsection 1 shall apply to:

(1) Any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time; Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period. Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. Provided further, That the owner sells or rents such housing (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection (c) of subsection 1 of this section; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence provided that the owner sells or rents such rooms or units (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection (c) of subsection 1 of this section, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

For the purposes of this subsection (b) a person shall be deemed to be in the business of selling or renting housing if:

(A) he or she has, within the preceding twelve months, participated as principal, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in three or more transactions involving the sale or rental of any housing or any interest therein, or

(B) he or she has, within the preceding twelve months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any housing or any interest therein, or

(C) he or she is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

(c) Nothing in section 18A-4 shall be construed to:

(1) Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference, to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.

(2) Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

(3) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex.

(4) Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied exclusively by, unmarried individuals to unmarried individuals only.

(5) Bar any person from refusing to sell or rent any housing to unmarried individuals cohabiting contrary to law.

(6) Bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested.

(7) Require any person selling or renting housing to modify such housing in any way, or to exercise a higher degree of care, for a person having a physical handicap than for a person who does not have a physical handicap; or to forbid distinctions based on the inability to fulfill the terms or conditions including financial obligations of any such lease, contract of sale, deed or mortgage.

Sec. 18A-5. Unlawful employment practices.

1. Except as provided in subsection 2 of this section, it shall be unlawful:

(a) For any employer to fail or refuse to hire or to discharge any person or otherwise to discriminate against any person with respect to hiring, tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, sex, religion, ancestry, national origin, marital status or age.

(b) For any employer, employment agency or labor organization to establish, announce or follow a policy of denying or limiting, the employment, membership or apprenticeship opportunities of any person on the basis of race, color, sex, religion, ancestry, national origin, marital status or age.

(c) For any employer, labor organization, employment agency or any joint labor management committee controlling apprentice training programs to deny to or withhold from any person the right to be admitted to or to participate in a guidance program, an apprenticeship training program, an on-the-job training program or any other occupational training program because of race, color, sex, religion, ancestry, national origin, marital status or age.

(d) For any employer, employment agency or labor organization to publish or circulate, or to cause to be published or circulated with intent to circumvent the spirit and purpose of this section, any notice or advertisement relating to employment or membership which indicates any preference, limitation, or discrimination based on race, color, sex, religion, ancestry, national origin, marital status or age, or an intention to make any such preference, limitation or discrimination.

(e) For any employment agency to fail or refuse to accept, register, classify properly or refer for employment or otherwise to discriminate against any person because of race, color, sex, religion, ancestry, national origin, marital status or age.

(f) For any labor organization to discriminate against any person in any way which would deprive or limit his or her employment opportunities or otherwise adversely affect his or her status as an applicant for employment or as an employee with respect to hiring, seniority, tenure, referral, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, sex, religion, ancestry, national origin, marital status or age.

(g) For any employer, employment agency or labor organization to discriminate against any person because he or she has opposed any practice forbidden by this section or because he or she has made a complaint - testified or assisted in any manner in any investigation or proceeding under this chapter relating to the provisions of this section.

2. Exceptions. Nothing in subsection 1 of this section shall apply to:

(a) Any type of employment, occupation, or position where the job involves a bona fide occupational qualification requiring the employment of a person or persons of a particular religion, sex, national origin, ancestry, marital status or age, where such qualification is reasonably necessary to the normal operation of that business or enterprise.

(b) Any employment practice based upon applicable laws or regulations established by the United States or any agency thereof, the Commonwealth of Virginia, or any political subdivision of the Commonwealth having jurisdiction in the City of Alexandria.

(c) An employer terminating employment or otherwise taking action concerning a person under the terms of a bona fide retirement, pension, or disability plan or group or employee insurance plan.

(d) Any person who is sixty-five years of age or older, provided however that no form of discrimination based on race, color, sex, religion, ancestry, national origin or marital status that is prohibited by this section may be practiced against any person who is 65 years of age or older.

(e) Agreements or contracts concerning contribution rates for employer or employee for group insurance, when such contribution rate may be affected by marital status or number of dependents.

(f) Any employment agency providing services only to elderly persons or to minors; provided however that no such employment agency may discriminate on the basis of race, color, sex, religion, ancestry, national origin or marital status.

3. Affirmative Action Employment Program. The city manager shall establish an Affirmative Action Employment Program for the city and shall report to the city council regarding the status of same, at least twice a year.

Sec. 18A-6. City contracts.

1. Any contract, except any contract for the sale, purchase or rental of land, to which the City is a party shall include substantially the following provision:

Equal Employment Opportunity. The contractor hereby agrees.

(a) Not to discriminate against any employee or applicant for employment on account of race, color, religion, sex, ancestry, national origin, marital status or age, except as is otherwise provided by law.

(b) To implement an affirmative action employment program as defined in section 18A-3 of this chapter to insure non-discrimination in employment, under guidelines to be developed by the commission and approved by the city council.

(c) To include in all solicitations or advertisements for employees placed by or in behalf of the contractor the words "Equal Opportunity Employer" or a symbol, approved by the commission, meaning same.

(d) To notify each labor organization or representative of employees with which said contractor is bound by a collective bargaining agreement or other contract of the contractor's obligations pursuant to this equal employment opportunity clause.

(e) To submit to the city manager and the City's human rights administrator, upon request, no more frequently than annually, regular equal employment opportunity reports on a form to be prescribed by the City's human rights administrator with the approval of the city manager, except that the administrator may request more frequent special reports of particular employers provided the commission has found such employers to have violated any provision of this chapter.

(f) To post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this equal employment opportunity clause.

(g) To include the provisions in subsections (a) through (f) of this clause in every subcontract so that such provisions will be binding upon each subcontractor.

(h) That in the event of the contractor's noncompliance with any provision of this equal employment opportunity clause, upon a finding of such non-compliance by the City's Human Rights Commission and certification of such finding by the city manager, the city council may terminate or suspend or not renew, in whole or in part, this contract.

2. The administrator is hereby authorized to:

(a) Review the performance of any contractor who has a contract with the City with respect to the provisions of subsection 1 above.

(b) Request equal employment opportunity reports, including but not limited to statistical data, from any contractor pursuant to subsection 1(e) above.

(c) Upon a finding of probable cause to believe a violation of any provision of subsection 1 above has occurred, file a complaint with the commission pursuant to section 18A-16 of this chapter

3. The commission is hereby authorized to:

(a) Review any complaint filed by the administrator pursuant to subsection 2 above in accordance with procedures set forth in this chapter.

(b) Upon a finding of the commission that any contractor is in non-compliance with the provisions of subsection 1 above, the commission shall report such findings to the city manager.

4. The city manager. If the city manager certifies such finding to the city council the city manager shall, unless city council directs otherwise, terminate or suspend or not renew, in whole or in part, as appropriate, the contractual relationship with the contractor; provided, however, that the city manager may defer temporarily a suspension or termination if he or she finds that such suspension or termination may disrupt or curtail a vital public service, or would otherwise not be in the best interests of the City, in which case the city manager shall report his or her action to the city council and indicate a date certain when the relationship will be suspended or terminated, or when the practice complained about will be remedied.

Sec. 18A-7. Health and social service practices.

1. Private health and social service practices. It shall be unlawful for any private health or social service agency:

(a) To discriminate against any person by refusing, denying or withholding from him or her any of the services, programs, benefits, facilities or privileges of any health and social program or service, or to discriminate in the quality of services offered through such programs because of race, color, sex, religion, ancestry, national origin, marital status or age.

(b) To discriminate against any person, in the setting of rates or charges for any of the services, programs, benefits, facilities or privileges of any such agency because of race, color, sex, religion, ancestry, national origin, marital status or age.

(c) To discriminate against any person by communicating, publishing, advertising or representing that any of the services, programs, benefits, facilities or privileges of any health or social service agency are withheld from or denied to any person because of race, color, sex, religion, ancestry, national origin, marital status or age.

2. Exceptions. Nothing in subsection 1 of this section shall apply to any health or social service or practice: (1) That reasonably relates only to a particular race, color, sex, religion, ancestry, national origin, marital status or age; or (2) With respect to which, race, color, sex, religion, ancestry, national origin, marital status or age is usually and normally considered an essential qualification or requirement for such service.

3. Public health and social service practices. The commission is hereby authorized to conduct studies, hold hearings and review the policies and practices of any public health and social service agency with respect to the provisions in subsection 1 of this section. The commission shall report its findings to the city council and city manager and may, at its discretion, enter into negotiations with any such agency, other than a city agency, to rectify any discriminatory policies or practices that may exist. In the case of a city agency, the commission may, at its discretion, develop with the city manager a plan to rectify any discriminatory policies or practices that may exist.

#### Sec. 18A-8. Public accommodations.

1. It shall be unlawful for any public accommodations to discriminate against any person on the basis of race, color, sex, religion, ancestry, national origin, marital status or age with respect to the access, use of, benefit of, or enjoyment of goods, services, facilities, privileges or any other advantages of any public accommodation, or to make or publish any statement evidencing an intent to do so.

2. Nothing in subsection 1 of this section shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting its offerings of goods, services, facilities and accommodations to persons of the same religion or from giving preference to such persons; Provided, that such offerings above-mentioned are not, in fact, offered for commercial purposes. Nor shall anything in this section prohibit a nonprofit private club, in fact not open to the public, which, incident to its primary purpose, provides certain public accommodations herein defined, for other than commercial purposes, from limiting such accommodations to its members, or giving preference to its members and guests of its members. Nor shall anything in this section make unlawful any program, service or benefit, relating to any public accommodation, established and intended solely for elderly persons or minors.

#### Sec. 18A-9. Credit.

It shall be unlawful for any lending institution on the basis of race, color, religion, sex, ancestry, national origin, marital status or age to:

(a) Discriminate against any person in the furnishing of credit or other credit-related services; or

(b) Deny or terminate credit or credit-related services or to affect adversely a person's credit rating or standing:

Provided that any such person is otherwise qualified for such credit or credit-related service; and provided further that nothing in this section shall be construed to bar any lending institution from discriminating against any person in the furnishing of credit or credit-related service or denying or terminating credit or credit-related service to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the credit or credit-related service is requested.

Sec. 18A-10. Education.

1. Private education. It shall be unlawful for any private educational institution, or its agents, employees, or officers, on the basis of race, color, sex, national origin or ancestry:

(a) To discriminate against any person with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution;

(b) To make or use a written or oral inquiry or form of application for admission to an educational institution that elicits or attempts to elicit information concerning race or color; except as required to obtain grants or other funds from a public or private institution or agency;

(c) Except in connection with a written affirmative action plan, to require, or cause to be required that a photograph of any applicant for admission to an educational institution be submitted with any form of application for admission;

(d) To establish, make, or follow a policy of denial or limitation of educational opportunities;

(e) To permit potential employers to recruit students on its premises or to permit such employers to use its placement facilities for referral of students for employment or permit such employers to participate in any job-training or work-study program operated by or in conjunction with the educational institution unless the potential employer has submitted to the educational institution a statement certifying that the employer is an equal opportunity employer;

(f) To deny to any member of its student body educational services or facilities that are generally available to members of the opposite sex; or

(g) To subject any member of its faculty or staff to a discriminatory practice stated as unlawful under subsections (a) through (f) of this subsection.

2. Nothing in subsection 1 of this section shall be construed to make unlawful any private educational institution established exclusively for either all males or females.

3. Public education. The commission is hereby authorized to conduct studies, hold hearings and review the policies and practices of any public educational institution with respect to race, color, sex, national origin, ancestry or religion. The commission shall report its findings to the appropriate policy-making body and chief administrator of the public educational institution (for instance the school board and superintendent of public schools in the city or to the president of the Northern Virginia Community College and the community college board or to the policy-making body and chief administrator of any other public educational program) and may, at its discretion, enter into negotiations with said policy-making body and chief administrator to rectify any discriminatory policies or practices that may exist.

Sec. 18A-11. Obstruction of practices unlawful under this chapter.

It shall be unlawful for any person:

(a) directly or indirectly to cause or coerce, or attempt to cause or coerce, any person to do any act declared to be an unlawful act under this chapter;

(b) directly or indirectly to engage in economic reprisal or intimidation, or to harm or threaten harm to any person, or to retaliate against or to interfere with any person, because such person has opposed any practice made unlawful by this chapter, or has complied or encouraged others to comply with any provision in this chapter, or has filed a complaint or has testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter or has exercised or attempted to exercise any right conferred in this chapter.

(c) directly or indirectly to cause or coerce or attempt to cause or coerce another person to engage in economic reprisal or intimidation or to harm or threaten harm to any person, or to retaliate against or to interfere with any person because such person has opposed any practice made unlawful by this chapter, or has complied or encouraged others to comply with any provision in this chapter, or has filed a complaint or has testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter or has exercised or attempted to exercise any right conferred in this chapter.

Sec. 18A-12. Human Rights Commission; creation; composition.

For the purpose of making effective the provisions of this chapter, there is hereby created a commission of the City of Alexandria, Virginia, to be known as the "Human Rights Commission", herein referred to as the commission, which shall consist of eleven members, each of whom shall reside in the City at the time of appointment to the commission and while serving on it. They also shall be as broadly representative of residents of the City as is practicable. Of the eleven members, eight shall be citizens at large and one each shall be members of the Economic Opportunities Commission, the Commission on the Status of Women, and Landlord-Tenant Relations Board. All the members shall be appointed by city council. The members representing the aforementioned City boards and commissions shall be nominated by the board or commission each represent. Of the at-large members first appointed, as decided by lot, two shall be appointed for a term of one year, three for a term of two years and three for a term of three years. Thereafter, at large members shall be appointed for terms of three years each. Any vacancy shall be filled by the council for the unexpired portion of a term. Members representing other boards or commissions shall serve co-extensive with their term on their parent body, or until such time as their parent body shall nominate and the city council shall appoint a replacement from among the members of the parent body, but under no circumstances shall any member serve on the commission beyond his or her term on the parent body. Members shall serve without compensation but may receive reimbursement for expenses, subject to availability of funds. On the request of any board, commission or committee of the city, the commission may invite a designated representative from such board, commission or committee to act as a participating observer at any meeting of the commission other than a hearing under Sec. 18A-18 or 18A-21 of this chapter. Also on request, the commission may provide agendas and minutes of any meeting and any other official document, except for conciliation agreements, to any other public agency, board, commission, committee or the general public.

Sec. 18A-13. Same - Organization; meetings; secretary; chairperson.

All members of the commission shall be entitled to vote and the decisions of the commission shall be determined by a majority vote of the members present. A quorum of six members present is required before the commission may take official action or hold any hearing pursuant to this chapter. A member present but not voting shall be considered in counting a quorum. When voting on any question no proxy shall be allowed at any time.

All meetings of the commission shall be open to the public to the extent required by state law and a full and impartial hearing shall be granted on all matters. The commission shall hold at least ten monthly meetings during the calendar year. Insofar as reasonably possible, all hearings shall be informal.

The city council shall designate a convener and the commission shall elect one of its members as chairperson, another of its members as vice-chairperson, and such other officers as the commission may deem necessary. The commission shall designate a secretary among its members or staff as it sees fit. The secretary to the commission shall cause minutes of its proceedings to be kept and all findings and decisions to be reduced to writing and entered as a matter of public record in the office of the administrator.

In matters concerning the procedure for meetings not covered by this chapter, the commission may establish its own rules; provided these are not contrary to the mandate or spirit of this chapter. The commission shall annually prepare and submit a budget to the city manager.

Sec. 18A-14. Human Rights Administrator.

There is hereby established the position of human rights administrator. The city manager shall designate a human rights administrator from among the members of his or her staff, upon consideration of the recommendations of the commission with respect to such appointment. Such human rights administrator shall report to the city manager and may be removed for cause by the city manager.

The human rights administrator shall be responsible for carrying out the policies of the commission and perform the duties assigned to him or her by this chapter. The administrator shall have the power and duty to make investigations of unlawful discriminatory practices under this chapter, and to file complaints with the commission when he or she has probable cause to believe that a violation of this chapter has occurred. The administrator shall further have the power and duty to attempt to conciliate any complaint of alleged unlawful discrimination under this chapter where there is probable cause for such complaint.

Sec. 18A-15. The Human Rights Commission; powers and duties; subpoena; funds.

1. Powers and duties. The commission shall administer the provisions of this chapter as stated above and shall have the following powers and duties:

- (a) Receive complaints about alleged unlawful acts under this chapter or any other alleged act of discrimination in cases where a complainant seeks the commission's good offices to conciliate through actions not involving a penalty under this chapter.
- (b) Utilize methods of persuasion, conciliation, and mediation or informal adjustment of grievances; hold public hearings, and, in the case of complaints of alleged unlawful discriminatory acts, make findings of fact, issue orders and make public the findings and orders.
- (c) Conduct studies and hold public hearings on discrimination against persons with a physical or mental handicap, in concert with the Mayor's Committee for the Handicapped of the City and the Alexandria Mental Health and Mental Retardation Services Board, to explore local legislative proposals in the areas of employment, credit, education, health and social services, public accommodations and housing.
- (d) Conduct studies and hold hearings on social conditions that may cause discrimination on the basis of race, color, religion, sex, national origin, ancestry, marital status or age. Gather and disseminate reliable information by issuing publications and reports of studies and research relating to such discrimination.
- (e) Institute and conduct educational and informational programs with wide sectors of business, unions, professions, agencies and organizations to promote equal rights and opportunities for all persons and to promote understanding among persons and groups of different races, colors, sexes, religions, ancestries, national origins, marital status and ages.
- (f) Assist in developing, negotiate and review voluntary fair housing affirmative action agreements as mandated by the city council in Resolution No. 355, adopted on November 26, 1974; and develop and review other voluntary affirmative action programs.

(g) Review the City's affirmative action employment program and the performance of the City government, its contractors and subcontractors in employment policies and practices as they may relate to discrimination because of race, color, sex, religion, ancestry, national origin, marital status or age. The commission shall report its findings to the city manager and city council.

(h) Establish, administer or review programs at the request of the city council or the city manager, and make reports on such programs to the city council and city manager.

(i) Conduct studies and hold public hearings on policies and practices of public educational institutions with respect to discrimination on the basis of race, color, sex, religion, national origin and ancestry and of public health and social service agencies with respect to discrimination on the basis of race, color, religion, sex, ancestry, national origin, marital status or age; and bring to the attention of the appropriate policy-making body and chief administrator problems that require notice or action to resolve.

(j) Bring to the attention of the city manager items that require city manager or city council notice or action to resolve.

(k) Conduct studies and hold public hearings on policies or practices that cause or may be caused by a pattern or practice of discrimination.

(l) Render to city council and the city manager annual written reports of its activities under the provisions of this chapter along with such comments and recommendations as it may choose to make.

(m) Cooperate with and render technical assistance to federal, state, local and other public or private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this chapter.

(n) with the approval of the city council, accept grants from federal, state, local and other public or private agencies, organizations and institutions, including but not limited to foundations, colleges and universities.

(o) Make use of uncompensated services of public agencies and private organizations as may from time to time be offered and needed to perform advisory and research duties.

(p) As far as it is practicable, the services, including advisory and consultative services, of all City departments, agencies, boards and commissions shall be made available to the commission for the purpose of carrying out the functions, powers and duties herein set forth, and with the approval of the city manager, the heads of such departments or agencies shall furnish to the commission such information in the possession of such departments or agencies as is relevant to the duties of the commission and which the commission, by written communication, may require. This includes the use of counsel from the office of the city attorney to aid in the conduct of its investigations and hearings.

## 2. Subpoenae.

### (a) Subpoenae by commission.

(1) In any hearing held by the commission in accordance with section 18A-18 or Sec. 18A-21 of this chapter, the commission, by majority vote of those present, shall have the power to issue a subpoena or subpoena duces tecum.

(2) Upon the issuance of a subpoena directing any person to attend on the day and place of hearing to give evidence before the commission, or a subpoena duces tecum directing any person to produce documents, or to allow the human rights administrator and members of the commission to inspect and copy such documents, the chairperson shall sign said subpoena or subpoena duces tecum and shall direct the human rights administrator, his designated representative or any other authorized person, to serve the subpoena or subpoena duces tecum personally. The subpoena or subpoena duces tecum shall express on whose behalf, and in what case or about what matter, the witness is to attend or books, papers or documents are to be produced.

(3) Within five (5) days after service of a subpoena compelling the attendance at a hearing, such person may request the commission to revoke or modify the subpoena. The commission shall grant the request if it finds that the subpoena requires appearance or attendance at an unreasonable time or place for said person, that any testimony said person may offer does not relate to the matter under investigation, that the subpoena compels testimony that may violate said person's constitutional rights, including but not limited to his or her rights under the Fourth, Fifth or Fourteenth Amendments to the United States Constitution, or for other good reason.

In the case of willful failure or refusal to obey a subpoena, the commission, by a majority vote of those present, may apply to the judge of the General District Court for the City of Alexandria, Virginia, for an order to enforce the subpoena. The judge may issue an order to enforce the subpoena or may, upon the request of the person subject to the subpoena, revoke or modify the subpoena if he or she finds that the subpoena requires appearance or attendance at an unreasonable time or place for said person, that any testimony said person may offer does not relate to the matter under investigation, that the subpoena compels testimony that may violate said person's constitutional rights, including but not limited to his or her rights under the Fourth, Fifth or Fourteenth Amendments to the United States Constitution, or for other good reason.

(4) Within five (5) days after service of a subpoena duces tecum upon any person, such person may request the commission to revoke or modify the subpoena duces tecum. The commission shall grant the request if it finds that the subpoena duces tecum requires production of evidence which does not relate to the matter under investigation, that it requires production at an unreasonable time or place, that it does not describe with sufficient particularity the evidence held by said person, that it may violate said person's constitutional rights, including but not limited to his or her rights under the Fourth, Fifth or Fourteenth Amendments to the United States Constitution, or for other good reason.

In the case of willful failure or refusal to obey a subpoena duces tecum, the commission, by a majority vote of those present, may apply to the judge of the General District Court for the City of Alexandria, Virginia, for an order to enforce the subpoena duces tecum. The judge may issue an order to enforce the subpoena duces tecum or may, upon the request of the person subject to the subpoena duces tecum, revoke or modify the subpoena duces tecum if he or she finds that the subpoena duces tecum requires production of evidence which does not relate to the matter under investigation, that it requires production at an unreasonable time or place, that it does not describe with sufficient particularity the evidence held by said person, that it may violate said person's constitutional rights, including but not limited to his or her rights under the Fourth, Fifth or Fourteenth Amendments to the United States Constitution, or for other good reason.

(5) Any person who willfully fails or refuses to obey an order by the judge to enforce a subpoena or subpoena duces tecum issued by the commission, upon failure to give satisfactory excuse to said judge, may be fined a sum not exceeding one hundred dollars.

(b) Subpoenae by court.

In any hearing held by the commission in accordance with section 18A-18 or Section 18A-21 of this chapter, the commission, by majority vote of those present, shall have the power to apply to the judge of the General District Court for the City of Alexandria, Virginia, for a subpoena to compel attendance of witnesses or a subpoena duces tecum to require production of books, papers and documents relating to the complaint under investigation. The subpoena or subpoena duces tecum shall be issued, served and enforced in accordance with all applicable provisions of state law.

3. Funds. In the exercise of its powers and the performance of its duties the commission shall not expend funds in excess of those appropriated to it by the city council and those received by it from approved grants.

Sec. 18A-16. Complaints

Complaints under this chapter may be filed only by 1) any person claiming to have been injured by an unlawful discriminatory practice under this chapter (known as "person aggrieved"), or 2) the human rights administrator on behalf of any person or persons who he or she has probable cause to believe has been the subject of an unlawful discriminatory practice under this chapter. All complaints shall be made in writing, be under oath or affirmation, and accompanied by an affidavit. An additional copy shall be made for each respondent, if more than one. Any complaint shall be on a form furnished by the human rights administrator, shall state the name and address of each respondent, the address of the complainant (person aggrieved), the date of the alleged offense and the alleged facts surrounding the acts complained of. The human rights administrator shall forthwith transmit a copy of the complaint to each respondent by certified mail, return receipt requested with another copy by ordinary mail. Each complaint shall be held in confidence by the human rights administrator unless or until the complainant (person aggrieved) and the respondent consent to its being made public, or until the time a hearing procedure such as described in section 18A-21 has begun. A complaint must be filed within sixty days after the date of the alleged unlawful discriminatory practice and not later.

Nothing in this chapter shall prevent any member of the human rights commission from filing a complaint if he or she claims himself or herself to be the subject of a discriminatory practice or to be a person aggrieved under this section. Such person shall disqualify himself or herself as a member of the commission when his or her complaint is before the commission for a public hearing and for disposition.

Nothing in this section shall be construed to prevent any person from seeking the commission's good offices to conciliate through actions not involving a penalty under this chapter pursuant to section 18A-15(1)(a).

Sec. 18A-17. Investigation; probable cause.

Upon the filing of a complaint, the administrator shall make an investigation, which shall be completed within fourteen days, unless additional time is allowed by the commission, from the date of the filing of a complaint, to determine whether there is probable cause for the complaint. If he or she determines that there is probable cause for the complaint, the human rights administrator shall immediately endeavor to eliminate the unlawful discriminatory practice complained of in accordance with section 18A-18. If he or she determines after such investigation that there is no probable cause for the complaint, the human rights administrator shall within the fourteen-day period, or other period allowed by the commission, so notify by certified mail, with a copy by ordinary mail, each party to the action. (The administrator shall keep a docket log of each complaint and note therein the nature of the complaint and the reasons for his or her determination of whether or not there is probable cause for the complaint.) The notice shall further state that the complaint will be dismissed unless, within ten days after receipt of said notice, the complainant files with the administrator a written request for a review hearing by the commission. Upon request for such a hearing, the human rights administrator shall notify the respondent and commission of such request, and the commission shall afford the complainant an opportunity to appear before the commission at a public hearing

in person or by counsel. Such hearing shall be held within fifteen days after the date of notification of request for a hearing. If, after such hearing, the commission determines that no probable cause exists for the complaint, the complaint shall be dismissed. Except as otherwise provided by law, there shall be no appeal from such determination or other review thereof. If, after such hearing, the commission determines that probable cause exists for the complaint, it shall refer the complaint back to the administrator for conciliation as provided in section 18A-18.

Sec. 18A-18. Conciliation; breach of conciliation agreement; procedure; hearing; decision.

Upon a determination that there is probable cause for the complaint by the administrator or by the commission, the human rights administrator shall immediately endeavor to eliminate the unlawful discriminatory practice complained of. His or her effort initially shall consist of conciliation and persuasion. Conferences and other efforts at conciliation and persuasion shall be informal and may be conducted by the human rights administrator or any member of his or her staff so designated. Nothing said or done during and as part of such conciliation efforts shall be made public or used as evidence in a subsequent proceeding instituted under this chapter unless each of the interested parties agrees thereto in writing.

If conciliation succeeds, the terms of the conciliation shall be reduced to writing and signed by or on behalf of the parties and the human rights administrator. The human rights administrator shall then notify the commission through its chairperson that a conciliation agreement has been entered into by the parties. Conciliation agreements may be made public but such public disclosure shall not reveal the identities of the parties involved, except at the request of all of the persons accused.

Any conciliation agreement established pursuant to this section shall provide that all pending litigation or other legal action arising out of the matters covered in the agreements shall terminate and shall not be revived so long as such agreement is in force. The signing of such an agreement shall not constitute an admission on the part of any signatory of a violation of any provision of this chapter or any other provision of law.

Nothing in this chapter shall prohibit the human rights administrator from continuing his or her efforts to reach conciliation at any time.

In the event the human rights administrator has reason to believe that a party to a conciliation agreement entered into pursuant to this section has breached any provision of such agreement, he or she shall promptly so notify the commission. The commission shall thereupon promptly schedule a public hearing to determine if the agreement has been breached. The commission shall first verify that each respondent has received a copy of the complaint and any amendment thereto. Notice of the time and place of hearing shall be mailed by certified mail, with a copy by ordinary mail, to each respondent and complainant no later than two weeks prior to the date of such hearing. The commission shall schedule for hearing all parties named by the complainant, but may upon request or its own motion schedule separate hearings for each respondent in any case. Complainants shall appear at such hearing in person and may be accompanied by an attorney. Each party respondent may appear at such hearing in person or by a duly authorized representative including an attorney. Each party may present testimony and evidence. The right to cross-examine witnesses shall be preserved. The human rights administrator shall cause a qualified reporter or stenographer to be present throughout the hearing, or shall provide a voice recording device, and shall record the proceedings. Upon direction of the commission, the proceedings shall be transcribed. Any such transcription shall be public and open to inspection by any person. All testimony shall be given under oath administered by the chairperson or his or her representative.

If upon all the evidence at the hearing the commission shall determine that a respondent has not breached the conciliation agreement, the commission shall not later than fourteen days following the conclusion of the hearing render and issue a written statement of its findings and decision, cause to be served such statement and decision on each respondent and complainant by certified mail with a copy by ordinary mail, announce and make public such statement and decision, and record such

statement and decision in the minutes. The case shall then be closed, no further action shall be taken by the commission on the instant allegation of the breach of the conciliation agreement, and the agreement shall remain in effect.

If the commission determines that the conciliation agreement has been breached, the commission may refer the matter back to the human rights administrator for further efforts toward conciliation or may, after consultation with the city attorney, refer the matter to the city attorney for appropriate legal action to enforce the agreement.

Sec. 18A-19. Complaints; amendments.

Complaints may be reasonably and fairly amended at any time prior to the fourteenth calendar day before the date of a hearing held pursuant to section 18A-21. Amendments must also be under oath, in writing and accompanied by an affidavit and filed with the human rights administrator. The human rights administrator shall forthwith send a copy of any such amendment to each respondent by certified mail, with another copy by ordinary mail.

Sec. 18A-20. Answers; amendments.

Each respondent may file with the human rights administrator an answer at any time prior to the seventh calendar day before the date of a hearing held pursuant to section 18A-21, provided it be under oath, in writing, and accompanied by an affidavit. Answers may also be reasonably and fairly amended any time prior to the deadline for filing answers, if under oath, in writing, accompanied by an affidavit and filed with the human rights administrator. The human rights administrator shall forthwith send a copy of any such amendment to the complainant by certified mail, with another copy by ordinary mail.

Sec. 18A-21. Commission; hearing; decision.

Before the commission can hold a hearing or render a decision under this section relating to a violation of this chapter, it is necessary that 1) a complaint shall have been filed with it under section 18A-16 alleging such violation, 2) a determination shall have been made under this chapter that probable cause exists for the complaint and 3) the applicable conciliation provisions of this chapter relating to such complaint shall have been complied with.

In the event that the human rights administrator is unable to obtain a signed conciliation agreement within fourteen days from the determination of probable cause or such additional time as the commission may allow, he or she shall promptly so notify the commission and the commission shall thereupon schedule a public hearing as soon as possible to determine if a violation of this chapter has been committed. The commission shall prior to any such hearing verify that each party to the proceeding has received a copy of the pleadings and any amendments thereto. Notice of the time and place of hearing shall be mailed by certified mail, with a copy by ordinary mail, to each respondent and complainant no later than two weeks prior to the date of such hearing. In cases in which there is more than one respondent, the commission shall schedule a hearing for all respondents named in the complaint, but may upon request or on its own motion schedule separate hearings for each respondent. Complainants shall appear at such hearing in person and may be accompanied by an attorney. Each party respondent may appear at such hearing in person or by a duly authorized representative including an attorney. Each party may present testimony and evidence. Each party shall have the right to cross-examine. The human rights administrator shall cause a qualified reporter or stenographer to be present throughout the hearing, or shall provide a voice recording device, and shall record the proceedings. Upon direction of the commission, part or all of the proceedings shall be transcribed. Any such transcription shall be public and open to inspection by any person. All testimony shall be taken under oath administered by the chairperson or his or her representative.

If, at the conclusion of the hearing, the commission shall determine, upon the preponderance of the evidence, that the respondent has violated any provision of this chapter, the commission shall:

(a) not later than fourteen days thereafter render and issue a written statement of its findings and order, and cause to be served such statement and order on each respondent and complainant, by certified mail, with a copy by ordinary mail. Such order shall require each respondent, within fifteen days of receipt thereof, to take such action consistent with law as the commission deems necessary to bring himself or herself into compliance with this chapter.

(b) not later than five days after mailing the written statement of its findings and order to each respondent and complainant, announce and make public such statement and order.

(c) designate appropriate parts of the hearing to be transcribed for the public record at the cost of the City;

(d) permit the complainant or each respondent to obtain copies of any part or all of the transcript of the proceedings at his or her cost. For good cause, the commission may waive the requirement that the complainant or respondent must pay for the transcripts if the complainant commences a criminal proceeding under this chapter.

If upon all the evidence at the hearing the commission shall determine that a respondent has not violated any provision of this chapter, the commission shall not later than fourteen days following the conclusion of the hearing render and issue a written statement of its findings and decision, cause to be served such statement and decision on each respondent and complainant by certified mail with a copy by ordinary mail, announce and make public such statement and decision, and record such statement and decision in the minutes. The case shall then be closed and no further action shall be taken by the commission in the matter.

#### Sec. 18A-22. Interlocutory relief.

If, at any time after a complaint has been filed, the commission believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the commission may, after consultation with the city attorney or his or her designee, certify the matter to the city attorney to petition a court of competent jurisdiction for injunctive relief.

#### Sec. 18A-23. Judicial review.

(a) Any person aggrieved by an order or decision of the commission entered pursuant to section 18A-18 or section 18A-21 of this chapter may have such order or decision reviewed by a court of competent jurisdiction. A review proceeding shall be instituted by filing with the court a petition for review naming the commission as respondent. A copy of the petition shall be served upon the city attorney, who shall represent the commission in every review proceeding. No petition for review may be filed more than thirty days after the date of service of the order or decision of which review is sought.

(b) The court, on motion of the petitioner, may issue a writ of certiorari requiring the agency to transmit the record of the proceedings before the commission on or before a certain date.

(c) The court, sitting without a jury, shall hear the appeal on the record transmitted by the commission and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. And the court, in its discretion, may receive such other evidence as the ends of justice require.

(d) The court may affirm the decision of the commission or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the findings, conclusions or decisions are 1) in violation of constitutional provisions; or 2) in excess of legal authority or jurisdiction of the commission; or 3) made upon unlawful procedure; or 4) affected by other error of law; or 5) unsupported by the evidence on the record considered as a whole; or 6) arbitrary, capricious, or an abuse of discretion.

(e) The filing of a petition shall not operate to stay an application to the court for the enforcement of the order. If an application has been made to the court for enforcement of the order, the petitioner, at any time after the filing of his or her petition, may move the court to which he or she has petitioned for a stay of enforcement. The motion shall be made after notice to the commission, and a stay pending the review shall be granted unless it appears to the court that immediate enforcement of the order is essential to the public health or safety. In the order granting a stay, the court may make any provision required to serve the end of justice.

Sec. 18A-24. Enforcement by criminal proceeding penalties

No criminal proceeding shall be initiated pursuant to this chapter unless the commission shall have first announced a decision of violation which shall include findings of fact and order, pursuant to Sec. 18A-18 or section 18A-21 hereof, that any person has violated a provision of this chapter. Any person violating any provision of this chapter shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding six months, or both, for violation, within the discretion of the court.

In addition to any other penalty which the court might impose under the foregoing provisions of this section, the court upon conviction for a violation of this chapter may also require a bond of the person so convicted with proper security in the penalty of not more than one thousand dollars, conditioned upon such person's keeping the peace and being of good behavior in that he or she will not violate any provision of this chapter for a period of one year from the date of his or her conviction under this section.

Sec. 18A-25. Enforcement by injunction.

Failure, refusal or neglect of any person to comply with an order issued by the commission pursuant to section 18A-18 or section 18A-21 of this chapter may, in addition to any other remedy provided hereon or in place thereof, be restrained, prohibited or enjoined by an appropriate proceeding instituted in a court of competent jurisdiction by the city attorney, if such court determines that the respondent has violated any provision of this chapter.

In addition, any person engaging in a pattern of discrimination under this chapter as determined by a hearing and findings of fact by a court of competent jurisdiction may be restrained, prohibited or enjoined from continuing such discriminatory policies or practices by an appropriate proceeding instituted in a court of competent jurisdiction by the city attorney.

Sec. 18A-26. Records.

When a complaint of discrimination has been filed against a person under this chapter, the respondent shall preserve all records relevant to the charge or action until final disposition of the charge or action.

Sec. 18A-27. Construction with other laws.

(a) Nothing in this chapter shall be construed to prohibit or declare unlawful any practice, policy, program or benefit to any person or class of persons which is required or authorized by any law or regulation of the United States, the Commonwealth of Virginia, City of Alexandria, Virginia, or any agency or department thereof.

(b) Nothing in this chapter shall be deemed to modify, impair or otherwise affect any right or remedy conferred by the Constitution or laws of the United States or the Commonwealth of Virginia, and the provisions of this chapter shall be in addition to those provided by such other laws.

Sec. 18A-28. Advisory opinions.

To terminate a controversy or to remove uncertainty, upon the request of the administrator or any person, the commission, in its discretion, may issue an advisory opinion declaring that, upon the facts presented, a particular practice, program or regulation does not violate this chapter. Such opinions shall be advisory only and shall not preclude the commission from making a different determination in processing a formal complaint.

Sec. 18A-29. Forms.

The city attorney, at the request of the commission or the administrator or on his or her own initiative, shall prepare the forms required from the enforcement of this chapter.

Section 2. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearings, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective April 21, 1975.

CHARLES E. BEATLEY, JR.  
Mayor

Final Passage: March 25, 1975