

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor
Prepared by: Anchorage Equal Rights
Commission and Department of
Law
For reading: March 23, 2021

**ANCHORAGE, ALASKA
AO No. 2021-30**

1 **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE**
2 **MUNICIPAL CODE TITLE 5, EQUAL RIGHTS, TO UPDATE DEFINITIONS; ADD**
3 **FAMILIAL STATUS AS A PROTECTED CLASS UNDER THE HOUSING**
4 **PROVISION; REPEAL CHAPTER 5.25 FAIR HOUSING ACT; ADD NEW**
5 **SECTIONS; AND MAKE OTHER PROCEDURAL, STRUCTURAL, AND**
6 **TECHNICAL UPDATES.**

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8
9 **WHEREAS**, the Municipality is committed to preventing and eliminating unlawful
10 discrimination under title 5; and

11
12 **WHEREAS**, the Municipality seeks to promote efficiencies in process and best
13 practices in the enforcement of title 5; now, therefore,

14
15 **THE ANCHORAGE ASSEMBLY ORDAINS:**

16
17 **Section 1.** Anchorage Municipal Code chapter 5.10 is hereby amended to read
18 as follows (*the remainder of the chapter is not affected and therefore not set out*):

19
20 **Chapter 5.10 – EQUAL RIGHTS COMMISSION**

21
22 **5.10.015 – Scope of Coverage.**

23
24 Title 5 shall be liberally construed to effectuate its goal of nondiscrimination.

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27
28 **5.10.040 – Powers and duties.**

29
30 A. The equal rights commission is authorized to:

- 31
32 1. Develop programs designed to bring about the prevention and
33 elimination of unlawful discrimination;
34
35 2. Investigate complaints of discrimination brought under this title;
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37 3. Administer oaths and affirmations, certify its official acts, and
38 issue subpoenas, subpoenas duces tecum, and other legal
39 process to compel the attendance of witnesses and the

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- production of testimony, books, records, papers, accounts, documents or things in any inquiry, investigation, hearing or proceeding before the commission; the commission may petition the superior court of the state having jurisdiction to enforce its subpoenas, subpoenas duces tecum, and other legal process;
4. Conduct exit interviews with parties to the commission proceedings;
 5. Hold public hearings [UNDER ANCHORAGE MUNICIPAL CODE SECTION 5.70.010 ET SEQ.,] and issue orders under this title; [ANCHORAGE MUNICIPAL CODE SECTIONS 5.40.080, 5.60.030 AND 5.70.080;]
 6. Grant all appropriate forms of relief as described in this title; [ANCHORAGE MUNICIPAL CODE SECTION 5.70.140 AND 5.70.150;]
 7. Intervene in any court proceeding brought under this title;
 8. Enter into agreements with counterpart agencies at all governmental levels to promote effective and efficient enforcement of the law;
 9. Review complaints of discriminatory acts and practices made to the commission and prioritize allocation of its staff and commission resources among complaints received in order to best fulfill the purposes of Charter Article XVII, Section 17. [OF THE HOME RULE CHARTER.] In [BY] prioritizing its investigatory and enforcement activities, the commission shall seek to eliminate unlawful discriminatory practices in the most cost efficient and effective manner possible;
 10. Hire an executive director, subject to the approval of the mayor, who shall serve at the pleasure of the commission;[,] and hire administrative staff as is required in the execution of its duties;
 11. Exercise general supervision of and direct the activities of the executive director;
 12. Delegate to the executive director all powers and duties given it by this title, except the powers to designate hearing panels and reconsideration panels, [POWER TO] hold public hearings, issue orders, and hire the executive director;

1
2 13[12].Recommend to the mayor and assembly new legislation, and
3 adopt such procedural and evidentiary rules as are necessary
4 to fulfill the intent of this title; and
5

6 14[13].Provide an annual report to the mayor and assembly.
7

8 (CAC 2.64.330; AO No. 2002-87, § 1, 6-11-02; AO No. 2002-163, § 1, 1-7-
9 03; AO No. 2006-128, § 3, 9-26-06)

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13 **5.10.060 – Legal Counsel.**

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15 A. The municipal attorney is the legal counsel for the commission. The
16 municipal attorney shall advise the commission in legal matters arising
17 in the discharge of its duties, shall assist in the preparation and
18 presentation of complaints to the commission, and shall represent the
19 commission in legal actions to which it is a party.
20

21 B. The commission may employ temporary legal counsel for proceedings
22 before the commission and court actions involving the commission in
23 which proceedings or actions the municipal attorney is representing
24 another agency of the municipal government.
25
26

27 **Section 2.** Anchorage Municipal Code chapter 5.20 is hereby amended to read
28 as follows (*the entirety of the chapter is not affected and therefore not set out, nor*
29 *are other definitions in section 5.20.010*):
30

31 **Chapter 5.20 – UNLAWFUL DISCRIMINATORY PRACTICES**

32
33 **5.20.010 - Definitions.**

34
35 The following words, terms and phrases, when used in this title, shall have
36 the meanings ascribed to them in this section, except where the context
37 clearly indicates a different meaning:
38

39 *Accusation* means the charging document, based on a substantial
40 evidence determination, issued by the executive director after determination
41 of conciliation failure under AMC 5.70.010B.
42

43 *Amicus curiae* means [Latin for "a] "friend of the court[.]" in Latin. An
44 amicus curiae brief is usually filed by one who has no standing to appear in
45 a suit, but is interested in intervening to provide evidence, information or

1 authority regarding a matter before the decision-making authority.
2

3 *Commission* means the volunteer Anchorage Equal Rights
4 Commission (AERC) established in Charter section 17.02 and the members
5 of the staff to whom the powers of the AERC are delegated, if applicable to
6 those provisions.
7

8 *Complaint* means the document that is filed with the AERC under
9 section 5.40.010, alleging discrimination in violation of Anchorage Municipal
10 Code title 5.
11

12 *Employer* means a person [AN EMPLOYER], public or private, who
13 has [OF] one or more employees. [PERSONS.]
14

15 *Familial status* means one or more individuals (who have not attained
16 the age of 18 years) being domiciled with (1) a parent or another person
17 having legal custody of such individual or individuals; or (2) the designee of
18 such parent or other person having such custody, with the written permission
19 of such parent or other person. The protections afforded against
20 discrimination on the basis of familial status shall apply to any person who is
21 pregnant or is in the process of securing legal custody of any individual who
22 has not attained the age of 18 years.
23

24 *Gender identity* means the gender with which a person identifies, and
25 also includes the person's appearance, mannerisms, behavior, expression,
26 or other characteristics of the person that are or are perceived to be related
27 to gender, regardless of the individual's designated sex at birth or identified
28 in documents. [A PERSON'S GENDER-RELATED SELF-IDENTITY, AS
29 EXPRESSED IN APPEARANCE OR BEHAVIOR, REGARDLESS OF THE
30 PERSON'S ASSIGNED SEX AT BIRTH. A PERSON'S GENDER IDENTITY
31 MAY BE ESTABLISHED BY EVIDENCE OF MEDICAL HISTORY, CARE OR
32 TREATMENT OF THE GENDER IDENTITY, CONSISTENT AND UNIFORM
33 ASSERTION OF THE GENDER IDENTITY, OR OTHER EVIDENCE THAT
34 THE GENDER IDENTITY IS SINCERELY HELD, CORE TO A PERSON'S
35 GENDER-RELATED SELF-IDENTITY, AND NOT BEING ASSERTED FOR
36 AN IMPROPER PURPOSE.]
37

38 *Hearing or public hearing* means an administrative adjudication held
39 pursuant to chapter 5.70. [ANCHORAGE MUNICIPAL CODE SECTIONS
40 3.60.010 AND 5.70.010 ET SEQ.]
41

42 *Hearing examiner* means the person appointed by the hearing panel
43 pursuant to section 5.70.040. [5.70.030 UNDER THIS TITLE.]
44

45 *Hearing panel* means the commissioners designated by the chair to

1 either conduct a public hearing or to appoint a hearing examiner pursuant to
2 section 5.70.020 and 5.70.040. [5.70.030 UNDER THIS TITLE.]
3

4 *Make whole* means a remedy intended to eliminate a continuing
5 unlawful discriminatory practice or the discriminatory effect of any past
6 unlawful discriminatory act or practice, and may include actual damages,
7 injunctive and equitable relief as specified in this title. [ANCHORAGE
8 MUNICIPAL CODE SECTIONS 5.70.140 AND 5.70.150.]
9

10 *Marital status* means any differential treatment because of a person's
11 marital status or change in marital status. This includes differential treatment
12 shown toward a person because the person is unmarried, married, widowed,
13 divorced, an unmarried parent, or is pregnant and unmarried. [HE OR SHE
14 IS NOT MARRIED, A PERSON BECAUSE HE OR SHE IS MARRIED, A
15 PERSON BECAUSE HE OR SHE IS WIDOWED OR DIVORCED, A
16 PERSON BECAUSE HE OR SHE IS A PARENT AND UNMARRIED, OR A
17 PERSON BECAUSE SHE IS PREGNANT AND UNMARRIED.]
18

19 *National origin* includes birthplace, ancestry, culture, ethnicity, accent,
20 or linguistic characteristics, or appearing to be a certain ethnic background,
21 even if they are not. [ANCESTRY, PERSONS NOT CITIZENS AND THEIR
22 DESCENDANTS, AND PERSONS NATURALIZED AND THEIR
23 DESCENDANTS.]
24

25 *Order* means a decision made by the commission constituting a final
26 administrative order at the completion of a public hearing pursuant to chapter
27 5.70, [ANCHORAGE MUNICIPAL CODE SECTION 5.70.140,] or an order
28 on reconsideration pursuant to subsection 5.60.030F. [5.60.030D., OR AN
29 ORDER ON CLASS ACTION PURSUANT TO SUBSECTION 5.40.080C.
30 AND D. UNDER THIS TITLE.]
31

32 *Public accommodation* means a business, accommodation,
33 refreshment, entertainment, recreation, or transportation facility of any kind,
34 whether licensed or not, whose goods, services, facilities, privileges,
35 advantages or accommodations are extended, offered, sold, or otherwise
36 made available to the public, or that accepts public funds. [ANY BUSINESS
37 OR PROFESSIONAL ACTIVITY THAT IS OPEN TO, ACCEPTS OR
38 SOLICITS THE PATRONAGE OF, OR CATERS OR OFFERS GOODS OR
39 SERVICES TO THE GENERAL PUBLIC, SUBJECT ONLY TO THE
40 CONDITIONS AND LIMITATIONS ESTABLISHED BY LAW AND
41 APPLICABLE ALIKE TO ALL PERSONS.]
42

43 *Staff* means those paid employees [PERSONS] who assist the
44 executive director in carrying out the provisions of Anchorage Municipal Code
45 Title 5.

1
2 *Substantial evidence* means more than a mere scintilla of evidence. It
3 means such relevant evidence as a reasonable mind might accept as
4 adequate to support a conclusion.

5
6 (AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No.
7 96-99, § 1, 10-22-96; AO No. 2002-163, § 2, 1-7-03; AO No. 2015-96(S-1),
8 § 2, 9-29-15)

9
10 **5.20.020 - Unlawful practices in the sale, rental or use of real property.**

11
12 A. [WITH THE EXCEPTION OF THOSE CONDITIONS DESCRIBED IN
13 SECTION 5.25.030A. AS "LAWFUL PRACTICES", it] It is unlawful for
14 the owner, lessor, manager, agent, brokerage service, or other person
15 having the right to sell, lease, rent, advertise, or an owner's
16 association having the powers of governance and operation of real
17 property to:

- 18
19 1. Refuse to sell, lease or rent, or to otherwise make unavailable,
20 the real property to a person because of race, color, sex, sexual
21 orientation, gender identity, religion, national origin, marital
22 status, age, familial status, or physical or mental disability.
23
24 2. Discriminate against a person because of race, color, sex,
25 sexual orientation, gender identity, religion, national origin,
26 marital status, age, familial status, or physical or mental
27 disability in a term, condition or privilege relating to the use,
28 sale, lease or rental of real property.
29
30 3. Make a written or oral inquiry or record of the race, color, sex,
31 sexual orientation, gender identity, religion, national origin,
32 marital status, age, familial status, or physical or mental
33 disability of a person seeking to buy, lease or rent real property.
34
35 4. Offer, solicit, accept, use or retain a listing of real property with
36 the understanding that a person may be discriminated against
37 in a real estate transaction or in the furnishing of facilities or
38 sources in connection therewith because of a person's race,
39 color, sex, sexual orientation, gender identity, religion, national
40 origin, marital status, age, familial status, or physical or mental
41 disability.
42
43 5. Represent to a person that real property is not available for
44 inspection, sale, rental or lease when in fact it is available, or
45 refuse a person the right to inspect real property, because of

1 the race, color, sex, sexual orientation, gender identity, religion,
2 national origin, marital status, age, familial status, or physical
3 or mental disability of that person or because of any person
4 associated with that person.

5
6 6. Engage in blockbusting for profit.

7
8 7. Circulate, issue or display, make, print or publish, or cause to
9 be made or displayed, printed or published, any
10 communication, sign, notice, statement or advertisement with
11 respect to the use, sale, lease or rental of real property that
12 indicates any preference, limitation, specification or
13 discrimination based on race, color, sex, sexual orientation,
14 gender identity, religion, national origin, marital status, age,
15 familial status, or physical or mental disability.

16
17 8. To discriminate against any person in the terms, conditions, or
18 privileges of the sale or rental of a dwelling, or in the provision
19 of services or facilities in connection with such dwelling,
20 because of a disability of that person, or a person residing in or
21 intending to reside in that dwelling after it is so sold, rented, or
22 made available, or any person associated with that person.

23
24 9. For purposes of subsection A, discrimination consistent with
25 federal and state law[,] includes but is not limited to:

26
27 * * * * * * * *

28
29 (CAC 8.36.090; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-
30 03; AO No. 2008-16, § 1, 3-18-08; AO No. 2015-96(S-1), § 3, 9-29-15)

31
32 * * * * * * * *

33
34 **5.20.060 - Unlawful practices in educational institutions.**

35
36 A. It is unlawful for a person operating or assisting in the operation of an
37 educational institution to:

38
39 1. Refuse to admit or otherwise to discriminate against an
40 individual with respect to the terms, conditions,
41 accommodations, advantages, facilities, benefits, privileges or
42 services of that institution on account of race, color, sex, sexual
43 orientation, gender identity, religion, national origin, marital
44 status, age, or in a manner inconsistent with federal disability
45 protections such as the Americans with Disabilities Act (ADA).

1 Section 504 of the Rehabilitation Act, or the Individuals with
2 Disabilities Education Act (IDEA), on account of physical or
3 mental disability.
4

- 5 2. Make or use a written or oral inquiry or form of application for
6 admission that elicits information concerning the race, color,
7 sex, sexual orientation, gender identity, religion, national origin,
8 marital status, age, or physical or mental disability, of an
9 applicant for admission, unless otherwise required by law.

10 * * * * * * * * *

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12
13 (CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-
14 03; AO No. 2015-96(S-1), § 7, 9-29-15)

15 * * * * * * * * *

16
17
18 **5.20.090 - Religious exemptions.**

- 19
20 A. Religious-preference exception: It shall be lawful for a bona fide
21 religious or denominational institution, organization, corporation,
22 association, educational institution, or society, to limit, select or give
23 preferential treatment in employment, admissions, accommodations,
24 advantages, facilities, benefits, or services, to persons of the same
25 religion or denomination, that is reasonably calculated to promote the
26 religious principles for which it is established or maintained. Such
27 organizations otherwise remain subject to the other provisions in this
28 title with regard to race, color, sex, sexual orientation, gender identity,
29 [RELIGION,] national origin, marital status, age, or physical or mental
30 disability.

31 * * * * * * * * *

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33
34 (AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03; AO No.
35 2015-96(S-1), § 10, 9-29-15)

36
37 **Section 3.** Anchorage Municipal Code chapter 5.25 is hereby repealed to read as
38 follows (*the entirety of the repealed chapter is Attachment A*):

39
40 **Chapter 5.25 – [FAIR HOUSING ACT] (Repealed).**

41
42 **Section 4.** Anchorage Municipal Code chapter 5.30 is hereby amended to read
43 as follows (*the remainder of the chapter is not affected and therefore not set out*):

44
45 **Chapter 5.30 – GENERAL PROVISIONS**

1
2 **5.30.030 - Correspondence.**
3

4 Correspondence regarding potential or pending complaints shall be
5 addressed to the executive director or his or her designated staff member.
6 Correspondence to commissioners shall be sent in care of the executive
7 director when the correspondence regards potential or pending complaints.
8 No commissioner may consider pending complaints until the case is before
9 the commissioners at the public hearing stage under chapter 5.70, or upon a
10 request for reconsideration under section 5.60.030.
11

12 (AR No. 92-223(S); AO No. 2002-163, § 8, 1-7-03)
13

14 **Section 5.** Anchorage Municipal Code chapter 5.40 is hereby amended to read
15 as follows (*the remainder of the chapter is not affected and therefore not set out*):
16

17 **Chapter 5.40 – COMPLAINT AND ANSWER**
18

19 **5.40.010 - Complaints.**
20

- 21 A. A person who believes he or she is aggrieved or injured by any
22 discriminatory act or practice prohibited by this title may file a verified
23 written complaint with the equal rights commission within 180 days
24 from the date of the alleged discriminatory act or practice, stating the
25 name and address of the person alleged to have engaged in the
26 discriminatory act or practice, and a short plain statement of each
27 alleged unlawful discriminatory act or practice.
28
- 29 B. Consistent with subsection A., the executive director, with the
30 approval of a panel of 3 commissioners, may also file a verified written
31 complaint on behalf of a person or persons aggrieved by an alleged
32 discriminatory act or practice within 180 days from the date of the
33 alleged discriminatory act or practice or within 60 days after the
34 alleged discriminatory act or practice comes to the executive director's
35 attention, whichever is later, including an identification of the person
36 or persons affected by the alleged unlawful practice which is sufficient
37 to enable staff to investigate the complaint.
38
- 39 C. If the alleged act or practice is of a continuing nature, the date of its
40 occurrence shall be considered to be any date after the
41 commencement of the practice up to and including the date on which
42 the practice ceased.
43

44 (CAC 8.36.020); AR No. 92-223(S); AO No. 2002-163, § 10, 1-7-03)
45

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2
3 **5.40.040 - Answer.**

4
5 A. A respondent may file a written answer to the complaint within 20 days
6 of service of the complaint and may provide any other information that
7 it believes is relevant to the investigation of the allegations in the
8 complaint.

9
10 B. The answer should [SHALL] include:

- 11
12 1. The full name and address of respondent;
- 13
14 2. The name and address of respondent's attorney, if any;
- 15
16 3. A statement that the respondent admits, denies or does not
17 have and is unable to obtain sufficient information to admit or
18 deny each allegation made in the complaint. A statement of lack
19 of information shall have the effect of a denial. Any allegation
20 that is not denied shall be deemed admitted; and
- 21
22 4. Each and every affirmative defense and a statement of the facts
23 supporting each affirmative defense.

24
25 C. The respondent may direct a written request for an extension of time
26 to file its answer to the executive director or his or her designee prior
27 to unsuccessful conciliation. [AFTER UNSUCCESSFUL
28 CONCILIATION, RESPONDENT MAY DIRECT A WRITTEN
29 REQUEST FOR AN EXTENSION OF TIME TO FILE AN ANSWER
30 TO THE HEARING PANEL OR HEARING EXAMINER.]

31
32 (AR No. 92-223(S); AO No. 2002-163, § 12, 1-7-03)

33 * * * * * * * * *

34
35 **5.40.060 - Withdrawn complaint.**

36
37
38 A. A complainant may request to withdraw a complaint by filing a written
39 request with the executive director at any time prior to the issuance of
40 the accusation. [DETERMINATION.]

41
42 B. The executive director shall prepare and serve on all parties a closure
43 or notice of dismissal when a complaint has been withdrawn.

44
45 C. After the commencement of the public hearing under chapter 5.70, a

1 complaint may only be withdrawn with the approval of the hearing
2 panel or hearing examiner.

- 3
4 D. The executive director may substitute himself or herself for a
5 complainant by giving written notice to that effect within 15 days after
6 a withdrawal has been granted pursuant to subsection C. of this
7 section. [5.40.080B. OF THESE REGULATIONS.] The substitution
8 relates back to the date of the original complaint.
9

10 (AR No. 92-223(S); AR No. 96-174, § 2, 10-22-96; AO No. 2002-163, § 13,
11 1-7-03)
12

13 **Section 6.** Anchorage Municipal Code chapter 5.50 is hereby amended to read
14 as follows (*the remainder of the chapter is not affected and therefore not set out*):
15

16 **Chapter 5.50 - IMPARTIAL INVESTIGATION**

17
18 **5.50.010 - Investigative overview.**

19
20 The commission shall investigate promptly and impartially the matters set out
21 in the filed complaint. If it determines the allegations are supported by
22 substantial evidence, it shall immediately attempt to eliminate the alleged
23 discriminatory act or practice by conference, persuasion and conciliation. If
24 the commission determines the allegations are not supported by substantial
25 evidence, the complaint shall be closed or dismissed. The commission shall,
26 unless good cause is shown, [IN ANY EVENT] issue its determination within
27 240 days after the filing of the complaint.
28

29 (CAC 8.36.040; AO No. 96-99, § 2, 10-22-96; AO No. 2002-163, § 14, 1-7-
30 03)
31

32 **5.50.020 - Fact finding procedures.**

- 33
34 A. After a complaint has been filed, staff shall convene a fact finding
35 conference with the parties to define issues, receive and exchange
36 information relevant to the complaint and response, if any, and
37 negotiate a voluntary resolution of the complaint, if possible, through
38 a pre-determination settlement agreement. Parties shall be permitted
39 to be fully represented by legal counsel at the fact finding conference.
40 Legal counsel shall be entitled to speak and present on behalf of the
41 represented party at the fact finding conference. Legal counsel may
42 not, however, cross-examine the other party and must submit any
43 questions through staff.
44

- 45 B. Staff shall provide the following information and instructions to the

1 parties, in writing, at least 21 days prior to the fact finding conference:

- 2 1. The date, time, and place of the conference;
- 3 2. The information to be provided by the parties to staff, and the
- 4 date on which this information is due; and
- 5 3. The procedures to be followed at the conference.

6
7 C. Each allegation of the complaint and response, if any, shall be closely
8 examined and fully discussed. Each party shall be allowed a
9 reasonable time to present evidence in support of his or her position.
10 [EACH PARTY MAY BRING A REASONABLE NUMBER OF
11 WITNESSES.] Staff may limit the number of persons in attendance.
12 Complainant may be accompanied by one support person or an
13 attorney. Respondent may choose no more than two representatives
14 to attend, in addition to an attorney.

15
16 D. (Reserved.)

17
18 E. Staff may take notes at the conference and accept exhibits and
19 documents from the parties. No person may make an audio or video
20 recording of the conference.

21
22 F. Exhibits and documents received at a fact finding conference may be
23 used as evidence in making a determination pursuant to section
24 5.60.010. [OF THIS TITLE.]

25
26 G. Statements made by a party during a fact finding conference may be
27 used as evidence in making a determination pursuant to section
28 5.60.010 and may be used as evidence at the public hearing held
29 pursuant to chapter 5.70. [SECTIONS 5.70.010 THROUGH 5.70.160
30 OF THIS TITLE.]

31
32 H. Neither the executive director nor staff may disclose or use as
33 evidence offers or counteroffers of settlement made during a fact
34 finding conference, or use such offers or counteroffers as evidence in
35 making a determination under section 5.60.010 or at the public
36 hearing under chapter 5.70.

37
38 L.[H.] If, at the conclusion of the fact finding conference, additional
39 information is required from either party, staff and the parties shall
40 determine the specific time frame and method required for submission
41 of that additional information.

42
43 J.[I.] A pre-determination settlement agreement must be approved by the
44 executive director or his or her designee.
45

1 (AR No. 92-223(S); AR No. 96-174, § 3, 10-22-96; AO No. 2002-163, § 15,
2 1-7-03; AO No. 2015-96(S-1), § 11, 9-29-15)
3

4 **5.50.030 - Effect of failure to furnish responses to requests for essential
5 information or produce witnesses or attend fact finding conference.**
6

7 A. The executive director may dismiss a complaint if the complainant fails
8 to attend the fact finding conference or to furnish the information
9 requested in subsection 5.50.020B.2. of this title, without good cause,
10 or if the executive director has determined that the complainant has
11 unreasonably obstructed the fact finding conference.
12

13 B. If the respondent fails to timely furnish the information requested in
14 subsection 5.50.020B.2. of this title, or if the respondent fails to
15 provide responses to a request for essential information or
16 interrogatories, or fails to attend the fact finding conference without
17 good cause or unreasonably obstructs the fact finding conference, the
18 commission's staff shall analyze the available evidence and determine
19 whether the complaint is supported by substantial evidence; staff may
20 seek enforcement of a subpoena or subpoena duces tecum in
21 superior court. [THIS CONDUCT MAY BE TREATED AS AN
22 ADMISSION OF THE ALLEGATIONS IN THE COMPLAINT FOR
23 PURPOSES OF THE SUBSTANTIAL EVIDENCE DETERMINATION
24 ONLY.]
25

26 (AR No. 92-223(S); AR No. 96-174, § 4, 10-22-96; AO No. 2002-163, § 15,
27 1-7-03; AO No. 2015-96(S-1), § 12, 9-29-15)
28

29 * * * * *
30

31 **5.50.060 - General investigations.**
32

33 A. The commission, on its own motion, or the executive director with the
34 approval of a panel of three commissioners, may[, ON THEIR OWN
35 MOTION,] initiate a general investigation to determine the extent to
36 which an individual, group, corporation, business, industry, agency, or
37 organization is complying with the provisions of chapter 5.20. [OF THE
38 ANCHORAGE MUNICIPAL CODE.]
39

40 B. In the course of a general investigation, the executive director may
41 require the submission of information by an individual, group,
42 corporation, business, industry, agency or organization being
43 investigated, concerning the race, color, sex, religion, national origin,
44 marital status, age, or physical or mental disability, of any employee
45 or other person and all other information relevant to the investigation.

1
2 C. A general investigation may be as broad in scope as may be
3 necessary to effectuate the purposes of title 5. [OF THE
4 ANCHORAGE MUNICIPAL CODE.]
5

6 (AR No. 92-223(S); AR No. 93-266, § 1, 10-15-93; AO No. 2002-163, § 15,
7 1-7-03)
8

9 * * * * *
10

11 **5.50.080 - Subpoena.**
12

13 A. Before issuance of a determination of conciliation failure:
14

15 1. The executive director may issue a subpoena upon his or her
16 own motion or upon written request and good cause shown by
17 a party, whenever necessary to compel the attendance and
18 testimony of witnesses at interviews, conferences, hearings or
19 depositions. Before issuance of a determination of conciliation
20 failure, the executive director may issue a subpoena duces
21 tecum whenever necessary to compel the production of books,
22 records, papers, payroll or personnel records, correspondence,
23 documents or any other evidence relating to any matter under
24 investigation before the commission.
25

26 2. Within five days after the service on a person of a subpoena
27 requiring the production of any evidence in his or her
28 possession or under his or her control, that person may file a
29 motion requesting the commission chair to revoke the
30 subpoena. The commission chair shall revoke the subpoena if
31 it finds the evidence required to be produced does not relate to
32 any matter under investigation, or the subpoena does not
33 describe with sufficient particularity the evidence required to be
34 produced.
35

36 B. After issuance of an accusation: [A DETERMINATION OF
37 CONCILIATION FAILURE:]
38

39 1. The hearing panel or hearing examiner may issue a subpoena
40 upon written request and good cause shown by a party,
41 whenever necessary to compel the attendance and testimony
42 of witnesses at interviews, conferences, hearings or
43 depositions, or may issue a subpoena duces tecum whenever
44 necessary to compel the production of books, records, papers,
45 payroll or personnel records, correspondence, documents or

1 any other evidence relating to any matter under investigation
2 before the commission.

3
4 2. Within five days after the service on a person of a subpoena
5 requiring the production of any evidence in his or her
6 possession or under his or her control, that person may file a
7 motion requesting the hearing panel or hearing examiner to
8 revoke the subpoena. The hearing panel or hearing examiner
9 shall revoke the subpoena if it finds the evidence required to be
10 produced does not relate to any matter under investigation, or
11 the subpoena does not describe with sufficient particularity the
12 evidence required to be produced.

13
14 C. The party requesting the subpoena shall be responsible for serving
15 the subpoena.

16
17 D. In the event that a person issued a subpoena does not respond, the
18 executive director or the chair shall proceed with the civil remedy set
19 forth in Anchorage Municipal Code subsection 5.80.010B., or
20 5.80.030B., by seeking an appropriate order from the court.

21
22 (AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03)

23
24 **Section 7.** Anchorage Municipal Code chapter 5.60 is hereby amended to read
25 as follows (*the remainder of the chapter is not affected and therefore not set out*):

26
27 **Chapter 5.60 – COMPLETION OF INVESTIGATION**

28 * * * * *

29
30
31 **5.60.020 – Administrative closure.**

32
33 A. The executive director may administratively close a complaint in the
34 following instances:

- 35
36 1. If the complainant has failed to attend or cooperate in the fact
37 finding conference, as provided in subsection 5.50.020A. [OF
38 THIS TITLE];
39
40 2. If the complainant has otherwise failed to cooperate in the
41 investigation of the complaint;
42
43 3. If the whereabouts of the complainant are unknown and have
44 remained unknown for at least 30 days despite reasonable
45 efforts to locate the complainant;

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4. If the commission lacks jurisdiction over the subject matter or a necessary party to the action or is otherwise unable to proceed with the investigation;
5. If the complainant refuses to accept a settlement reasonably calculated to make him or her whole and there are no overriding public interest issues in the complaint[, EXCEPT IN COMPLAINTS FILED UNDER ANCHORAGE MUNICIPAL CODE CHAPTER 5.25];
6. If the complaint is settled by the parties;
7. If the complainant makes a request to withdraw the complaint which is approved pursuant to section 5.40.060 [OF THIS TITLE];
8. If the commission cannot investigate the complaint because of a conflict of interest. In such case, the complaint may be referred for investigation to the Alaska State Commission for Human Rights or any other appropriate agency with jurisdiction;[.]
9. If the complainant files a complaint in court alleging discrimination based on the same facts and issues as are currently pending before the commission;[.]
10. If the commission reviews the complaint and makes a determination to prioritize allocation of staff and commission resources among complaints received to eliminate unlawful discriminatory practices in the most cost efficient and effective manner possible, pursuant to the commission's powers authorized under subsection 5.10.040A.9.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03; AO No. 2008-16, § 3, 3-18-08)

5.60.030 - Reconsideration.

- A. When a complaint has been closed pursuant to subsections 5.60.010C. or 5.60.020A.1.—5. [OF THIS TITLE], the complainant may apply to the chair of the commission for reconsideration. [ON THE GROUND OF A MISTAKE IN DETERMINATION OF A FACT OR IN APPLICATION OF THE LAW TO THE FACTS. THE REQUEST FOR RECONSIDERATION SHALL BE SERVED ON THE RESPONDENT.]

1 If there is no documentation that the request for reconsideration was
2 served on the respondent, the commission staff shall serve a copy on
3 the respondent.
4

5 B. A written [AN] application for reconsideration shall [MUST INCLUDE
6 A STATEMENT OF THE FACTS ALLEGED TO BE ERRONEOUS OR
7 OF THE LAW ALLEGED TO BE INCORRECTLY APPLIED AND] be
8 filed within 15 days after service of the closure.
9

10 C. The complainant may request an extension of time in which to apply
11 for reconsideration. The request must be filed with the chair of the
12 commission within 15 days after service of the closure. The chair shall
13 grant or deny the request within five days after it is received.
14 Complainant will then be notified, in writing, if the request for an
15 extension of time to apply for reconsideration is granted or denied.
16

17 D. The chair shall determine whether a request for reconsideration is
18 timely. If the request is timely, the chair shall appoint a reconsideration
19 panel of three commissioners to review the investigative and
20 reconsideration files. Neither party may present any new information
21 or evidence during reconsideration without providing a reasonable
22 explanation as to why, with due diligence, the newly discovered
23 information or evidence could not have been discovered and
24 submitted to the investigator during the investigation. If the
25 reconsideration panel determines there is a reasonable explanation
26 for a delay in the submission of new evidence, the panel may receive
27 argument and evidence, request additional evidence or take other
28 appropriate action in the course of reaching a decision.
29

30 E. A request for reconsideration may be granted on the grounds of a
31 mistake in determination of a fact or in the application of the law to the
32 facts. If the request for reconsideration is granted, the matter shall be
33 remanded to the executive director with directions for further action,
34 which may include further investigation.
35

36 F. If the request for reconsideration is denied, an order shall be issued
37 sustaining the dismissal.
38

39 G. The reconsideration panel shall meet and grant or deny
40 reconsideration within 30 days of receipt of complainant's request.
41 This 30-day period may be extended upon notice to the complainant.
42 After the panel has made their determination, notice shall be sent to
43 the parties.
44

45 (AR No. 92-223(S); AR No. 96-174, § 6, 10-22-96; AO No. 2002-163, § 16,

1-7-03)

5.60.040 - Conciliation procedures.

- A. If the executive director determines that the allegations of a complaint are supported by substantial evidence, staff shall conduct a conciliation conference with the respondent within 45 days of the substantial evidence determination. The purpose of the conciliation conference is to develop an agreement between the respondent, the complainant, and the commission, and shall require commission approval.
- B. The respondent shall be given at least 15 days' notice of the conciliation conference date. Notice of a conciliation conference may be combined with a notice of determination issued pursuant to subsection 5.60.010D. [UNDER THIS TITLE].
- C. The complainant shall not attend the conciliation conference, [EXCEPT IN COMPLAINTS FILED UNDER ANCHORAGE MUNICIPAL CODE CHAPTER 5.25.]
- D. At the conciliation conference, staff shall propose remedies and shall negotiate terms to provide a remedy that is reasonably calculated to make the complainant whole and to eliminate the discriminatory practice or policy.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03)

5.60.050 - Determination of conciliation failure.

- A. The executive director shall determine that conciliation efforts have failed when:
1. The respondent fails to attend a conciliation conference or advises the staff in writing of its refusal to conciliate; or
 2. Within 30 days after the conciliation conferences, the [THE] respondent refuses to agree to a remedy which is reasonably calculated to make the complainant whole and to eliminate the discriminatory practice or policy.
- B. If the executive director determines that conciliation efforts have failed pursuant to subsection A of this section, the executive director may [SHALL] proceed in accordance with chapter 5.70 [SECTION

1 5.70.010 ET SEQ., OF THIS TITLE].
2

3 C. The executive director may grant an extension of time to agree to
4 terms of conciliation for good cause shown.
5

6
7 (AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03)
8

9 **5.60.060 - Administrative dismissal after conciliation conference.**

10
11 A. If the respondent agrees to a remedy which the executive director
12 believes is reasonably calculated to make the complainant whole and
13 eliminate the discriminatory practice or policy, the provisions of which
14 are acceptable to the complainant, the executive director shall
15 administratively dismiss the complaint pursuant to subsection
16 5.60.020A.6. of this title.
17

18 B. If the complainant refuses to accept a remedy offered by respondent,
19 which the executive director believes is reasonably calculated to make
20 the complainant whole, the executive director may seek to remedy the
21 discriminatory practice identified in the determination without the
22 complainant's participation, and any agreement reached must be
23 signed by the executive director and respondent; or the executive
24 director may administratively dismiss the complaint. [SHALL
25 ADMINISTRATIVELY DISMISS THE COMPLAINT PURSUANT TO
26 SUBSECTION 5.60.020A.5. OF THIS TITLE. IN COMPLAINTS
27 FILED UNDER ANCHORAGE MUNICIPAL CODE CHAPTER 5.25,
28 THE EXECUTIVE DIRECTOR SHALL PROCEED IN ACCORDANCE
29 WITH SECTION 5.70.010 ET SEQ., OF THIS TITLE.]
30

31 C. If the executive director determines that a public hearing would not
32 advance the purposes of title 5 or represent the best use of
33 commission resources, the executive director shall administratively
34 dismiss the complaint pursuant to subsection 5.60.020A.10.
35

36 (AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03)
37

38 **Section 8.** Anchorage Municipal Code chapter 5.70 is hereby amended to read
39 as follows (*the remainder of the chapter is not affected and therefore not set out*):
40

41 **Chapter 5.70 – PUBLIC HEARING**

42 **5.70.010 - Public hearing overview.**

43
44 A. When conciliation efforts have failed to eliminate the alleged
45

1 discriminatory practice or policy, or to otherwise make a complainant
2 whole, the executive director shall inform the commission chair and
3 serve written notice of conciliation failure on all parties. Within 30 days
4 of conciliation failure, the executive director shall either file an
5 accusation with the commission or dismiss the complaint without
6 prejudice. Upon receiving an accusation, the commission chair shall
7 then appoint a hearing panel in accordance with section 5.70.030.

8
9 B. Within 30 days of appointment of the hearing panel, the executive
10 director shall serve written notice of the hearing panel appointment,
11 along with a copy of the accusation as it may be amended, on all
12 parties.

13
14 [A. IF THE EXECUTIVE DIRECTOR DETERMINES CONCILIATION
15 EFFORTS TO ELIMINATE THE ALLEGED DISCRIMINATION ARE
16 UNSUCCESSFUL, THE COMMISSION STAFF SHALL SERVE
17 WRITTEN NOTICE, TOGETHER WITH A COPY OF THE
18 COMPLAINT AS IT MAY BE AMENDED, REQUIRING THE
19 RESPONDENT TO ANSWER THE ALLEGATIONS OF THE
20 COMPLAINT AT A PUBLIC HEARING BEFORE THE COMMISSION.
21 THE CASE IN SUPPORT OF THE COMPLAINANT SHALL BE
22 PRESENTED BEFORE THE COMMISSION BY THE EXECUTIVE
23 DIRECTOR OR HIS OR HER DESIGNEE. THE COMPLAINANT MAY
24 BE REPRESENTED BY COUNSEL AT THE PUBLIC HEARING.

25
26 B. THE RESPONDENT MAY FILE A WRITTEN ANSWER TO THE
27 COMPLAINT WITHIN 20 DAYS OF SERVICE OF THE COMPLAINT
28 AND MAY APPEAR AT THE PUBLIC HEARING IN PERSON OR BY
29 COUNSEL AND SUBMIT TESTIMONY. THE EXECUTIVE
30 DIRECTOR OR HIS OR HER DESIGNEE HAS THE POWER
31 REASONABLY AND FAIRLY TO AMEND THE COMPLAINT, AND
32 THE RESPONDENT HAS THE POWER REASONABLY AND
33 FAIRLY TO AMEND ITS ANSWER AT ANY TIME UP TO AND
34 INCLUDING THE TIME OF PUBLIC HEARING.

35
36 C. ANY PERSON MAY OBTAIN A TRANSCRIPT OF THE HEARING
37 UPON PAYMENT OF COSTS.]

38
39 (CAC 8.36.050; AO No. 96-99, § 3, 10-22-96; AO No. 2002-163, § 17, 1-7-
40 03)

41
42 **5.70.020 - Public hearing [HEARING] process.**

43
44 A. The case in support of the accusation shall be presented before the
45 commission by the executive director or his or her designee. The

1 complainant may be represented by counsel at the public hearing.

2
3 B. The respondent may file a written answer to the accusation within 20
4 days of service of the accusation and may appear at the public hearing
5 in person or by counsel and submit testimony. After issuance of an
6 accusation, respondent may direct a written request for an extension
7 of time to file an answer to the hearing panel or hearing examiner. The
8 executive director or his or her designee has the power to reasonably
9 and fairly amend the accusation, and the respondent has the power to
10 reasonably and fairly amend its answer at any time up to and including
11 the time of public hearing.

12
13 C. Any person may obtain a transcript of the hearing upon payment of
14 costs.

15
16 [WHEN CONCILIATION EFFORTS HAVE FAILED TO ELIMINATE THE
17 ALLEGED DISCRIMINATORY PRACTICE OR POLICY, OR TO
18 OTHERWISE MAKE A COMPLAINANT WHOLE, THE EXECUTIVE
19 DIRECTOR SHALL PROMPTLY INFORM THE COMMISSION. THE
20 COMMISSION CHAIR SHALL THEN APPOINT A HEARING PANEL IN
21 ACCORDANCE WITH SECTION 5.70.030 OF THIS TITLE. THE
22 EXECUTIVE DIRECTOR SHALL SERVE A WRITTEN NOTICE OF THE
23 HEARING PANEL APPOINTMENT ALONG WITH A COPY OF THE
24 COMPLAINT ON ALL PARTIES WITHIN TEN DAYS AFTER THE
25 APPOINTMENT OF THE HEARING PANEL.]

26
27 (AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03)

28
29 **5.70.030 - Appointment of public hearing panel.**

- 30
31 A. The chair shall appoint three commissioners to serve as members of
32 a public hearing panel.
33
34 B. Appointment of commissioners to serve on the hearing panel shall be
35 on a rotating [CASE-BY-CASE] basis.
36
37 C. Should a vacancy on the hearing panel occur, the chair shall appoint
38 another member of the commission to fill the vacancy.

39
40 (AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03)

41
42 **5.70.040 - Powers and duties of hearing panel and hearing examiner.**

43 * * * * * * * * *

1 [H. IN CASES UNDER ANCHORAGE MUNICIPAL CODE CHAPTER
2 5.25, A HEARING PANEL COMPOSED OF MEMBERS OF THE
3 COMMISSION SHALL HEAR THE CASE OR THE HEARING
4 EXAMINER SHALL BE AN EMPLOYEE OF THE MUNICIPALITY.]
5

6 (AR No. 92-223(S); AR No. 96-174, § 7, 10-22-96; AO No. 2002-163, § 18,
7 1-7-03; AO No. 2008-16, § 4, 3-18-08)
8

9 **5.70.050 - Hearing date.**

10
11 A. The hearing panel or hearing examiner shall, within 30 [60] days of
12 appointment, establish a hearing date.
13

14 * * * * *
15

16 (AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03)
17

18 **5.70.060 - Staff attorney.**

19
20 A. If the executive director is an attorney, the executive director shall not
21 serve as legal advisor to the commission in issuing any non-
22 procedural orders, in reconsideration matters, in any public hearings,
23 or in any matters where the executive director has advised or
24 supervised the staff during an investigation under this title.
25

26 B. The staff attorney may present a case at hearing on behalf of the
27 executive director.
28

29 C. The staff attorney shall not serve as legal advisor to the commission
30 in any adjudication involving a conflict of interest with a complainant,
31 respondent or any other party to the complaint.
32

33 (AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03)
34

35 **5.70.070 - Public hearing pleadings. [PLEADINGS.]**

36
37 A. All pleadings in public hearings shall be in writing.
38

39 B. A party shall file the original of any public hearing pleading with the
40 hearing panel or hearing examiner in care of the executive director. A
41 [AND, A] party shall promptly serve upon all other parties a copy of
42 any pleading. Service upon a party represented by an attorney may
43 be made by mailing the pleading to the attorney by first class mail or
44 by electronic service such as fax and/or email.
45

1 (AR No. 92-223(S); AO No. 2002-163, § 19, 1-7-03)
2

3 **5.70.080 – Public Hearing motions. [MOTIONS.]**
4

5 * * * * *
6

7 H. The hearing panel will not review hearing orders of the examiner until
8 the examiner submits a recommended decision under [ANCHORAGE
9 MUNICIPAL CODE] subsection 5.70.150. [5.70.140B.1.]
10

11 (AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03)
12

13 **5.70.085 - Discovery at public hearing.**
14

15 A. After issuance of the accusation, the executive director or a party may
16 issue written interrogatories, requests for production, and requests for
17 admissions to any party.
18

19 B. Interrogatories, requests for production, and requests for admissions
20 may address any matter not privileged which is relevant to the subject
21 matter involved in the pending action. Information sought need not be
22 admissible at the hearing, if it appears reasonably calculated to lead
23 to the discovery of admissible evidence.
24

25 C. A party, including the executive director, shall respond in writing to the
26 interrogatories, requests for production, and requests for admissions
27 within 30 days after the date of receipt. Upon written request and a
28 showing of good cause, the hearing panel or hearing examiner may
29 extend the time within which the response may be completed and
30 returned.
31

32 D. A party, including the executive director, may file with the hearing
33 panel or hearing examiner written objections to an interrogatory,
34 request for production, or request for admission. Objections shall be
35 submitted on a document separate from the document containing
36 answers to interrogatories, and shall include a statement of the
37 reason(s) for each objection. All objections shall be submitted within
38 the 30 days allowed for responding to interrogatories, requests for
39 production, and requests for admissions. Untimely objections shall not
40 be considered.
41

42 E. The hearing panel or hearing examiner shall either sustain the
43 objection or order that the interrogatory, request for production, or
44 request for admission be answered within 15 days after receipt of the
45 order by the objecting party.

1
2 F. In the event that a party fails to respond fully or object to an
3 interrogatory, request for production, or request for admission or to
4 obtain an extension of time within 30 days after being served, the
5 hearing panel or hearing examiner shall file with the superior court, a
6 motion to compel production and/or response.

7
8 **5.70.087 – Subpoena.**
9

10 A. After issuance of the accusation, the hearing panel or hearing
11 examiner may issue a subpoena upon written request and good cause
12 shown by a party or the executive director, whenever necessary to
13 compel the attendance and testimony of witnesses at hearings, or may
14 issue a subpoena duces tecum whenever necessary to compel the
15 production of books, records, papers, payroll or personnel records,
16 correspondence, documents or any other evidence relating to any
17 matter before the hearing panel or hearing examiner.

18
19 B. Within five days after the service on a person of a subpoena requiring
20 the production of any evidence in his or her possession or under his
21 or her control, that person may file a motion requesting the hearing
22 panel or hearing examiner to revoke the subpoena. The hearing panel
23 or hearing examiner shall revoke the subpoena if it finds the evidence
24 required to be produced does not relate to any matter under
25 investigation, or the subpoena does not describe with sufficient
26 particularity the evidence required to be produced.

27
28 C. The party requesting the subpoena, including the executive director,
29 shall be responsible for serving the subpoena.

30
31 D. In the event that a person issued a subpoena does not respond, the
32 hearing panel or hearing examiner shall proceed with the civil remedy
33 set forth in subsection 5.80.010B. or 5.80.030B., by seeking an
34 appropriate order from the court.

35
36 **5.70.090 - Intervention.**
37

38 Any person may file a motion to intervene no later than 20 days prior to the
39 date of the hearing. A motion to intervene shall be granted if the intervenor
40 may be bound by an order of the commission or has a legal interest which
41 may not be adequately represented by existing parties, or the executive
42 director, and intervention would not unduly broaden the issues or delay the
43 proceedings.
44

45 (AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03)

1
2 * * * * *
3

4 **5.70.110 - Conduct of hearings.**

5
6 A. All hearings shall be conducted in accordance with chapter 5.70.
7 [ANCHORAGE MUNICIPAL CODE SECTION 3.60.045.] When a
8 matter arises at hearing, the procedure for which is not set out in
9 Anchorage Municipal Code chapter 5.70 [3.60] or in this title, the
10 hearing panel or hearing examiner is not strictly bound by, but may
11 look to chapter 3.60, the Alaska Rules of Civil Procedure, the Alaska
12 Rules of Evidence, or other pertinent legal precedent, texts or treatises
13 for guidance in making its rulings.

14
15 * * * * *

16
17 G. The record of the hearing shall include: the notice of hearing, the
18 verified complaint and accusation as amended, the answer as
19 amended, a transcript of the testimony taken at the hearing, the
20 exhibits and deposition testimony admitted as evidence, written
21 applications and motions, briefs, stipulations, preliminary orders,
22 findings of fact and conclusions of law, the final order and all other
23 pleadings.

24
25 (AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03)

26
27 **5.70.120 - Evidence.**

28
29 A. The hearing panel or hearing examiner shall have full authority to
30 admit or exclude testimony or other evidence and to rule upon all
31 motions or objections regarding evidence.

32
33 B. [WHEN DEMEANOR, INCONSISTENCY OR PERSONAL
34 CREDIBILITY ARE BASES FOR A RECOMMENDATION OR
35 ORDER, THE HEARING PANEL OR HEARING EXAMINER SHALL
36 SPECIFICALLY NOTE THESE OBSERVATIONS IN FINDINGS
37 ACCOMPANYING THE RECOMMENDATION.]

38
39 [C.] The hearing panel or hearing examiner shall give effect to the rules of
40 privilege recognized by the Alaska Rules of Evidence.

41
42 (AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03)

43
44 **5.70.130 - Findings of fact, proposed orders, and final order after public**
45 **hearing. [ORDERS.]**

- 1
2 A. An order shall be in writing.
3
4 B. At the completion of the public hearing provided for in this chapter,
5
6 1. The hearing panel or hearing examiner shall serve on all parties
7 proposed findings of fact, conclusions of law, and a proposed
8 order.
9
10 a. The findings of fact shall demonstrate that each element
11 of an allegation or defense was or was not proven by a
12 preponderance of the evidence.
13
14 b. When demeanor, inconsistency, or personal credibility
15 are bases for a recommendation or order, the hearing
16 panel or hearing examiner shall specifically note these
17 observations in findings accompanying the
18 recommendation or order.
19
20 2. A party may present to the hearing panel or hearing examiner
21 written objections to the proposed findings of fact, conclusions
22 of law and order within 15 days after receipt or such other time
23 as fixed by the hearing panel or hearing examiner.
24
25 3. Upon consideration of objections submitted, review of the
26 record and the proposed order, if the case is heard by a hearing
27 examiner, the hearing panel shall issue a final order in the case.
28
29 4. A final order shall be issued within 60 days after the time for
30 objections to be filed has run. A final order shall be subscribed
31 to by a majority of the commissioners on the hearing panel. A
32 separate concurring or dissenting opinion may be filed by a
33 hearing panel commissioner.
34
35 5. Copies of the final order and notice of right to judicial review
36 shall be sent to all parties and to the municipal attorney.
37

38 * * * * *

39
40 (AO No. 96-99, § 4, 10-22-96; AO No. 2002-163, § 21, 1-7-03)

41
42 **5.70.140 – [RELIEF.] (Repealed).**

43
44 [IF, UPON CONSIDERATION OF ALL EVIDENCE, IT IS FOUND THAT A
45 RESPONDENT HAS ENGAGED IN AN UNLAWFUL DISCRIMINATORY

1 PRACTICE, THE HEARING PANEL SHALL ISSUE AN ORDER IN
2 ACCORDANCE WITH ANCHORAGE MUNICIPAL CODE SECTION
3 5.70.130, REQUIRING RESPONDENT TO REFRAIN FROM ENGAGING IN
4 DISCRIMINATORY CONDUCT.]

5
6 (AR No. 92-223(S); AR No. 96-174, § 9, 10-22-96; AO No. 2002-163, § 22,
7 1-7-03)

8
9 **5.70.150 – [DISMISSAL.] (Repealed).**

10
11 [IF, UPON CONSIDERATION OF ALL THE EVIDENCE, IT IS FOUND THAT
12 THE RESPONDENT HAS NOT ENGAGED IN AN UNLAWFUL
13 DISCRIMINATORY PRACTICE, THE HEARING PANEL SHALL SO STATE
14 IN ITS FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND THE
15 HEARING PANEL SHALL ISSUE AN ORDER DISMISSING THE
16 COMPLAINT AGAINST THAT RESPONDENT.]

17
18 (AR No. 92-223(S); AR No. 96-174, § 10, 10-22-96; AO No. 2002-163, § 22,
19 1-7-03)

20
21 **Section 9.** Anchorage Municipal Code chapter 5.80 is hereby amended to read
22 as follows (*the remainder of the chapter is not affected and therefore not set out*):

23
24 **Chapter 5.80 - MISCELLANEOUS PROVISIONS**

25
26 * * * * * * * *

27
28 **5.80.040 - Effect of compliance with order.**

29
30 Immediate and continuing compliance with all the terms of an order of the
31 equal rights commission is a bar to prosecution for the particular instances of
32 discriminatory conduct described in the complaint and/or accusation filed
33 before the commission.

34
35 (AO No. 2002-163, § 24, 1-7-03)

36
37 **5.80.050 - Conflict of interest.**

38
39 A. Only an impartial commissioner or hearing examiner shall participate
40 in a matter before the commission. A commissioner or hearing
41 examiner is not impartial if:

- 42
43 1. He or she fails to meet the requirements of Anchorage
44 Municipal Code chapter 1.15, Anchorage Municipal Code
45 section 4.05.110, or any other applicable conflict of interest

1 legislation; or
2

3 2. Has a relationship, financial or otherwise, with any party which
4 could reasonably be expected to influence, or which appears to
5 influence, the commissioner's judgment concerning the matters
6 to be adjudicated.
7

8 B. No commissioner shall engage in ex parte communications with any
9 party concerning a case pending before the commission, including
10 with the executive director or staff attorney.
11

12 C. A commissioner may excuse himself or herself on his or her own
13 motion, or may be declared ineligible by a majority vote of the
14 remaining members of the commission.
15

16 D. Any commissioner who becomes aware of a violation of this section
17 shall immediately disclose the violation to the Anchorage Board of
18 Ethics.
19

20 (AR No. 92-223(S); AO No. 2002-163, § 25, 1-7-03)
21

22 **5.80.060 - Confidentiality.**
23

24 A. Except as may be necessary for the proper investigation and
25 adjudication of a complaint, fulfillment of statutory reporting
26 requirements or cooperation with other governmental agencies, or to
27 report imminent threats of harm to self or others to the proper
28 authorities, the commission members, commission staff, and
29 executive director shall not make public the identity of complainants
30 and respondents and the contents of investigative files, including
31 documents produced by the parties,], SHALL NOT BE DISCLOSED
32 TO ANYONE OTHER THAN THE PARTIES AND THE COMMISSION
33 STAFF.]
34

35 B. Except as provided for in section 5.50.020 or otherwise provided by
36 law, evidence contained in the investigative files shall not be made
37 public by the commission members, commission staff, nor the
38 executive director. [DISCLOSED.] However, the evidence compiled by
39 the staff during an investigation shall be available to the complainant
40 [COMPLAINT] or respondent in the following circumstances:
41

42 1. At least 30 [TEN] days before a public hearing is held under
43 chapter 5.70;
44

45 2. In accordance with the rules of discovery if an action relating to

1 the complaint is commenced in a court of competent
2 jurisdiction; or [UPON REQUEST BY COMPLAINANT IN
3 PREPARATION FOR A REQUEST FOR
4 RECONSIDERATION PURSUANT TO 5.60.030 WITHIN THE
5 TIME PERIOD SPECIFIED FOR REQUESTING
6 RECONSIDERATION; OR]
7

8 3. To comply with a subpoena issued by a court in which the
9 complainant filed a complaint alleging discrimination based on
10 the same facts and issues as were raised in the commission
11 complaint or investigation.
12

13 C. In addition, the commission may issue public statements describing or
14 warning of a course of conduct that constitutes or will constitute an
15 unlawful practice under this title, and the commission may also make
16 information public if necessary to perform its duties or exercise its
17 powers under title 5.
18

19 (AR No. 92-223(S); AR No. 96-174, § 11, 10-22-96; AO No. 2002-163, § 25,
20 1-7-03; AO No. 2008-16, § 5, 3-18-08)
21

22 * * * * * * * * *

23
24 **Section 10.** This ordinance shall be effective immediately upon passage and
25 approval by the Assembly.
26

27 PASSED AND APPROVED by the Anchorage Assembly this _____ day
28 of _____, 2021.
29

30
31
32
33 _____
34 Chair of the Assembly

35 ATTEST:

36
37
38 _____
39 Municipal Clerk