

ANCHORAGE, ALASKA
AO No. 2002-163

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 5, AND ANCHORAGE MUNICIPAL CODE OF REGULATIONS, TITLE 5, GOVERNING THE ANCHORAGE EQUAL RIGHTS COMMISSION TO CORRECT ERRORS IN CITATIONS AND GRAMMAR; TO MOVE CERTAIN DEFINITIONS FROM THE REGULATIONS TO THE CODE; TO REORGANIZE THE DUTIES OF THE STANDING COMMITTEE ON THE PROMOTION OF TOLERANCE AND DIVERSITY; AND TO MAKE OTHER SUBSTANTIVE AND TECHNICAL CHANGES.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code sections 5.10.010, and 5.10.030 through 5.10.050 are hereby amended to read as follows:

5.10.010 Policy.

The public policy of the municipality is declared to be equal opportunity for all persons. The assembly finds that invidious discrimination in the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the Municipality, [EMPLOYMENT, HOUSING, PUBLIC ACCOMMODATIONS, EDUCATION AND FINANCING PRACTICES,] based upon race, color, sex, religion, national origin, marital status, age, or physical or mental disability, adversely affects the welfare of the community. Accordingly, such discrimination is prohibited.

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 1, 10-15-93)

5.10.030 Appointment of members.

The mayor shall appoint members of the equal rights commission, subject to confirmation by the assembly, to three-year terms. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member whom he or she is to succeed. A member of the commission shall be eligible for reappointment.

5.10.040 Powers and duties.

A. The equal rights commission is authorized to:

1. Develop programs designed to bring about the prevention and elimination of unlawful discrimination, as follows:

a. Speak out against unlawful discriminatory acts and practices, as well as acts of intolerance or invidious discrimination as they occur in our community;

- b. Organize and conduct such programs of community outreach and education as are necessary to eliminate unlawful discrimination and intolerance, and to increase the community's awareness of and appreciation for the uniqueness and diversity of the Anchorage community; and
 - c. Develop policies, programs, and activities that will help eliminate unlawful discrimination and intolerance and enhance the community's appreciation of our unique racial and ethnic diversity;
 2. Investigate complaints of discrimination brought under this title;
 3. Administer oaths and affirmations, certify its official acts, and issue subpoenas, subpoenas duces tecum, and other legal process to compel the attendance of witnesses and the 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 Anchorage Municipal Code sections 5.40.080, 5.60.030 and 5.70.080;
 6. Grant all appropriate forms of relief as described in 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 Article XVII, Section 17 of the Home Rule Charter. 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. Delegate to the executive director all powers and duties given it by this title, except the power to hold public hearings, issue orders, and hire the executive director;
 12. Recommend to the mayor and assembly new legislation, and adopt such procedural and evidentiary rules as are necessary to fulfill the intent of this title;

13. Provide an annual report to the mayor and assembly;

[A. THE EQUAL RIGHTS COMMISSION MAY:

1. HOLD PUBLIC HEARINGS AND ISSUE ORDERS UNDER SECTIONS 5.30.030 AND 5.30.050;
2. ADMINISTER OATHS AND AFFIRMATIONS, CERTIFY ITS OFFICIAL ACTS, AND ISSUE SUBPOENAS, SUBPOENAS DUCES TECUM AND OTHER LEGAL PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE 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 PROCESSES;
3. INTERVENE IN ANY COURT PROCEEDING BROUGHT UNDER THIS TITLE;
4. ENTER INTO AGREEMENTS WITH COUNTERPART AGENCIES AT ALL GOVERNMENTAL LEVELS TO PROMOTE EFFECTIVE AND EFFICIENT ENFORCEMENT OF THE LAW;
5. GRANT RELIEF AS DESCRIBED IN SECTION 5.30.050;
6. HIRE AN EXECUTIVE DIRECTOR, WHO SHALL SERVE AT THE PLEASURE OF THE COMMISSION AND SUCH ADMINISTRATIVE STAFF AS REQUIRED IN THE EXECUTION OF ITS DUTIES;
7. DELEGATE TO THE EXECUTIVE DIRECTOR ALL POWERS AND DUTIES GIVEN IT BY THIS TITLE, EXCEPT THE POWER TO HOLD HEARINGS, ISSUE ORDERS AND HIRE THE EXECUTIVE DIRECTOR.]

[B. THE EQUAL RIGHTS COMMISSION SHALL:

1. 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 ARTICLE XVII, SECTION 17 OF THE HOME RULE CHARTER. BY PRIORITIZING INVESTIGATORY AND ENFORCEMENT ACTIVITIES, THE COMMISSION SHALL SEEK TO BRING ABOUT SYSTEMIC RELIEF FROM PROHIBITED DISCRIMINATORY PRACTICES IN THE MOST COST EFFICIENT AND EFFECTIVE MANNER POSSIBLE;
2. MONITOR, INVESTIGATE, AND SPEAK OUT AGAINST UNLAWFUL DISCRIMINATORY ACTS AND PRACTICES, AS WELL AS ACTS OF INTOLERANCE OR INVIDIOUS DISCRIMINATION AS THEY OCCUR IN OUR

COMMUNITY;

3. THROUGH ITS OWN ACTIVITIES, THOSE OF ITS STAFF AND STANDING COMMITTEES, ORGANIZE AND CONDUCT SUCH PROGRAMS OF COMMUNITY OUTREACH AND EDUCATION NECESSARY TO ELIMINATE THE UNLAWFUL DISCRIMINATION, INTOLERANCE OR INVIDIOUS DISCRIMINATION;
4. THROUGH ITS OWN ACTIVITIES, THOSE OF ITS STAFF AND STANDING COMMITTEES, ORGANIZE AND CONDUCT SUCH PROGRAMS OF COMMUNITY OUTREACH AND EDUCATION TO INCREASE THE COMMUNITY'S AWARENESS OF AND APPRECIATION FOR THE UNIQUENESS AND DIVERSITY OF THE ANCHORAGE COMMUNITY;
5. RECOMMEND TO THE ASSEMBLY NEW LEGISLATION, POLICIES, PROGRAMS, AND ACTIVITIES THAT WILL HELP ELIMINATE UNLAWFUL DISCRIMINATION, INTOLERANCE AND INVIDIOUS DISCRIMINATION AND TO ENHANCE THE COMMUNITY'S APPRECIATION OF OUR UNIQUE RACIAL AND ETHNIC DIVERSITY; AND
6. ADOPT PROCEDURAL AND EVIDENTIARY RULES NECESSARY TO FULFILL THE INTENT OF THIS TITLE;
7. PROVIDE AN ANNUAL REPORT TO THE ASSEMBLY;
8. CONDUCT EXIT INTERVIEWS WITH PARTIES TO THE COMMISSION PROCEEDINGS.]

5.10.050 Standing Committees.

A. The commission shall establish a Standing Committee on the Promotion of Tolerance and Diversity consisting of eleven (11) residents of Anchorage, reflective of the diverse population of Anchorage. Members of the committee may be nominated by the mayor, any member of the assembly or any member of the public, and shall be appointed by the commission and the commission shall set their terms. The purpose of the committee is to increase the community's awareness of and appreciation for the unique racial and ethnic diversity of Anchorage and to eliminate intolerance as well as unlawful discrimination in Anchorage. The committee shall be staffed by, and report directly to the commission.

1. The Standing Committee on the Promotion of Tolerance and Diversity shall:
 - a. Advise and assist the commission on issues relating to racial and ethnic diversity as well as the elimination of intolerance and unlawful discrimination within Anchorage;
 - b. Act as a clearinghouse to receive and coordinate information on and the status of racial and ethnic issues as well as elimination of intolerance and unlawful discrimination in Anchorage;

- c. Serve as the Municipality's informational resource on issues of diversity-related conflict as situations arise;
- d. Hear and review public concerns on racial and ethnic issues and make recommendations to the commission regarding the elimination of intolerance and unlawful discrimination;
- e. Recommend to the commission programs and community outreach designed to increase appreciation of the value of racial and ethnic diversity and to eliminate intolerance and unlawful discrimination in Anchorage;
- f. Recommend to the commission policies and activities that will enhance appreciation of racial and ethnic diversity and eliminate intolerance and unlawful discrimination within Anchorage;
- g. Collaborate with other agencies and community programs to raise the consciousness of the community to prevent or alleviate intolerance.

B. The commission may establish such other standing committees as the commission deems necessary to carry out its duties and responsibilities.

[A. THE COMMISSION SHALL ESTABLISH A STANDING COMMITTEE ON THE PROMOTION OF TOLERANCE AND DIVERSITY CONSISTING OF ELEVEN (11) RESIDENTS OF ANCHORAGE, NOT LESS THAN NINE (9) OF WHICH SHALL BE OF A MINORITY RACIAL OR ETHNIC EXTRACTION. APPOINTED FROM THE DIVERSE POPULATION OF ANCHORAGE, MEMBERS OF THE COMMITTEE SHALL BE APPOINTED BY THE COMMISSION AND FOR TERMS AS SET BY THE COMMISSION. THE PURPOSE OF THE COMMITTEE IS TO INCREASE THE COMMUNITY'S AWARENESS OF AND APPRECIATION FOR THE UNIQUE RACIAL AND ETHNIC DIVERSITY OF ANCHORAGE AND TO ELIMINATE INTOLERANCE AS WELL AS INVIDIOUS DISCRIMINATION IN ANCHORAGE. THE COMMITTEE SHALL BE STAFFED BY, AND REPORT DIRECTLY TO COMMISSION.

1. THE STANDING COMMITTEE ON THE PROMOTION OF TOLERANCE AND DIVERSITY SHALL ADVISE AND ASSIST THE COMMISSION ON ISSUES RELATING TO RACIAL AND ETHNIC DIVERSITY AS WELL AS THE ELIMINATION OF INTOLERANCE AND INVIDIOUS DISCRIMINATION WITHIN ANCHORAGE.

2. THE STANDING COMMITTEE ON THE PROMOTION OF TOLERANCE AND DIVERSITY SHALL:

- a. ACT AS A CLEARINGHOUSE TO RECEIVE AND COORDINATE INFORMATION ON AND THE STATUS OF RACIAL AND ETHNIC ISSUES AS WELL AS ELIMINATION OF INTOLERANCE AND INVIDIOUS DISCRIMINATION IN ANCHORAGE;
- b. SERVE AS THE MUNICIPALITY'S INFORMATIONAL RESOURCE ON ISSUES OF DIVERSITY-RELATED CONFLICT AS SITUATIONS

ARISE;

- c. HEAR, REVIEW, AND RESPOND TO PUBLIC CONCERNS ON RACIAL AND ETHNIC ISSUES AS WELL AS THE ELIMINATION OF INTOLERANCE AND INVIDIOUS DISCRIMINATION;
- d. DEVELOP PROGRAMS AND COMMUNITY OUTREACH DESIGNED TO INCREASE APPRECIATION OF THE VALUE OF RACIAL AND ETHNIC DIVERSITY AND TO ELIMINATE INTOLERANCE AND INVIDIOUS DISCRIMINATION IN ANCHORAGE;
- e. RECOMMEND POLICIES AND ACTIVITIES THAT WILL ENHANCE APPRECIATION OF RACIAL AND ETHNIC DIVERSITY AND ELIMINATE INTOLERANCE AND INVIDIOUS DISCRIMINATION WITHIN ANCHORAGE;
- f. COLLABORATE WITH OTHER AGENCIES AND COMMUNITY PROGRAMS TO RAISE THE CONSCIOUSNESS OF THE COMMUNITY TO PREVENT OR ALLEVIATE INTOLERANCE.]

[B. THE COMMISSION MAY ESTABLISH SUCH OTHER STANDING COMMITTEES AS THE COMMISSION DEEMS NECESSARY TO CARRY OUT ITS DUTIES AND RESPONSIBILITIES.]

Section 2. Anchorage Municipal Code of Regulations 5.10.001 is hereby repealed. Anchorage Municipal Code section 5.20.010 is hereby amended by adding definitions, some of which were formerly in section 5.10.001, and amending all to read as follows:

5.20.010 **Definitions.**

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

Age is not intended to conflict with the provisions of AS 23.10.325--23.10.370, or any other laws relating to the rights and activities of minors.

Amicus curiae ^{is} ~~means~~ Latin for "a friend of the court." An amicus curiae brief is usually filed by one who has no standing to appear in a suit, but is interested in intervening to provide evidence, information or authority regarding a matter before the decision-making authority.

Blockbusting means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling based on representations [DISCRIMINATORY PRACTICE BY REAL ESTATE BROKERS, REAL ESTATE SALESMEN OR EMPLOYEES OR AGENTS OF A BROKER OR OTHER INDIVIDUAL, CORPORATION, PARTNERSHIP OR ORGANIZATION FOR THE PURPOSE OF INDUCING A REAL ESTATE TRANSACTION FROM WHICH ANY SUCH PERSON OR ITS STOCKHOLDERS OR MEMBERS MAY BENEFIT FINANCIALLY, TO REPRESENT DIRECTLY OR INDIRECTLY] that a change has occurred, or will or may occur regarding the entry into a [FROM A COMPOSITION WITH RESPECT TO RACE, RELIGION,

COLOR OR NATIONAL ORIGIN OF THE OWNERS OR OCCUPANTS OF THE] block, neighborhood or area, in which the real property is located, of a person or persons of a particular race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [AND TO REPRESENT DIRECTLY OR INDIRECTLY THAT THIS CHANGE MAY OR WILL RESULT IN UNDESIRABLE CONSEQUENCES IN THE BLOCK, NEIGHBORHOOD OR AREA IN WHICH THE REAL PROPERTY IS LOCATED] including but not limited to lower property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.

Chair means the duly elected chairperson of the Anchorage Equal Rights Commission, or in the absence of the chair, the vice-chairperson or other commissioner designated by the chair or the remaining members of the commission.

Closure means a decision issued by the executive director or his or her designee, to not pursue and dismiss a complaint, pursuant to sections 5.60.020 and 5.60.060 under this title.

Commission means the Anchorage [MUNICIPAL] Equal Rights Commission (AERC).

Commissioner means one of the members of the Anchorage Equal Rights Commission (AERC).

Complainant means the person who files a complaint with AERC, alleging discrimination in violation of Anchorage Municipal Code title 5.

Conciliation means a process by which staff attempts to resolve a complaint by conferring and negotiating with the respondent after a determination of substantial evidence.

Determination means a written decision, prepared by staff and signed by the executive director, that is served on the parties at the conclusion of the investigation or processing of a complaint.

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, age, sex, marital status or physical or mental disability, or the aiding, abetting, inciting, coercing or compelling thereof.

Educational institution means any day care center, nursery, kindergarten, elementary or secondary school, academy, college, university, extension course, or nursing, secretarial, business, vocational, technical, trade or professional school.

Employee means an individual employed by an employer, but does not include an individual employed in the domestic service of any person.

Employer means an employer, public or private, of one or more persons.

Employment agency means any person undertaking to procure employees or to procure for employees' opportunities to work.

Executive director means the executive director of the AERC or his or her designee.

Fact finding conference is an initial meeting where evidence is produced and the complaint is

1 discussed with the parties, and is held approximately 30 days after service of the complaint, unless
2 waived as specified in section 5.50.040 under this title.

3
4 *Financial institution* means commercial banks, trust companies, mutual savings banks, cooperative
5 banks, homestead associations, credit unions, bonding companies, surety companies or other
6 commercial institutions which extend secured or unsecured credit or offer insurance.

7
8 Hearing or public hearing means an administrative adjudication held pursuant to Anchorage
9 Municipal Code sections 3.60.010 and 5.70.010 et seq..

10
11 Hearing examiner means the person appointed by the hearing panel pursuant to section 5.70.030
12 under this title under this title.

13
14 Hearing panel means the commissioners designated by the chair to either conduct a public hearing or
15 to appoint a hearing examiner pursuant to section 5.70.020 and 5.70.030 under this title.

16
17 *Labor organization* means any organization which is constituted for the purpose, in whole or in part,
18 of collective bargaining or in dealing with employers concerning grievances, terms or conditions of
19 employment or of other mutual aid or protection in connection with employees.

20
21 Make whole means a remedy intended to eliminate a continuing unlawful discriminatory practice or
22 the discriminatory effect of any past unlawful discriminatory act or practice, and may include actual
23 damages, injunctive and equitable relief as specified in Anchorage Municipal Code sections 5.70.140
24 and 5.70.150.

25
26 *Marital status* means any differential treatment because of a person's marital status or change in
27 marital status. This includes differential treatment shown toward a person because he or she is not
28 married, a person because he or she is married, a person because he or she is widowed or divorced, a
29 person because he or she is a parent and unmarried, or a person because she is pregnant and
30 unmarried.

31
32 *National origin* includes ancestry, persons not citizens and their descendants, and persons naturalized
33 and their descendants.

34
35 Order means a decision made by the commission constituting a final administrative order at the
36 completion of a public hearing pursuant to Anchorage Municipal Code section 5.70.140, or an order
37 on reconsideration pursuant to subsection 5.60.030.D. , or an order on class action pursuant to
38 subsection 5.40.180.D. under this title.

39
40 Party or parties means the complainant, respondent, intervener, amicus curiae and/or executive
41 director.

42
43 *Person* means one or more individuals, landlords, owners, lessors, managers, real estate brokers or
44 agents, real estate salespeople, labor unions, partnerships, associations, corporations, legal
45 representatives, mutual companies, joint stock companies, trusts, unincorporated organizations,
46 trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies, labor
47 organizations, joint apprenticeship committees or other legal or commercial entities, or successors to
48 any of the preceding.
49

1 *Physical or mental disability* means, with respect to an individual:

- 2
- 3 1. A physical or mental impairment that substantially limits one or more of the major
- 4 life activities of such individual;
- 5
- 6 2. A history of, or a misclassification as, having a physical or mental impairment that
- 7 substantially limits one or more major life activities; or
- 8
- 9 3. Having:
- 10
- 11 a. A physical or mental impairment that does not substantially limit a person's
- 12 major life activities but that is treated by the covered entity as constituting
- 13 such a limitation;
- 14
- 15 b. A physical or mental impairment that substantially limits a person's major life
- 16 activities only as the result of the attitudes of others towards the impairment;
- 17 or
- 18
- 19 c. None of the impairments defined in this subsection but being treated by
- 20 others as having such an impairment.
- 21

22 *Physical or mental impairment* means:

- 23
- 24 1. A physiological disorder or condition, cosmetic disfigurement or anatomical loss
- 25 affecting one or more of the following body systems: neurological, musculoskeletal, special
- 26 sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive,
- 27 genitourinary, hemic and lymphatic, skin and endocrine;
- 28
- 29 2. A mental or physiological disorder, including mental retardation, organic brain
- 30 syndrome, emotional or mental illness and specific learning disabilities.
- 31

32 *Pre-determination settlement* means a process by which staff assists the parties to resolve a

33 complaint prior to a determination on the merits of a complaint.

34

35 *Public accommodation* means any [PLACE IN OR THROUGH WHICH ANY] business or

36 professional activity [IS CONDUCTED] that is open to, accepts or solicits the patronage of, or caters

37 or offers goods or services to the general public, [THIS INCLUDES BUT IS NOT LIMITED TO A

38 PUBLIC INN, RESTAURANT, EATING HOUSE, DAY CARE CENTER, HOTEL, MOTEL,

39 SODA FOUNTAIN, SOFT DRINK PARLOR, TAVERN, NIGHTCLUB, LIQUOR

40 ESTABLISHMENT, ROADHOUSE, PLACE WHERE FOOD OR DRINK SPIRITUOUS OR

41 MALT LIQUORS ARE SOLD FOR CONSUMPTION, TRAILER PARK, RESORT,

42 CAMPGROUND, MOBILE HOME, BARBERSHOP, BEAUTY PARLOR, BATHROOM, REST

43 HOUSE, THEATER, SWIMMING POOL, SKATING RINK, GOLF COURSE, CAFE, ICE

44 CREAM PARLOR, TRANSPORTATION COMPANY AND ALL OTHER PUBLIC

45 AMUSEMENT AND BUSINESS ESTABLISHMENTS] subject only to the conditions and

46 limitations established by law and applicable alike to all persons.

47

48 *Real property* means a housing accommodation, unimproved property, vacant land offered or

49 intended for the construction or location of housing accommodations, a building or a portion of a

building, whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums and hereditaments, corporeal and incorporeal, or any interest therein, [A MOBILE HOME WHICH IS OR WILL BE USED AS SLEEPING QUARTERS OF ITS OCCUPANTS,] or a trailer park.

Reconsideration panel means the commissioners designated by the chair of the commission to review an investigative case file pursuant to subsection 5.60.030D. under this title.

Respondent means the person against whom a complaint is made and may include any entity listed in Anchorage Municipal Code section 5.20.010, definition of *Person*.

Request for essential information is served with the complaint on the respondent and commences the investigation into the allegations of the complaint.

Sex discrimination means differential or preferential treatment shown toward a person because of one's sex, pregnancy or parenthood.

Staff means those persons who assist the executive director in carrying out the provisions of Anchorage Municipal Code title 5.

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Unlawful discriminatory act or practice means an act or practice prohibited by Anchorage Municipal Code chapter 5.20.

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 96-99, § 1, 10-22-96)

5.10.001 [Definitions.]

- [A. AGGRIEVED PERSON INCLUDES ANY PERSON WHO CLAIMS TO HAVE BEEN INJURED BY A DISCRIMINATORY PRACTICE.]
- [B. AMICUS CURIAE IS LATIN FOR A FRIEND OF THE COURT. AN AMICUS CURIAE BRIEF IS USUALLY FILED BY ONE WHO HAS NO STANDING TO APPEAR IN A SUIT, BUT IS INTERESTED IN INTERVENING TO PROVIDE EVIDENCE, INFORMATION OR AUTHORITY REGARDING A MATTER BEFORE THE DECISION-MAKING AUTHORITY.]
- [C. CHAIR MEANS THE DULY ELECTED CHAIRPERSON OF THE ANCHORAGE EQUAL RIGHTS COMMISSION, OR IN THE ABSENCE OF THE CHAIR, THE VICE-CHAIRPERSON OR OTHER COMMISSIONER DESIGNATED BY THE CHAIR OR THE REMAINING MEMBERS OF THE COMMISSION.]
- [D. CLOSURE MEANS A DECISION ISSUED BY THE EXECUTIVE DIRECTOR OR HIS/HER DESIGNEE, TO "CLOSE" OR NOT PURSUE A COMPLAINT, PURSUANT TO SUBSECTIONS 5.20.007, 5.30.002(A), 5.40.004(C), SECTIONS 5.40.005, AND 5.50.003 OF THESE RULES.]
- [E. COMMISSION MEANS THE ANCHORAGE EQUAL RIGHTS COMMISSION (AERC).]
- [F. COMMISSIONER MEANS ONE OF THE MEMBERS OF THE ANCHORAGE EQUAL RIGHTS COMMISSION.]
- [G. COMPLAINANT MEANS THE PERSON WHO FILES A COMPLAINT WITH AERC,

- 1 ALLEGING DISCRIMINATION IN VIOLATION OF ANCHORAGE MUNICIPAL CODE
2 TITLE 5.]
- 3 [H. CONCILIATION MEANS A PROCESS BY WHICH STAFF ATTEMPTS TO RESOLVE
4 A COMPLAINT BY CONFERRING AND NEGOTIATING WITH THE RESPONDENT
5 AFTER A DETERMINATION OF SUBSTANTIAL EVIDENCE.]
- 6 [I. DETERMINATION MEANS A WRITTEN DECISION PREPARED BY STAFF AND
7 SIGNED BY THE EXECUTIVE DIRECTOR, WHICH IS SERVED ON THE PARTIES AT
8 THE CONCLUSION OF THE INVESTIGATION OR PROCESSING OF A COMPLAINT.]
- 9 [J. EXECUTIVE DIRECTOR MEANS THE EXECUTIVE DIRECTOR OF THE AERC OR
10 HIS/HER DESIGNEE.]
- 11 [K. HEARING MEANS AN ADMINISTRATIVE ADJUDICATION HELD PURSUANT TO
12 ANCHORAGE MUNICIPAL CODE SECTIONS 3.60.010 AND 5.30.030 ET SEQ.]
- 13 [L. HEARING EXAMINER MEANS THE PERSON APPOINTED BY THE HEARING
14 COMMISSIONERS PURSUANT TO SECTION 5.60.003 OF THESE REGULATIONS.]
- 15 [M. HEARING PANEL MEANS THE COMMISSIONERS DESIGNATED BY THE CHAIR
16 TO EITHER CONDUCT A HEARING OR TO APPOINT A HEARING EXAMINER.]
- 17 [N. MAKE WHOLE MEANS A REMEDY INTENDED TO ELIMINATE A CONTINUING
18 UNLAWFUL DISCRIMINATORY PRACTICE OR THE DISCRIMINATORY EFFECT
19 OF ANY PAST UNLAWFUL DISCRIMINATORY ACT OR PRACTICE, AND WHICH
20 WILL REASONABLY COMPENSATE THE COMPLAINANT FOR ANY LOSS
21 SUFFERED AS THE RESULT OF AN UNLAWFUL DISCRIMINATORY ACT OR
22 PRACTICE.]
- 23 [O. ORDER MEANS A DECISION MADE BY THE COMMISSION CONSTITUTING A
24 FINAL ADMINISTRATIVE ORDER AT THE COMPLETION OF A PUBLIC HEARING,
25 PURSUANT TO ANCHORAGE MUNICIPAL CODE SECTION 5.30.050.]
- 26 [P. PARTY OR PARTIES MEANS THE COMPLAINANT, RESPONDENT, INTERVENOR,
27 AMICUS CURIAE AND/OR EXECUTIVE DIRECTOR.]
- 28 [Q. RESPONDENT MEANS THE PERSON AGAINST WHOM A COMPLAINT IS MADE
29 AND MAY INCLUDE ANY ENTITY LISTED IN ANCHORAGE MUNICIPAL CODE
30 SUBSECTION 5.20.010.M [5.20.010, DEFINITION OF PERSON].]
- 31 [R. STAFF MEANS THOSE PERSONS WHO ASSIST THE EXECUTIVE DIRECTOR IN
32 CARRYING OUT THE PROVISIONS OF ANCHORAGE MUNICIPAL CODE TITLE 5.
- 33 [S. SUBSTANTIAL EVIDENCE MEANS SUCH RELEVANT EVIDENCE AS A
34 REASONABLE MIND MIGHT ACCEPT AS ADEQUATE TO SUPPORT A
35 CONCLUSION.]
- 36 [T. UNLAWFUL DISCRIMINATORY ACT OR PRACTICE MEANS AN UNLAWFUL ACT
37 OR PRACTICE SPECIFIED IN ANCHORAGE MUNICIPAL CODE CHAPTER 5.20.]
- 38

39 **Section 3.** Anchorage Municipal Code sections 5.20.020 through 5.20.050 are hereby amended to read
40 as follows:

41

42 **5.20.020 Unlawful practices in sale or rental of real property.**

43

- 44 **A.** [EXCEPT IN THE INDIVIDUAL HOME WHEREIN THE RENTER OR LESSEE
45 WOULD SHARE COMMON LIVING AREAS WITH THE OWNER, LESSOR,
46 MANAGER, AGENT OR OTHER PERSON, I]It is unlawful for the owner, lessor, manager,
47 agent, brokerage service, or other person having the right to sell, lease, rent or advertise real
48 property to:
- 49

1. Refuse to sell, lease or rent, or to otherwise make unavailable, the real property to a person because of race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY.]
2. Discriminate against a person because of race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] in a term, condition or privilege relating to the use, sale, lease or rental of real property.
3. Make a written or oral inquiry or record of the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of a person seeking to buy, lease or rent real property.
- 4.[D.] Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].
- 5.[E.] Represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is available, or refuse a person the right to inspect real property, because of the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of that person or because of any person associated with that person.
- 6.[F.] Engage in blockbusting for profit.
- 7.[G.] Circulate, issue or display, make, print or publish, or cause to be made or displayed, printed or published, any communication, sign, notice, statement or advertisement with respect to the use, sale, lease or rental of real property that indicates any preference, limitation, specification or discrimination based on race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY. THIS SHALL NOT BE CONSTRUED TO APPLY TO PUBLISHING COMPANIES WHICH ACCEPT ADVERTISING IN THE ORDINARY COURSE OF BUSINESS.]
8. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, or a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person.

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

a. A refusal to permit, at the expense of a disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or

b. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

B. Notwithstanding the provisions of this section, this section does not apply where the renter or lessee shares common living areas in an individually or privately owned home or dwelling unit with the owner, lessor, manager, agent or other person and the owner, lessor, manager, agent actually occupies the home or dwelling unit as a resident.

(CAC 8.36.090; AO No. 93-149, § 2, 10-15-93)

5.20.030 Unlawful financing practices.

A. It is unlawful for an insurance company, a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, or upon receiving an application for insurance, to permit one of its officials or employees during the execution of his or her duties to:

1.[A.] Discriminate against the applicant because of race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance, insurance or credit[, EXCEPT TO THE EXTENT OF A FEDERAL OR STATE STATUTE OR REGULATION APPLICABLE TO A TRANSACTION OF THE SAME CHARACTER].

2.[B.] Make or cause to be made a written or oral inquiry or record of the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of a person seeking the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.

3.[C.] Refuse to extend credit, issue a credit card, insure or make a loan to a single,

divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person.

4.[D.] Refuse to insure or to issue a credit card to a married person in that person's name, if so requested by the person, provided, however, that the person so requesting a card may be required to open an account in that name if so requested by that person.

5. Notwithstanding the provisions of this section, any practice permitted by federal or state law applicable to financial or credit transactions of the same character as those covered by this section does not constitute discrimination under this section.

6. This section does not prohibit an institution described in subsection 1. of this section from refusing to contract with a person if the person lacks the legal capacity to contract or if the institution is reasonably in doubt about the person's legal capacity to contract.

(CAC 8.38.020; AO No. 93-149, § 2, 10-15-93)

5.20.040 Unlawful employment practices.

A. It is unlawful for:

1.[A.] An employer to refuse employment to a person, or to bar him or her from employment, or to discriminate against him or her in compensation, or in a term, condition or privilege of employment or to discharge, expel, reduce, suspend or demote him or her because of [HIS] race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] unless the reason for the discrimination is a bona fide occupational qualification.

2.[B.] A labor organization to exclude or to expel a person from its membership or to discriminate against one of its members or an employer or employee because of [A PERSON'S] race, color, sex, religion, national origin, marital status, age, or physical or mental disability [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY][TO EXCLUDE OR TO EXPEL HIM FROM ITS MEMBERSHIP OR TO DISCRIMINATE AGAINST ONE OF ITS MEMBERS OR AN EMPLOYER OR EMPLOYEE].

3.[C.] A person, employer or employment agency to broadcast, publish, print, circulate or cause to be broadcasted, published, printed or circulated a statement or advertisement in connection with prospective employment, or to use a form of application for employment [WHICH] that expresses, directly or indirectly, a limitation, specification, preference or discrimination as to race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].

4.[D.] A person to discriminate in the payment of wages as between sexes, or to employ a person of one sex in an occupation at a salary or wage rate less than that paid to a person of another sex for work of comparable character or work in the same operation, business or type of work in the same locality.

5.[E.] An employer, labor organization or employment agency to discharge, expel, retaliate or to otherwise discriminate against a person because the person has opposed any practice forbidden under sections 5.20.010 through 5.20.070, or because he or she has filed a complaint, testified or assisted in a proceeding under this title.

(CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149, § 2, 10-15-93)

5.20.050 Unlawful practices in places of public accommodation.

A. It is unlawful for a person, whether the owner, operator, [or] agent or employee of an owner or operator of a public accommodation, to:

1.[A.] Refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].

2.[B.] Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that:

a.[1.] Any of the services, goods, facilities, benefits, accommodations, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY]; or

b.[2.] The patronage or presence of a person belonging to a particular race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] is unwelcome, not desired, not solicited, objectionable or unacceptable.

3.[C.] Make a written or oral inquiry concerning the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of an individual in connection with the solicitation, reservation, booking, sale or dispensing of its [any] accommodations, advantages, facilities[y], benefits, privileges, services or goods.

(CAC 8.40.020; AO No. 93-149, § 2, 10-15-93)

Section 4. Anchorage Municipal Code section 5.20.060 is amended to read as follows. Anchorage

Municipal Code chapter 5.20 is hereby amended by amending section 5.20.090 to read as follows:

5.20.060 Unlawful practices in educational institutions.

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

1. Refuse to admit or otherwise to discriminate against an individual with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution on account of race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].
2. Make or use a written or oral inquiry or form of application for admission that elicits information concerning the race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of an applicant for admission.
3. Require or cause to be required that a photograph of an applicant for admission be submitted with an application for admission.
4. Publish, circulate or display, or cause to be published, circulated or displayed, a written, printed, oral or visual communication, advertisement or catalog or any other form of publicity relating to admission that expresses or indicates a preference, limitation, specification or discrimination on account of the race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of an applicant for admission.
5. Establish, announce or follow a policy of denial or limitation of education opportunities for members of a group on account of race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].
6. Use in the recruitment of potential applicants for admission, a service or agency that discriminates against individuals on account of race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].

[B. DISCRIMINATION IS LAWFUL FOR A RELIGIOUS OR DENOMINATIONAL INSTITUTION OR ORGANIZATION OR AN ORGANIZATION OPERATED FOR CHARITABLE OR EDUCATIONAL PURPOSES WHICH IS OPERATED, SUPERVISED OR CONTROLLED BY OR IN CONNECTION WITH A RELIGIOUS OR DENOMINATIONAL INSTITUTION OR ORGANIZATION, LIMITING ADMISSION TO, OR GIVING PREFERENCE IN, ITS ACCOMMODATIONS, ADVANTAGES,

FACILITIES, BENEFITS, OR SERVICES TO PERSONS OF THE SAME RELIGION OR DENOMINATION, OR FOR MAKING A SELECTION OF APPLICANTS OR INDIVIDUALS THAT IS REASONABLY CALCULATED TO PROMOTE THE RELIGIOUS PRINCIPLES FOR WHICH IT IS ESTABLISHED OR MAINTAINED. SUCH ORGANIZATIONS OTHERWISE REMAIN SUBJECT TO THE PROVISIONS IN THIS TITLE WITH REGARD TO RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY.]

(CAC 8.40.030; AO No. 93-149, § 2, 10-15-93)

5.20.090 Religious exemptions. [(REPEALED)]

It shall be lawful for a bona fide religious or denominational institution, organization, corporation, association, educational institution, or society, to limit, select or give preferential treatment in employment, admissions, accommodations, advantages, facilities, benefits, or services, to persons of the same religion or denomination, that is reasonably calculated to promote the religious principles for which it is established or maintained. Such organizations otherwise remain subject to the other provisions in this title with regard to race, color, sex, religion, national origin, marital status, age, or physical or mental disability.

(AO No. 92-116(S); AO No. 93-99)

Section 5. Anchorage Municipal Code section 5.20.070 is hereby amended to read as follows:

5.20.070 Unlawful practices by municipality.

A. It is unlawful for the municipality or any public agency of the municipality [THEREOF, INCLUDING THE ANCHORAGE TELEPHONE UTILITY,] to:

1.[A.] Refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY].

2.[B.] Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY], or that the patronage of a person belonging to a particular race, color, sex, religion, national origin, marital status, age, or physical or mental disability [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] is unwelcome, not desired or not solicited.

(AO No. 91-173(S); AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93)

Section 6. Anchorage Municipal Code section 5.30.060 is hereby renumbered as 5.20.075 and amended to read as follows:

5.20.075[060] Retaliation, opposition, coercion, aiding, abetting and inciting.

It shall be unlawful for a person to discharge, expel, evict, retaliate or to otherwise discriminate against a person because he or [/]she has filed a complaint, testified, assisted in a proceeding under this title or because the person has opposed any practice forbidden under this title. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this title or to attempt to do so.

(AO No. 96-99, § 4, 10-22-96)

Section 7. Anchorage Municipal Code section 5.20.080 is hereby amended to read as follows:

5.20.080 Lawful practices.

Notwithstanding any provision of this chapter, it shall not be unlawful for a person in connection with the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the municipality [EMPLOYMENT, HOUSING, FINANCING OR INSURANCE, PUBLIC ACCOMMODATION, EDUCATION OR GOVERNMENTAL SERVICE] to make or keep records identifying race, color, sex, religion, national origin, marital status, age, or physical or mental disability. [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] if the purpose of the record is to comply with federal or state equal opportunity laws or regulations or in furtherance of a program designed to ensure compliance with this title.

(AO No. 93-149, § 2, 10-15-93)

Section 8. Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.30, *General provisions*. Anchorage Municipal Code of Regulations sections 5.10.002 through 5.10.005 are hereby moved into Anchorage Municipal Code, Chapter 5.30, renumbered and amended to read as follows:

Chapter 5.30 General provisions.

5.30.010[5.10.002] Record of inquiry.

(AR No. 92-223(S))

5.30.020[5.10.003] Staff assistance to inquirer.

A. Staff shall:

1. Counsel a potential complainant regarding the filing of a complaint if the facts and circumstances related allege a violation of Anchorage Municipal Code title 5;
2. Assist complainants in the preparation and filing of a complaint with the

commission;

3. Advise complainants^{and respondents}~~of their rights~~ and responsibilities under title 5 of the Anchorage Municipal Code~~[and these administrative rules of procedure];~~
4. Provide appropriate referral information; and
5. Furnish free notary service for matters relating to commission business.

(AR No. 92-223(S))

5.30.030[5.10.004] Correspondence.

Correspondence regarding potential or pending complaints shall be addressed to the executive director or his [/] or her designated staff member. Correspondence to commissioners shall be sent in care of the executive director when the correspondence regards potential or pending complaints.

(AR No. 92-223(S))

5.30.040[5.10.005] Service.

- A. [A PARTY SHALL FILE THE ORIGINAL OF ANY PLEADING WITH THE EXECUTIVE DIRECTOR.]
- [B. A PARTY SHALL PROMPTLY SERVE UPON ALL OTHER PARTIES A COPY OF ANY PLEADING.] The commission staff shall serve documents [Service] upon a party represented by an attorney [MAY BE MADE] by mailing the documents [pleading] to the attorney by first class mail.
- B.[C.] Service shall be made upon a party either by mailing or delivering a copy to his [/] or her last known address. Delivery of a copy means handing it to the party or leaving it at a party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or leaving it at the party's dwelling or usual place of abode. Service of the complaint shall be made as specified in section 5.40.030 under this title.
- C.[D.] Whenever a party has a right or is required to do some act within a prescribed period after the service of a notice or other document [pleading] upon him [/] or her and the notice or document [pleading] is served by mail, three days shall be added to the prescribed period.

(AR No. 92-223(S))

Section 9. Anchorage Municipal Code of Regulations sections 5.10.006 through 5.10.007 are hereby moved into the Anchorage Municipal Code, renumbered and amended to read as follows:

5.30.050[5.10.006] [NOTICE] Entry of appearance.

An attorney must give notice that he or [/]she represents a party by filing an answer or by filing an entry [NOTICE] of appearance. Once notice of appointment of [THE] a hearing panel or hearing examiner has been issued, an attorney may withdraw only with the consent of the hearing panel or

hearing examiner.

(AR No. 92-223(S))

5.30.060[5.10.007] Support person.

A. If a party chooses, he or [/] she may be accompanied by [INVOLVE] a support person on his or [/] her behalf, and the following guidelines shall be applied:

1.[A.] The party may confer with and be assisted by a support person.

2.[B.] The support person shall execute an agreement to maintain confidentiality.

3. The support person may not act, speak or negotiate on behalf of the party.

4.[C.] The support person may not engage in the unauthorized practice of law in violation of AS 8.08.250.

Section 10. Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.40, *Complaint and answer*. Anchorage Municipal Code section 5.30.010 is hereby renumbered and amended by adding provisions, from Anchorage Municipal Code of Regulations 5.20.001 through 5.20.003 and deleting those sections, amending all to read as follows:

Chapter 5.40 Complaint and answer.

5.40.010[5.30.010] Complaints.

A. A person who believes he or she is aggrieved or injured by any discriminatory act or practice [conduct] prohibited by this title may file a verified written complaint with the equal rights commission within [120] 180 days from the date of the alleged discriminatory act or practice [conduct], stating the name and address of the person alleged to have engaged in the discriminatory act or practice [conduct], and a short plain statement of each alleged unlawful discriminatory act or practice[THE PARTICULARS OF THE ACT].

B. Consistent with subsection A., the executive director may also file a verified written complaint on behalf of a person or persons aggrieved by an alleged discriminatory act or practice within 180 days from the date of the alleged discriminatory act or practice or within 60 days after the alleged discriminatory act or practice comes to the executive director's attention, whichever is later, including an identification of the person or persons affected by the alleged unlawful practice which is sufficient to enable staff to investigate the complaint.

C. If the alleged act or practice is of a continuing nature, the date of its occurrence shall be considered to be any date after the commencement of the practice up to and including the last date on which the practice ~~ceased~~ occurred.

(CAC 8.36.020); (AR No. 92-223(S))

5.20.001 [Filing date of complaint.]

- [A. AN INDIVIDUAL COMPLAINT SHALL BE FILED WITHIN 120 DAYS AFTER THE ALLEGED DISCRIMINATORY ACT OR PRACTICE OCCURRED. A COMPLAINT BY THE EXECUTIVE DIRECTOR SHALL BE FILED WITHIN 120 DAYS AFTER THE ALLEGED DISCRIMINATORY ACT OR PRACTICE OCCURRED OR WITHIN 60 DAYS AFTER THE ALLEGED DISCRIMINATORY ACT OR PRACTICE COMES TO THE EXECUTIVE DIRECTOR'S ATTENTION, WHICHEVER IS LATER, IN ACCORDANCE WITH ANCHORAGE MUNICIPAL CODE SECTION 5.30.010.]
- [B. IF THE ALLEGED ACT OR PRACTICE IS OF A CONTINUING NATURE, THE DATE OF ITS OCCURRENCE SHALL BE CONSIDERED TO BE ANY DATE SUBSEQUENT TO THE COMMENCEMENT OF THE PRACTICE UP TO AND INCLUDING THE DATE ON WHICH THE PRACTICE CEASED.]
- [C. A TOLLING AGREEMENT ENTERED INTO BETWEEN THE PARTIES, THE PURPOSE OF WHICH IS TO TOLL THE RUNNING OF THE 120-DAY PERIOD FROM THE DATE THE ALLEGED DISCRIMINATORY ACT OR PRACTICE OCCURRED, WILL NOT BE RECOGNIZED BY THE COMMISSION TO EFFECTIVELY TOLL THE RUNNING OF THE LIMITATIONS PERIOD. THE COMMISSION WILL RECOGNIZE AN AGREEMENT ENTERED INTO BETWEEN THE PARTIES WHICH POSTPONES THE COMMISSION'S PROCEEDING WITH THE INVESTIGATION OF A FILED COMPLAINT. SUCH AN AGREEMENT MUST STATE WHEN THE INVESTIGATION PROCESS IS TO BEGIN; CONTAIN NOTARIZED SIGNATURES OF ALL PARTIES; AND BE PROVIDED TO THE EXECUTIVE DIRECTOR.]

(AR No. 92-223(S))

5.20.002 [Complaint by an individual.]

[ANY PERSON AGGRIEVED BY AN ALLEGED UNLAWFUL DISCRIMINATORY ACT OR PRACTICE MAY FILE A NOTARIZED WRITTEN COMPLAINT WITH THE COMMISSION.]

(AR No. 92-223(S))

5.20.003 [Complaint by the executive director.]

- [A. THE EXECUTIVE DIRECTOR MAY FILE A COMPLAINT ON BEHALF OF A PERSON OR PERSONS AGGRIEVED BY AN ALLEGED DISCRIMINATORY ACT OR PRACTICE WHEN THE ALLEGED DISCRIMINATORY PRACTICE COMES TO HIS/HER ATTENTION. IN SUCH CASE, THE EXECUTIVE DIRECTOR SHALL BE A PARTY TO THE ACTION AND THE AGGRIEVED PERSON SHALL NOT BE A PARTY UNLESS HE/SHE SUBSEQUENTLY JOINS THE ACTION.]
- [B. A COMPLAINT FILED BY THE EXECUTIVE DIRECTOR SHALL CONTAIN:
1. THE INFORMATION REQUIRED IN SECTION 5.20.004 OF THESE REGULATIONS; AND
 2. AN IDENTIFICATION OF THE PERSON AFFECTED BY THE ALLEGED

UNLAWFUL PRACTICE WHICH IS SUFFICIENT TO ENABLE STAFF TO
INVESTIGATE THE COMPLAINT.]

(AR No. 92-223(S))

Section 11. Anchorage Municipal Code of Regulations sections 5.20.004 through 5.20.005 are hereby moved into the Anchorage Municipal Code, renumbered and amended to read as follows:

5.40.020[5.20.004] Contents of the complaint.

A. The complaint shall contain:

1.[A.] The complainant's full name, address and telephone number;

2.[B.] The respondent's full name, address and telephone number;

3.[C.] A statement of the section(s) of Title 5 of the Anchorage Municipal Code allegedly violated;

4.[D.] A short and plain statement of each alleged unlawful discriminatory act or practice;

5.[E.] The date or dates the alleged discriminatory practice occurred. If the discriminatory practice charged is of a continuing nature, the date of the practice shall be any date from the date it is alleged to have begun until the date the complaint is signed, and unless otherwise indicated, to and beyond the date the complaint is signed;

6.[F.] The location where the alleged discrimination took place, or is taking place; and

7.[G.] A statement of the alleged harm the complainant has experienced or is experiencing.

(AR No. 92-223(S))

5.40.030[5.20.005] Service of the complaint.

The executive director shall serve a copy of a complaint or an amended complaint upon a respondent by personal service or by certified mail return receipt requested within 10[15] days after the filing of the complaint. The complainant will also be provided a copy of the complaint, which may be served by regular mail.

Section 12. Anchorage Municipal Code is amended by adding a new section 5.40.040, Answer, to read as follows:

5.40.040 Answer.

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

B. The answer shall include:

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

C. The Respondent may direct a written request for an extension of time to file its answer to the executive director or his or her designee prior to unsuccessful conciliation, After unsuccessful conciliation, Respondent may direct a written request for an extension of time to file an answer to the hearing panel or hearing examiner.

(AR No. 92-223(S))

Section 13. Anchorage Municipal Code of Regulations sections 5.20.006 through 5.20.009 are hereby moved into the Anchorage Municipal Code, renumbered and amended to read as follows:

5.40.050[5.20.006] Amendments to complaint and answer.

A. Complaints may be reasonably and fairly amended at any time. [A COMPLAINT MAY BE AMENDED ONCE AS A MATTER OF RIGHT ANY TIME BEFORE THE NOTICE OF HEARING IS SERVED UPON THE RESPONDENT PURSUANT TO SECTION 5.60.002 [5.60.001] OF THESE REGULATIONS, AND THEREAFTER ONLY BY LEAVE OF THE HEARING PANEL OR HEARING EXAMINER.] All amendments shall be in writing and shall be served within 10[15] days [up]on the respondent in the manner specified for complaints.

B.[C.] Whenever the claim asserted in the amended complaint arises from the same facts as the original complaint, the amendment relates back to the date of the original complaint. In all other cases the timeliness of an amendment shall be calculated pursuant to Anchorage Municipal Code section 5.40.010 of this title [section 5.20.001 of these regulations] as if it were a new complaint.

C.[B.] Respondent must file its answer to the amended complaint within the time remaining to respond to the original complaint or within ten days after service of the amended complaint, whichever period is longer. [RESPONDENT MAY MOVE THE HEARING PANEL OR HEARING EXAMINER FOR AN ORDER GRANTING AN ENLARGEMENT OF TIME IN WHICH TO FILE ITS ANSWER TO AN AMENDED COMPLAINT.]

D. The respondent shall have the right to reasonably and fairly amend the answer. The amendment shall be in writing.

(AR No. 92-223(S))

5.40.060[5.20.007] Withdrawn complaint.

- A. A complainant may request to withdraw a complaint [AS A MATTER OF RIGHT] by filing a written request with the executive director at any time prior to the issuance of the determination [COMMENCEMENT OF THE HEARING].
- B. The executive director shall prepare and serve on all parties a closure or notice of dismissal when a complaint has been withdrawn [AS A MATTER OF RIGHT].
- C. After the commencement of the public hearing, a complaint may only be withdrawn with the approval of the hearing panel or hearing examiner.
- D. The executive director may substitute himself or [/] herself for a complainant by giving written notice to that effect within 15 days after a withdrawal has been granted pursuant to subsection 5.40.080B. [5.20.007.A] of these regulations. The substitution relates back to the date of the original complaint.
- [E. A COMPLAINANT MAY REQUEST THAT A COMPLAINT PREVIOUSLY WITHDRAWN BE REOPENED BY SUBMITTING A WRITTEN REQUEST WITHIN 30 DAYS OF RECEIPT OF THE CLOSURE NOTICE STATING SPECIFICALLY THE REASONS WHY THE COMPLAINT SHOULD BE REOPENED IN ACCORDANCE WITH AMCR SECTION 5.70.004.]

(AR No. 92-223(S); AR No. 96-174, § 2, 10-22-96)

5.40.070[5.20.008] Class action complaint at public hearing.

- A. A class action is an action brought on behalf of other persons similarly situated. [A CLASS ACTION MAY BE BROUGHT BY A REPRESENTATIVE COMPLAINANT WHO MAY ASSERT A CLAIM FOR THE CLASS IF HE/SHE HAS BEEN INJURED IN THE SAME WAY AS ALL MEMBERS OF THE CLASS.]

A class action complaint may be filed by any person or the executive director if:

- 1.[A.] The class is so numerous that joinder of all members is impractical;
- 2.[B.] There are questions of law or fact common to the class;
- 3.[C.] The claims of the representative party are typical of the claims of the class;
- 4.[D.] The representative party is able to fairly and adequately protect the interests of the class; and
- 5.[E.] The complaint is sufficiently specific to allow staff to determine the nature of the class.

(AR No. 92-223(S))

5.40.080[5.20.009] Procedure for class action complaint.

[THE PROCEDURE FOR A CLASS ACTION COMPLAINT IS AS FOLLOWS AND IS IN ADDITION TO ALL OTHER PROCEDURES NOT INCONSISTENT WITH THE FOLLOWING:]

- 1
2 A. As soon as practical after the commencement of an action brought as a class action, the
3 commission chair shall [APPOINT A HEARING PANEL OF THREE COMMISSIONERS
4 WHO SHALL] determine, by order, whether the complaint shall [IT IS TO] be [SO]
5 maintained and certified as a class action.
6
7 B. A respondent who believes that the requirements of section 5.40.070 of this title [5.20.004
8 OF THESE REGULATIONS] have not been met may, within 15 days of the commission
9 chair's order [RECEIPT OF THE COMPLAINT], move to dismiss the action or for
10 consideration of the complaint as an individual complaint.
11
12 C. If a motion is filed pursuant to subsection 5.40.080.B. of this title [5.20.009.B OF THESE
13 REGULATIONS], the hearing panel shall hear the motion and issue an order
14 [DETERMINATION] as to whether the complaint shall be certified as a class action [OR
15 NOT A CLASS ACTION LIES].
16
17 D. If the hearing panel does not certify the class [DETERMINES THAT A CLASS ACTION
18 WILL NOT LIE], within 15 days of its order [THE DETERMINATION], the representative
19 party may file a motion with the commission requesting review of the hearing panel's order
20 [DETERMINATION]. The commission may, [EITHER AFFIRM THE HEARING PANEL'S
21 DETERMINATION OR DETERMINE THAT A CLASS ACTION LIES.]
22
23 1. Order that the hearing panel's order not to certify the class is affirmed; or
24
25 2. Order that the complaint shall be certified as a class action.
26
27 E. Upon certification of a class action, notice of the class action shall be given to the class
28 members:
29
30 1. Within 30 days after issuance of an order [DETERMINATION] pursuant to
31 subsection A. [5.20.009.A of these regulations], if no motion is filed pursuant to
32 subsection B. [5.20.009.B of these regulations]; or
33
34 2. Within 15 days after the issuance of an order [DETERMINATION] pursuant to
35 subsection D. [5.20.009.D of these regulations] that a class action lies.
36
37 *** *** ***
38
39 G. Any class member who cannot be notified through ordinary and reasonable methods, or who,
40 within 30 days of notification, fails to exercise his or [/] her option to join the action, shall be
41 deemed to have dropped out of the class.
42
43 *** *** ***
44
45 [I. THE COMPLAINT SHALL BE INVESTIGATED PURSUANT TO SECTIONS 5.30.001,
46 5.40.001 THROUGH 5.40.004, AND 5.40.008 OF THESE REGULATIONS.]
47
48 L.[J.] No settlement shall become final until it has been approved by the commission.
49

J.[K.] If the executive director determines that the complaint is supported by substantial evidence, the executive director shall promptly notify the parties and the chair of such determination.

K.[L.] As used in this section, "notice" means the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.

L. The preceding procedures for a class action complaint are in addition to all other procedures in this title that are not inconsistent with this section.

(AR No. 92-223(S))

Section 14. Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.50, *Impartial investigation*. Anchorage Municipal Code section 5.30.020 is hereby renumbered and amended to read as follows:

Chapter 5.50 Impartial investigation.

5.50.010[5.30.020] Investigative overview [INVESTIGATION AND CONCILIATION].

The commission shall investigate promptly and impartially the matters set out in the filed complaint. If it determines the allegations are supported by substantial evidence, it shall immediately attempt to eliminate the alleged discriminatory act or practice by conference, persuasion and conciliation. If the commission determines the allegations are not supported by substantial evidence, the complaint shall be closed or dismissed. The commission shall in any event issue its determination [MAKE FINDINGS OF FACT] within 240 days after the filing of the complaint.

(CAC 8.36.040; AO No. 96-99, § 2, 10-22-96)

Section 15. Anchorage Municipal Code of Regulations sections 5.30.001 through 5.30.003, 5.40.001 through 5.40.003, and 5.40.008 are hereby moved into the Anchorage Municipal Code, renumbered, and amended to read as follows:

5.50.020[5.30.001] Fact finding procedures.

A. After a complaint has been filed, staff shall convene a fact[-]_finding conference with the parties to define issues, receive and exchange information relevant to the complaint and response, if any, and negotiate a voluntary resolution of the complaint, if possible, through a pre-determination settlement agreement.

B. Staff shall provide the following information and instructions to the parties, in writing, at least 21 days prior to the fact finding conference:

C. Each allegation of the complaint and response, if any, shall be closely examined and fully discussed. Each party shall be allowed a reasonable[AMPLE] time to present evidence in support of his or [/] her position. Each party may bring a reasonable number of witnesses. Staff may limit the number of persons in attendance.

- F. Exhibits and documents received at a fact[-] finding conference may be used as evidence in making a determination pursuant to [AMCR] section 5.60.010 of this title[5.40.004 AND THE CONFIDENTIALITY REQUIREMENTS MANDATED BY AMCR SECTION 5.70.003].
- G. Statements made by a party during a fact[-] finding conference may be used as evidence in making a determination and may be used as evidence at the hearing held pursuant to [AMCR] sections 5.70.010 through 5.70.160 of this title [5.60.001 THROUGH 5.60.014 AND 5.70.003 OF THESE REGULATIONS]. Neither the executive director nor staff may disclose or use as evidence offers or counteroffers of settlement made during a fact[-] finding conference, or use such offers or counteroffers as evidence in making a determination.
- H. If, at the conclusion of the fact[-] finding conference, additional information is required from either party, staff and the parties shall determine the specific time frame and method required for submission of that additional information.
- I. A pre-determination settlement agreement must be approved by the executive director or his or her designee.

(AR No. 92-223(S); AR No. 96-174, § 3, 10-22-96)

5.50.030[5.30.002] Effect of failure to furnish responses to requests for essential information or produce witnesses or attend fact finding conference.

- A. The executive director may dismiss a complaint if the complainant fails to attend the fact[-] finding conference or to furnish the information requested in subsection 5.50.020B.2. of this title[5.30.001.B.2 OF THESE REGULATIONS], without good cause, or if the executive director has determined that the complainant has unreasonably obstructed the fact finding conference.
- B. If the respondent fails to timely furnish the information requested in subsection 5.50.020B.2. of this title[5.30.001.B.2 OF THESE REGULATIONS], or if the respondent fails to provide responses to a request for essential information or interrogatories, or fails to attend the fact finding conference without good cause or unreasonably obstructs the fact finding conference, this conduct may be treated as an admission of the allegations in the complaint for purposes of the substantial evidence determination only.

(AR No. 92-223(S); AR No. 96-174, § 4, 10-22-96)

5.50.040[5.30.003] Waiver by executive director.

- A. The executive director may waive the fact finding conference by providing written notice to the parties:
1. Upon receipt of a written request to waive the fact finding conference from either party explaining or stating the reasons for the request; or

2. If a fact_finding conference is unlikely to significantly aid in the investigation and resolution of a complaint.

(AR No. 92-223(S))

5.50.050[5.40.001] Impartial investigation.

5.50.060[5.40.008] General investigations.

- B. In the course of a general investigation, the executive director may require the submission of information by an individual, group, corporation, business, industry, agency or organization being investigated, concerning the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, [RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL OR MENTAL DISABILITY] of any employee or other person and all other information relevant to the investigation.

(AR No. 92-223(S); AR No. 93-266, § 1, 10-15-93)

5.50.070[5.40.002] Discovery.

- F. The executive director shall submit a party's objections, along with staff's written response, to the chair of the commission, who shall either sustain the objection or order that the interrogatory or request for production be answered within 15 days after receipt of the chair's order by the objecting party.

- G. In the event that a party fails to respond fully or object to an interrogatory or request for production or to obtain an extension of time within 30 days after being served, the executive director shall file[,] with the chair, a motion to compel production and/or response.

- H. The chair may, at any time, either upon his or [/] her own motion, or upon written request and good cause shown by a party, authorize depositions of any person residing within or outside the state. Any party may take testimony by deposition after a determination of conciliation failure issued pursuant to section 5.60.050 of this title [5.50.002 OF THESE REGULATIONS], provided that such party bears all costs of the deposition. Depositions shall be taken before a certified court reporter, and the proceedings shall be recorded by tape recorder or similar device.

- I. The commission may require or permit any other form of discovery authorized by the Alaska Rules of Civil Procedure, subject to such terms and conditions as it deems reasonable.

(AR No. 92-223(S))

5.50.080[5.40.003] Subpoena.

A. Before issuance of a determination of conciliation failure,

1. T[t]he executive director may issue a subpoena upon his or [/] her own motion or upon written request and good cause shown by a party, whenever necessary to compel the attendance and testimony of witnesses at interviews, conferences, hearings or depositions. Before issuance of a determination of conciliation failure, the executive director may issue a subpoena duces tecum whenever necessary to compel the production of books, records, papers, payroll or personnel records, correspondence, documents or any other evidence relating to any matter under investigation before the commission.

2.[B.] Within five days after the service on a person of a subpoena requiring the production of any evidence in his or [/] her possession or under his or [/] her control, that person may file a motion requesting the commission chair to revoke the subpoena. The commission chair shall revoke the subpoena if it finds the evidence required to be produced does not relate to any matter under investigation, or the subpoena does not describe with sufficient particularity the evidence required to be produced.

B. After issuance of a determination of conciliation failure,

1. T[t]he hearing panel or hearing examiner may issue a subpoena upon written request and good cause shown by a party, whenever necessary to compel the attendance and testimony of witnesses at interviews, conferences, hearings or depositions, or may issue a subpoena duces tecum whenever necessary to compel the production of books, records, papers, payroll or personnel records, correspondence, documents or any other evidence relating to any matter under investigation before the commission [ANY OF THE ABOVE TO ANY PERSON AT THE REQUEST OF A PARTY].

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

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

D.[C.] In the event that a person issued a subpoena does not respond, the executive director or the chair shall proceed with the civil remedy set forth in Anchorage Municipal Code section 5.80.010 [5.30.040], or 5.30.080B., by seeking an appropriate order from the court [FILING A PETITION SEEKING TEMPORARY OR PERMANENT INJUNCTIVE RELIEF].

(AR No. 92-223(S))

Section 16. Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.60, *Completion of investigation*. Anchorage Municipal Code of Regulations sections 5.40.004 through 5.40.007, and 5.50.001 through 5.50.003 are hereby moved into the Anchorage Municipal Code renumbered, and amended to read as follows:

Chapter 5.60 Completion of investigation.

5.60.010[5.40.004] Determination.

- A. At the conclusion of the investigation, the staff shall conduct exit interviews and prepare a determination [FINAL REPORT OF ALL EVIDENCE GATHERED TO DATE AND PREPARE A PROPOSED RECOMMENDATION] that a complaint is or is not supported by substantial evidence.
- [B. THE FINAL REPORT AND THE PROPOSED RECOMMENDATION SHALL IMMEDIATELY BE SERVED UPON THE PARTIES.]
- [C. THE PARTIES SHALL HAVE 20 DAYS TO RESPOND TO THE FINAL REPORT AND THE PROPOSED RECOMMENDATION. THE RESPONSE SHALL BE IN WRITING AND WITH SPECIFICITY IDENTIFY ANY ADDITIONAL EVIDENCE TO BE CONSIDERED BY STAFF PRIOR TO SUBMITTING A RECOMMENDATION TO THE EXECUTIVE DIRECTOR. THE RESPONSE SHALL BE SERVED UPON ALL PARTIES.]
- [D. BASED UPON THE EVIDENCE GATHERED IN THE INVESTIGATION, AND THE RESPONSES TO THE STAFF'S FINAL REPORT, IF ANY, THE STAFF MAY, IN ITS DISCRETION, SCHEDULE ADDITIONAL FACT-FINDING. AFTER EXPIRATION OF THE TIME FOR THE PARTIES TO RESPOND, AND ANY ADDITIONAL FACT-FINDING, THE STAFF SHALL RECOMMEND TO THE EXECUTIVE DIRECTOR THAT HE/SHE MAKE A DETERMINATION THAT THE COMPLAINT IS OR IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.]
- B.[E.] In making a determination, the executive director may consider analogous guidelines and precedents of the f[F]ederal Equal Employment Opportunity Commission, the Department of Housing and Urban Development, and state and local enforcement agencies, as well as applicable federal and state judicial precedent.
- C.[F.] If the executive director determines that a complaint is not supported by substantial evidence, he or [/] she shall promptly serve [DELIVER] a written determination and closure on[to] the parties. The closure shall contain a brief statement of the reconsideration process.
- D.[G.] If the executive director determines that a complaint is supported by substantial evidence, he[/or she shall promptly [deliver] serve a written determination on[to] the parties.

(AR No. 92-223(S); AR No. 96-174, § 5, 10-22-96)

5.60.020[5.40.005] Administrative [DISMISSAL] closure.

- A. The executive director may administratively [dismiss] close a complaint in the following

instances:

- 1.[A.] If the complainant has failed to attend or cooperate in the fact finding conference, as provided in subsection 5.50.020A. of this title [5.30.002.A OF THESE REGULATIONS];
- 2.[B.] If the complainant has otherwise failed to cooperate in the investigation of the complaint;
- 3.[C.] If the whereabouts of the complainant are unknown and have remained unknown for at least 30 days despite reasonable efforts to locate the complainant;
- 4.[D.] 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.[E.] 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.[F.] If the complaint is [VOLUNTARILY] settled by the parties;
- 7.[G.] If the complainant makes a request to withdraw the complaint which is approved pursuant to section 5.40.060 of this title [5.20.007 of these regulations];
- 8.[H.] 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.

(AR No. 92-223(S))

5.60.030[5.40.006] Reconsideration.

- A. When a complaint has been closed pursuant to [AMCR] sections 5.60.010C. or 5.60.020A.1.-5. of this title[5.40.004(F), OR 5.50.003 OF THESE REGULATIONS], 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. If there is no documentation that the request for reconsideration was served on the respondent, the commission staff shall serve a copy on the respondent.
- B.[A] An application for reconsideration must include a statement of the facts alleged to be erroneous or of the law alleged to be incorrectly applied and be filed within 15 days after service of the closure.
- C.[B.] The complainant may request an extension of time in which to apply for reconsideration. The request must be filed with the chair of the commission within 15 days after service of the

closure. The chair shall grant or deny the request within five days after it is received. Complainant will then be notified, in writing, if the request for an extension of time to apply for reconsideration is granted or denied.

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

E.[D.] If the request for reconsideration is granted, the matter shall be remanded to the executive director with directions for further action.

E.[E.] If the request for reconsideration is denied, an order shall be issued sustaining the dismissal.

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

(AR No. 92-223(S); AR No. 96-174, § 6, 10-22-96)

5.60.040[5.50.001] 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. 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[5.40.004.G 3 of these regulations].
- 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 [which] that is reasonably calculated to make the complainant whole and to eliminate the discriminatory practice or policy.

(AR No. 92-223(S))

5.60.050[5.50.002] Determination of conciliation failure.

- 1
2 B. If the executive director determines that conciliation efforts have failed pursuant to
3 subsection A of this section, the executive director shall proceed in accordance with section
4 5.70.010 et seq., of this title [5.60.001 of these regulations].

5
6 (AR No. 92-223(S))

7
8 **5.60.060[5.50.003] Administrative dismissal after conciliation conference.**

- 9
10 A. If the respondent agrees to a remedy which the executive director believes is reasonably
11 calculated to make the complainant whole and eliminate the discriminatory practice or
12 policy, the provisions of which are acceptable to the complainant, the executive director shall
13 administratively dismiss the complaint pursuant to subsection 5.60.020A.6 of this title
14 [5.40.005.F OF THESE REGULATIONS].
15
16 B. If the complainant refuses to accept a remedy offered by respondent, which the executive
17 director believes is reasonably calculated to make the complainant whole, the executive
18 director shall administratively dismiss the complaint pursuant to subsection 5.60.020A.5. of
19 this title [5.40.005.E of these regulations]. In complaints filed under Anchorage Municipal
20 Code chapter 5.25, the executive director shall proceed in accordance with section 5.70.010
21 et seq., of this title.
22

23 (AR No. 92-223(S))

24
25 **Section 17.** Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.70, *Public*
26 *hearing*. Anchorage Municipal Code section 5.30.030 is hereby renumbered and amended to read as
27 follows:
28

29 **Chapter 5.70 Public hearing.**

30
31 **5.70.010[5.30.030] Public hearing overview.**

- 32
33 A. If the executive director [COMMISSION] determines conciliation efforts to eliminate the
34 alleged discrimination are unsuccessful, the commission staff shall serve written notice,
35 together with a copy of the complaint as it may be amended, requiring the [PERSON,
36 EMPLOYER, LABOR ORGANIZATION OR EMPLOYMENT AGENCY CHARGED IN
37 THE COMPLAINT] respondent to answer the allegations of the complaint at a public
38 hearing before the commission. [THE TIME AND PLACE OF THE PUBLIC HEARING
39 WILL BE SPECIFIED IN THE NOTICE.] The case in support of the complainant shall be
40 presented before the commission by the executive director or his or [/]her designee[,
41 PROVIDED SUCH DESIGNEE DOES NOT CONCURRENTLY REPRESENT THE
42 COMPLAINANT]. The complainant may be represented by counsel at the public hearing.
43
44 B. The respondent [PERSON CHARGED IN THE COMPLAINT] may file a written answer to
45 the complaint within 20 days of service of the complaint and may appear at the public
46 hearing in person or by counsel and submit testimony. The executive director or his or [/]her
47 designee has the power reasonably and fairly to amend the complaint, and the respondent has
48 the power reasonably and fairly to amend its [HIS] answer at any time up to and including
49 the time of public hearing.

C. Any person may obtain a transcript of the hearing upon payment of [REASONABLE] costs [THEREOF].

(CAC 8.36.050; AO No. 96-99, § 3, 10-22-96)

Section 18. Anchorage Municipal Code of Regulations sections 5.60.001 through 5.60.005 are hereby moved into the Anchorage Municipal Code, renumbered, and amended to read as follows:

5.70.020[5.60.001] Hearing process.

When conciliation efforts have failed to eliminate the alleged discriminatory practice or policy, or to otherwise make a complainant whole, the executive director shall promptly inform the commission. The commission chair shall then appoint a hearing panel in accordance with section 5.70.030 of this title [5.60.002 of these regulations]. The executive director shall serve a written notice of the hearing panel appointment along with a copy of the complaint on all parties within ten days after the appointment of the hearing panel.

(AR No. 92-223(S))

5.70.030[5.60.002] Appointment of hearing panel.

(AR No. 92-223(S))

5.70.040[5.60.003] Powers and duties of hearing panel and hearing examiner.

F. In conducting a hearing, the hearing panel or hearing examiner will have full authority to rule on the admissibility of evidence and other procedural matters. When complaints involving a common question of law or fact are awaiting public hearing, the hearing panel or hearing examiner may order them to be consolidated. On any question which would be determinative of the jurisdiction of the commission or of the liability [CULPABILITY] of any party, the hearing examiner or hearing panel may only make recommendations to the full commission.

I. In cases under Anchorage Municipal Code chapter 5.25, a hearing panel composed of members of the commission shall hear the case or the hearing examiner shall be an employee of the Municipality.

(AR No. 92-223(S); ar nO. 96-174, § 7, 10-22-96)

5.70.050[5.60.004] Hearing date.

(AR No. 92-223(S))

5.70.060[5.60.005] Staff attorney.

(AR No. 92-223(S))

Section 19. Anchorage Municipal Code of Regulations 5.60.006 is hereby moved into the Anchorage Municipal Code, renumbered, and amended by adding provisions, which were formerly in section 5.10.005, amending all to read as follows:

5.70.070[5.60.006] Pleadings.

A. All pleadings shall be in writing.

B. A party shall file the original of any pleading with the executive director. And, a party shall promptly serve upon all other parties a copy of any pleading. Service upon a party represented by an attorney may be made by mailing the pleading to the attorney by first class mail.

[B. THE RESPONDENT SHALL FILE A WRITTEN ANSWER TO THE COMPLAINT WITHIN 20 DAYS OF SERVICE OF THE COMPLAINT AND NOTICE OF HEARING PANEL APPOINTMENT. UPON WRITTEN REQUEST THE HEARING PANEL OR HEARING EXAMINER MAY FOR GOOD CAUSE SHOWN EXTEND THE TIME TO ANSWER.]

[C. THE ANSWER SHALL INCLUDE:

1. THE FULL NAME AND ADDRESS OF RESPONDENT;
2. THE NAME AND ADDRESS OF RESPONDENT'S ATTORNEY, IF ANY;
3. A STATEMENT THAT THE RESPONDENT ADMITS, DENIES OR DOES NOT HAVE AND IS UNABLE TO OBTAIN SUFFICIENT INFORMATION TO ADMIT OR DENY EACH ALLEGATION MADE IN THE CHARGE. A STATEMENT OF LACK OF INFORMATION SHALL HAVE THE EFFECT OF A DENIAL. ANY ALLEGATION THAT IS NOT DENIED SHALL BE DEEMED ADMITTED; AND
4. EACH AND EVERY AFFIRMATIVE DEFENSE AND A STATEMENT OF THE FACTS SUPPORTING EACH AFFIRMATIVE DEFENSE.]

[D. THE RESPONDENT SHALL HAVE THE RIGHT TO AMEND THE ANSWER AT ANY TIME PRIOR TO THE HEARING, AND THEREAFTER AT THE DISCRETION OF THE HEARING PANEL OR HEARING EXAMINER.]

(AR No. 92-223(S))

Section 20. Anchorage Municipal Code of Regulations sections 5.60.007 through 5.60.011 are hereby moved into the Anchorage Municipal Code, renumbered, and amended to read as follows:

5.70.080[5.60.007] Motions.

- 1
2 A. Any motions made prior to the public hearing shall be submitted in writing to the hearing
3 panel or hearing examiner. Motions at hearing may be made orally or in writing.
4
5 B. All motions shall contain a brief, complete statement of the basis for the motion and legal
6 authorities upon which the moving party relies.
7
8 [B. A MOTION MADE PRIOR TO THE APPOINTMENT OF THE HEARING PANEL
9 SHALL BE DECIDED BY THE CHAIR OR BY A COMMISSIONER DESIGNATED BY
10 THE CHAIR. A MOTION MADE AFTER THE APPOINTMENT OF THE HEARING
11 PANEL SHALL BE DECIDED BY THE HEARING PANEL. IF A HEARING EXAMINER
12 HAS BEEN APPOINTED, THE MOTION SHALL BE DECIDED BY THE HEARING
13 EXAMINER.]
14
15 C. Parties may not file dispositive motions, such as motions to dismiss, motions for summary
16 judgment, motions for failure to state a claim, or motions for judgment on the pleadings,
17 except parties may file motions for lack of jurisdiction. The hearing panel or hearing
18 examiner shall permit prehearing briefs in all cases and allow posthearing briefs only for
19 good cause shown or by stipulation of the parties.
20
21 D.[C.] An opposing party may file a written opposition to a motion within ten days after being
22 served with the motion, unless otherwise agreed by the parties.
23
24 E.[D.] The moving party may file a reply to an opposition to a motion within [TEN] three days after
25 being served with the opposition, unless otherwise agreed by the parties.
26
27 F.[E.] A motion shall be decided without oral argument unless otherwise ordered by the hearing
28 panel or hearing examiner [DECISION-MAKER].
29
30 G.[F.] A motion shall be decided by the hearing panel or hearing examiner in writing.
31
32 H. The hearing panel will not review hearing orders of the examiner until the examiner submits
33 a recommended decision under Anchorage Municipal Code section 5.70.140.B.1.
34

35 (AR No. 92-223(S))
36

37 **5.70.090[5.60.008] Intervention.**
38

39 ***

40
41 (AR No. 92-223(S))
42

43 **5.70.100[5.60.009] Amicus curiae.**
44

45 [THE DEFINITION OF AMICUS CURIAE IS CONTAINED IN SUBSECTION 5.10.001.B OF
46 THESE REGULATIONS.] A person [OR ORGANIZATION] may file a motion requesting
47 permission to file an amicus curiae brief. The motion shall identify the interest of the amicus curiae
48 and the reasons the brief is desirable. The hearing panel or hearing examiner shall grant or deny the
49 motion and notify the parties [movant] of the [its] decision in writing.

(AR No. 92-223(S))

5.70.120[5.60.010] Conduct of hearings.

A. All hearings shall be conducted in accordance with Anchorage Municipal Code section 3.60.045. When a matter arises at hearing, the procedure for which is not set out in Anchorage Municipal Code chapter 3.60 or in this title [these rules], the hearing panel or hearing examiner [COMMISSION] is not strictly bound by, but may look to the Alaska Rules of Civil Procedure, the Alaska Rules of Evidence, or other pertinent legal precedent, texts or treatises for guidance in making its rulings.

(AR No. 92-223(S))

5.70.130[5.60.011] Evidence.

(AR No. 92-223(S))

Section 21. Anchorage Municipal Code section 5.30.050 is hereby renumbered and amended to read as follows. Anchorage Municipal Code of Regulations section 5.60.012 is hereby repealed.

5.70.140[5.30.050] Orders.

A. An order shall be in writing.

B.[A.] [Contents; grant of relief] At the completion of the public hearing provided for in this chapter,

1.[B.] T[t]he hearing panel or hearing examiner shall serve on all parties proposed findings of fact, conclusions of law and a proposed order.

2.[C.] A party may present to the hearing panel or hearing examiner written objections to the proposed findings of fact, conclusions of law and order within 15 days after receipt or such other time as fixed by the hearing panel or hearing examiner.

3.[D.] Upon consideration of objections submitted, review of the record and the proposed order, if the case is heard by a hearing examiner, the hearing panel shall issue a final order in the case.

4.[E.] A final order shall be issued within 60 days after the time for objections to be filed has run. A final order shall be subscribed to by a majority of the commissioners on the hearing panel. A separate concurring or dissenting opinion may be filed by a hearing panel commissioner.

5.[F.] Copies of the final order and notice of right to judicial review shall be sent to all parties and to the municipal attorney.

1 B. If the equal rights commission finds that a respondent [A PERSON AGAINST WHOM A
2 COMPLAINT WAS FILED] has engaged in discriminatory conduct, it shall order the
3 respondent [HIM] to refrain from engaging in discriminatory conduct. The order [SHALL
4 INCLUDE FINDINGS OF FACT, AND] may prescribe conditions on the respondent's future
5 conduct relevant to the type of discrimination complained of in the complaint or amended
6 complaint.

7
8 C. The commission may order the following types of relief: [IN A CASE INVOLVING
9 DISCRIMINATION IN:]

- 10
11 1. In cases involving employment practices [EMPLOYMENT], the commission may
12 order any equitable relief, including but not limited to the hiring, reinstatement or
13 upgrading of an employee or group of employees with or without back pay,
14 restoration to membership in a labor organization, or admission to or participation in
15 an apprenticeship training program, on-the-job training program or other retraining
16 program, and any other appropriate relief.
- 17
18 2. In cases involving the sale or rental of real property [HOUSING], the commission
19 may order any equitable relief, including but not limited to the sale, lease or rental of
20 the housing accommodation to the aggrieved person if it is still available, or the sale,
21 lease or rental of the next vacancy in like accommodations owned by the person
22 against whom the complaint was filed, and any other appropriate relief.
- 23
24 3. In cases involving [P]public accommodations, the commission may order any
25 equitable relief, including but not limited to restoration to membership in a place of
26 public accommodation, or admission to or service in a place of public
27 accommodation, and any other appropriate relief.
- 28
29 4. In cases involving [F]financial institutions, the commission may order any equitable
30 relief, including but not limited to the issuance of a credit card to a person, the
31 approval of a loan to a person or the issuance of insurance to a person, and any other
32 appropriate relief.
- 33
34 5. In cases involving [E]educational institutions, the commission may order any
35 equitable relief including, but not limited to admission to the institution or admission
36 to the programs of the institution, and any other appropriate relief.

37
38 [B. PAYMENT OF EXPENSES. THE COMMISSION MAY ORDER PAYMENT OF
39 REASONABLE EXPENSES TO THE COMPLAINANT OR TO THE RESPONDENT
40 WHEN THE COMMISSION DETERMINES THE ALLOWANCE IS APPROPRIATE.]

41
42 D.[C.] [Monitoring of compliance.] The commission may monitor compliance with orders. The
43 order may require reports to be made to the commission on the manner of compliance.

44
45 E.[D.] [Dismissal of complaint.] If the commission finds that a respondent [PERSON AGAINST
46 WHOM A COMPLAINT WAS FILED] has not engaged in the discriminatory conduct
47 alleged in the complaint, the commission [IT] shall issue and cause to be served on the
48 complainant and respondent an order closing or dismissing the complaint.

49

- [E. Filing of copy with municipal attorney. A copy of all orders issued following public hearing shall be filed with the municipal attorney.]

5.60.012 [Orders.]

- [A. AN ORDER SHALL BE IN WRITING.]

- [B. AFTER THE CLOSE OF A HEARING, THE HEARING PANEL OR HEARING EXAMINER SHALL SERVE ON ALL PARTIES PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND A PROPOSED ORDER.]

- [C. A PARTY MAY PRESENT TO THE HEARING PANEL OR HEARING EXAMINER WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER WITHIN 15 DAYS AFTER RECEIPT OR SUCH OTHER TIME AS FIXED BY THE HEARING PANEL OR HEARING EXAMINER.]

- [D. UPON CONSIDERATION OF OBJECTIONS SUBMITTED, REVIEW OF THE RECORD AND THE PROPOSED ORDER, IF THE CASE IS HEARD BY A HEARING EXAMINER, THE HEARING PANEL SHALL ISSUE A FINAL ORDER IN THE CASE.]

- [E. A FINAL ORDER SHALL BE ISSUED WITHIN 60 DAYS AFTER THE TIME FOR OBJECTIONS TO BE FILED HAS RUN. A FINAL ORDER SHALL BE SUBSCRIBED TO BY A MAJORITY OF THE COMMISSIONERS ON THE HEARING PANEL. A SEPARATE CONCURRING OR DISSENTING OPINION MAY BE FILED BY A HEARING PANEL COMMISSIONER.]

- [F. COPIES OF THE FINAL ORDER AND NOTICE OF RIGHT TO JUDICIAL REVIEW SHALL BE SENT TO ALL PARTIES AND TO THE MUNICIPAL ATTORNEY.]

(AR No. 92-223(S); AR No. 96-174, § 8, 10-22-96)

Section 22. Anchorage Municipal Code of Regulations sections 5.60.013 and 5.60.015 are hereby moved to the Anchorage Municipal Code and renumbered as follows:

5.70.150 [5.60.013] Relief.

If, upon consideration of all evidence, it is found that a respondent has engaged in an unlawful discriminatory practice, the hearing panel shall issue an order in accordance with Anchorage Municipal Code Section 5.70.140 [5.30.050], requiring respondent to refrain from engaging in discriminatory conduct.

(AR No. 92-223(S); AR No. 96-174, § 9, 10-22-96)

5.70.160 [5.60.015] Dismissal.

(AR No. 92-223(S); AR No. 96-174, § 10, 10-22-96)

Section 23. Anchorage Municipal Code Title 5 is hereby amended by adding a new chapter, 5.80, *Miscellaneous provisions*. Anchorage Municipal Code section 5.30.040 is hereby renumbered and amended as follows. Anchorage Municipal Code of Regulations section 5.70.001 is hereby repealed.

Chapter 5.80 Miscellaneous provisions

5.80.010[5.30.040] Injunctive relief.

~~* suffer irreparable injury, loss or damage~~

A. If, at any time after a complaint has been filed, the executive director determines that ~~the interests of the complainant may be irreparably damaged~~ before the complaint can be resolved, or that equitable interests demand preservation of the status quo, the executive director may institute a civil action for injunctive relief pursuant to this section [ANCHORAGE MUNICIPAL CODE SECTION 5.30.040].

B. [AT ANY TIME AFTER A COMPLAINT IS FILED UNDER THIS TITLE OR] If[i]n cases of noncompliance with a lawful order of the equal rights commission, the commission may file a petition in any superior court of the state having jurisdiction seeking appropriate relief, including temporary or permanent injunctive relief. This includes the granting of a temporary restraining order not to exceed ten days in duration, unless a longer period is agreed to by the parties, and the granting of preliminary or permanent injunction, or both, following a court hearing.

(CAC 8.36.060)

5.70.001 [Injunctive relief.]

[IF, AT ANY TIME AFTER A COMPLAINT HAS BEEN FILED, THE EXECUTIVE DIRECTOR DETERMINES THAT THE INTERESTS OF THE COMPLAINANT MAY BE IRREPARABLY DAMAGED BEFORE THE COMPLAINT CAN BE RESOLVED, OR THAT EQUITABLE INTERESTS DEMAND PRESERVATION OF THE STATUS QUO, THE EXECUTIVE DIRECTOR MAY INSTITUTE A CIVIL ACTION FOR INJUNCTIVE RELIEF PURSUANT TO ANCHORAGE MUNICIPAL CODE SECTION 5.30.040.]

(AR No. 92-223(S))

Section 24. Anchorage Municipal Code sections 5.30.070 through 5.30.090 are hereby renumbered and amended to read as follows:

5.80.020[5.30.070] Penalty.

A person who willfully resists, prevents, impedes or interferes with the equal rights commission, or any of its authorized representatives, because of or in the performance of duty under this title and is convicted by a court of competent jurisdiction and found guilty, is guilty of a misdemeanor punishable by fine of not more than \$500.00, or by imprisonment in a jail for not more than 30 days, or by both. Violation of this section may be punishable through imposition of a civil penalty as set

parties and the commission staff.

B. Except as provided for in [AMCR] section 5.30.001 of these regulations or otherwise provided by law, evidence contained in the investigative files shall not be disclosed [TO THE PARTIES PRIOR TO THE CERTIFICATION OF CONCILIATION FAILURE OR THE ISSUANCE OF A CLOSURE. THEREAFTER, THE PARTIES AND THEIR COUNSEL MAY EXAMINE EVIDENCE CONTAINED IN INVESTIGATIVE FILES, EXCLUDING DOCUMENTS OR INFORMATION WHOSE RELEASE IS PROHIBITED BY ANCHORAGE MUNICIPAL ORDINANCE, STATE AND FEDERAL LAW OR REGULATION. EVIDENCE DOES NOT INCLUDE COMMISSION STAFF WORK PRODUCT, INTRA- OR INTER-AGENCY MEMORANDA, OR DOCUMENTS EXCLUDED BY ATTORNEY-CLIENT PRIVILEGE]. However, the evidence compiled by the staff during an investigation shall be available to the complaint or respondent in the following circumstances:

1. At least 10 days before a public hearing is held under 5.60;
2. Upon request by complainant in preparation for a request for reconsideration pursuant to 5.40.006 of these regulations within the time period specified for requesting reconsideration; or
3. To comply with a subpoena issued by a court in which the complainant filed a complaint alleging discrimination based on the same facts and issues as were raised in the commission complaint or investigation.

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

(AR No. 92-223(S); AR No. 96-174, § 11, 10-22-96)

5.80.080[5.70.004] Reopening of proceedings.

(AR No. 92-223(S))

5.80.090[5.70.007] Availability of copies of code [RULES].

Copies of the Anchorage Municipal Code [AND THE ANCHORAGE MUNICIPAL CODE OF REGULATIONS] governing the commission shall be available to the public at the office of the commission.

(AR No. 92-223(S))

Section 26. Anchorage Municipal Code of Regulations section 5.40.007, 5.70.005 and 5.70.006 are hereby deleted:

5.40.007 [STAY OF PROCEEDINGS.]

[IF A COMPLAINT IS FILED IN SUPERIOR COURT ALLEGING A VIOLATION OF TITLE 5, INVOLVING THE SAME PARTIES AND ISSUES AS ARE CURRENTLY BEFORE THE COMMISSION, THE EXECUTIVE DIRECTOR SHALL STAY THE ADMINISTRATIVE PROCEEDING PENDING THE OUTCOME OF THE SUPERIOR COURT CASE.]

(AR No. 92-223(S))

5.70.005 [CONSTRUCTION OF RULES.]

[THESE RULES OF ADMINISTRATIVE PROCEDURE SHALL BE LIBERALLY CONSTRUED TO PERMIT THE COMMISSION TO DISCHARGE ITS STATUTORY FUNCTIONS AND TO SECURE THE JUST AND EXPEDITIOUS RESOLUTION OF ALL MATTERS BEFORE IT.]

[THE COMMISSION MAY RELAX OR DISPENSE WITH THESE RULES UPON NOTICE TO ALL PARTIES WHERE A STRICT ADHERENCE TO THE RULES WILL WORK INJUSTICE.]

(AR No. 92-223(S))

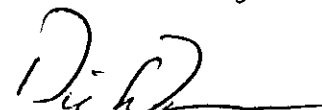
5.70.006 [VALIDITY OF RULES.]

[IF A PROVISION OF THESE ADMINISTRATIVE RULES OF PROCEDURE, OR THEIR APPLICATION TO ANY PERSON OR CIRCUMSTANCE, IS ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, OR IF BY LEGISLATIVE ACTION ANY REGULATION LOSES ITS FORCE AND EFFECT, THAT JUDGMENT OR ACTION SHALL NOT AFFECT THE REMAINDER OF THESE RULES.

(AR No. 92-223(S))

Section 26. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 7th day of January, 2003



Chair of the Assembly

ATTEST:



Municipal Clerk



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G:\erc\Executive Director\Title 5 &
regulations\Proposed Revisions to Title 5 in AO
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MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2002-163

Title: An Ordinance Amending Anchorage Municipal Code Title 5 Governing the
Equal Rights Commission Making Substantive & Technical Changes.

Sponsor: Mayor Wuerch

Preparing Agency: Anchorage Equal Rights Commission

Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
Operating Expenditures					
1000 Personal Services	\$ -	\$ -			
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

There are currently no anticipated costs for the substantive and technical changes to the code. It is anticipated that all of the changes will improve the efficiency of the Commission staff. As an example, one of the major substantive changes, eliminating the preparation of the proposed recommendation and final report, will reduce case processing time, use less paper and require fewer mailings.

PRIVATE SECTOR ECONOMIC EFFECTS:

There are also no anticipated monetary costs to the private sector. But there may be intangible benefits from the improved efficiency of the Commission and the revisions to the Title 5 making it more understandable and useful to the public.

Prepared by:

Barbara A. Jones

Telephone:

343-4339

Validated by OMB:

See L. Fultz for Cheryl Fasce

Date:

11/14/02

Approved by:

Barbara A. Jones

Date:

11/13/02

(Director, Preparing Agency)

Concurred by:

(Director, Impacted Agency)

Date:

Approved by:

M/M

(Municipal Manager)

Date:

11/14/2



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 955-2002

Meeting Date: November 26, 2002

1 **FROM:** Mayor George Wuerch

2
3 **SUBJECT:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 TITLE 5, AND ANCHORAGE MUNICIPAL CODE OF REGULATIONS,
5 TITLE 5, GOVERNING THE ANCHORAGE EQUAL RIGHTS
6 COMMISSION TO CORRECT ERRORS IN CITATIONS AND
7 GRAMMAR; TO MOVE CERTAIN DEFINITIONS FROM THE
8 REGULATIONS TO THE CODE; TO REORGANIZE THE DUTIES OF
9 THE STANDING COMMITTEE ON THE PROMOTION OF
10 TOLERANCE AND DIVERSITY; AND TO MAKE OTHER
11 SUBSTANTIVE AND TECHNICAL CHANGES.
12

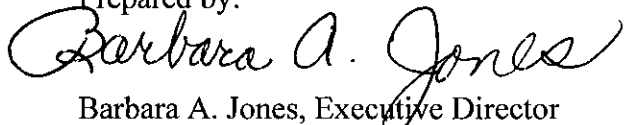
13 The Anchorage Equal Rights Commission recommends adopting the proposed amendments to Title 5 by
14 resolution dated September 27, 2002. These proposed amendments to Title 5 reorganize the duties of
15 the Standing Committee on the Promotion of Tolerance and Diversity with the Commission.
16 Substantive changes to Title 5 include an expansion of the time allowed for complainants to file a
17 complaint with the Commission from 120 to 180 days; additional provisions on accessibility in housing;
18 clarifying the religious exclusion in employment and educational institutions; and limiting motions that
19 can be filed prior to public hearings. The proposed amendments also eliminate the preparation of the
20 report of proposed findings and allows the Commission staff to issue determinations and close cases in a
21 more timely manner. The amendments also make numerous technical revisions and clarifications.
22

23 The administration recommends approval.

24
25 **Concur:**

26 
27
28 Harry J. Kieling, Municipal Manager

Prepared by:


Barbara A. Jones, Executive Director
Equal Rights Commission

29
30
31 **Respectfully Submitted:**

32 
33
34 George Wuerch, Mayor

35
36 Attachments

ANCHORAGE EQUAL RIGHTS COMMISSION

A RESOLUTION AUTHORIZING THE TRANSMITTAL OF A DRAFT ORDINANCE TO ANCHORAGE MUNICIPAL CODE TITLE 5, AND ANCHORAGE MUNICIPAL CODE OF REGULATION, TITLE 5.

THE ANCHORAGE EQUAL RIGHTS COMMISSION RESOLVES:

WHEREAS, in accordance with actions taken by the Anchorage Equal Rights Commission at the Special Commission meeting held on September 27, 2002; and

WHEREAS, based on Anchorage Municipal Code 5.10.040B.5, authorizing the Anchorage Equal Rights Commission to recommend new legislation to the Anchorage Assembly;

THE ANCHORAGE EQUAL RIGHTS COMMISSION HEREBY RESOLVES:

Section 1. The Anchorage Equal Rights Commission recommends to the Anchorage Assembly consideration of the attached draft ordinance to Anchorage Municipal Code, Title 5, and Anchorage Municipal Code of Regulations, Title 5, governing the Anchorage Equal Rights Commission to correct certain errors in citations and grammar; to move certain definitions from the regulations to the code; to reorganize the duties of the Standing Committee on the Promotion of Tolerance and Diversity; to add a new chapter providing for Fair Housing Practices and Enforcement; and to make other substantive and technical changes.

APPROVED by the Anchorage Equal Rights Commission this 27th day of September, 2002.



Chair of the Anchorage Equal Rights Commission

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

As 2002-163

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	AO No. PROPOSING AMENDMENTS TO ANCHORAGE MUNICIPAL CODE & REGULATIONS TITLE 5 FOR ANCHORAGE EQUAL RIGHTS COMMISSION		11/13/02 Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME		DIRECTOR'S NAME	
	ANCHORAGE EQUAL RIGHTS COMMISSION		BARBARA A. JONES	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER	
	BARBARA A. JONES		343-4339	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE	
	X Mayor			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	Water & Wastewater Utility			
	X Municipal Manager	<i>M</i>	<i>11/14</i>	
	Cultural & Recreational Services			
	Employee Relations			
	Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	X Office of Management and Budget	<i>for CF</i>	<i>11/14/02</i>	
	Management Information Services			
	Police			
	Planning, Development & Public Works			
	Development Services			
	Facility Management			
	Planning			
	Project Management & Engineering			
	Street Maintenance			
	Traffic			
	Public Transportation Department			
	Purchasing			
	X Municipal Attorney <i>1442</i>	<i>WAG</i>	<i>11/13/02</i>	
	X Municipal Clerk	<i>BAG</i>	<i>11/13/02</i>	
	X Other			
5	Special Instructions/Comments			
	<i>Said on the table by title only</i> <i>10/22/02</i>			
6	ASSEMBLY HEARING DATE REQUESTED		7 PUBLIC HEARING DATE REQUESTED	
	11/26/02		<i>11/26/02</i>	

NOV 15 PM 2:35
 2002
 M.O.A.
 CLERK'S OFFICE