

SEP 18 REC'D

ADOPTION OF AN ORDINANCE REPEALING
CHAPTER 15D (HOUSING AVAILABILITY) AND
PROVIDING A NEW CHAPTER TO BE KNOWN AS
CHAPTER 15D (HUMAN RIGHTS) OF THE 1961
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA,
AS AMENDED

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building, at Fairfax, Virginia, on Monday, July 29, 1974, the Board adopted an ordinance repealing Chapter 15D (Housing Availability) and providing a new Chapter to be known as Chapter 15D (Human Rights) of the 1961 Code of the County of Fairfax, Virginia, as amended, said ordinance so adopted being in the words and figures following, to-wit:

BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, as follows:

HUMAN RIGHTS ORDINANCE

CHAPTER 15D

CODE OF THE COUNTY OF FAIRFAX, VIRGINIA

AN ACT to prohibit discrimination on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age in housing, public accommodations, employment, county services, education, and credit facilities; to establish a Human Rights Commission empowered to enforce ordinances and regulations established hereunder or otherwise assigned to its jurisdiction by law; to repeal Chapter 15D of the 1961 Code of the County of Fairfax, Virginia, as Amended, "The Housing Availability Ordinance," and include certain of its provisions herein.

STATEMENT OF POLICY

The continued harmonious relations between people of different race, color, religion, sex, ancestry, national origin, marital status, or age are hereby declared essential to the welfare, health and safety of the residents of Fairfax County. It is contrary to the public policy of the County to permit those conditions to arise or continue unabated which impede the peaceful coexistence of all people in the County, threaten peace and good order and adversely affect the physical, economic and social well-being of the residents. It is the duty of this government to exercise all available means and every power at its command to prevent the same so as to protect its residents from such perils. To this end, it is essential that the government of this County assume the initiative for repairing the consequences of past denials of equal opportunities, preventing denials of these opportunities in the future, and eliminating the underlying causes of discrimination. It is the dual purpose of this chapter to institute an affirmative human rights program of positive efforts to eliminate discrimination and to provide the citizen recourse for discriminatory acts. Therefore, in order to secure and promote the health, safety, and general welfare of the residents of this County, it is declared to be the policy of the County to ensure that all persons be afforded equal opportunity to participate, on the basis of personal merit, in the social, cultural, economic, and other phases of community life free from any discrimination, and to that end the governing body deems it expedient to adopt this Chapter of the Code of the County of

Fairfax, Virginia; and it is further declared to be the policy of the County that any provision in a deed, mortgage, deed of trust or other instrument affecting title to or any interest in land or housing recorded in the land records of this County which purports to restrict or affect, on the basis of race, color, religion, sex, ancestry, or national origin, the holding, occupancy or transfer of any interest in land or housing, shall, on and after the effective date of this ordinance be wholly invalid for any purpose.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Fairfax County, Virginia that Chapter 15D of the Code of the County of Fairfax (Housing Availability) be amended by deleting in its entirety and substituting therefor:

SECTION 15D-1 Definitions

For the purpose of this Chapter,

A. "Commission" means the Human Rights Commission, as established herein;

B. "County" means the County of Fairfax, Virginia;

C. "Discriminate" or "discrimination" or "discriminatory" means or describes any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other act or failure to act or any other differentiation or preference of or for any person or any other difference in treatment which adversely affects such person.

D. "Educational institution " means any nursery, kindergarten, elementary or secondary school, academy, college, university, extension course, or nursing, secretarial, business, vocational, technical, trade, or professional school, or joint apprenticeship program;

E. "Employer" includes all persons, wherever situated, who employ four (4) or more persons, who are not related by blood or marriage or who are not employed in domestic service in his/her personal residence, for wages, salaries, or on commission within the County.

F. "Employment agency" means all persons, including newspapers publishing help wanted advertisements, who with or without compensation undertake to solicit in the County for potential employees or refer persons for potential employment in the County.

G. "Housing" means any building, structure, mobile home site or facility, or portion thereof, located in the County that is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more persons, groups or families, and any vacant land located in Fairfax County offered for sale or lease for the purpose of constructing or locating thereon such building, structure, or facility, and includes any interest in land or housing as so defined, fee simple, leasehold or other;

H. "Labor organization" means any association organized for mutual benefit and operating as a labor union, association, committee, or organization for the purpose of collective bargaining and other lawful functions of labor unions, or any employee representation committee, any of whose members are employed in the County whether or not having a duly authorized charter as a local labor union from either a state or national labor organization, and whether or not registered with the State Department of Labor;

I. "Lending institution" means any bank, insurance company, savings and loan association, finance company or any other person regularly engaged in the business of lending money or guaranteeing loans or furnishing consumer credit or other credit-related services;

J. "Person" means any individual or individuals, partnership, association, corporation, joint-stock company, labor union, mutual company, trustee in bankruptcy, receiver, or other fiduciary, or the agent, legal representative, or employee thereof;

K. "Person in the business of housing" means any person who, within the preceding twelve (12) months, has participated as principal, real estate broker, real estate salesman or rental agent in four (4) or more transactions involving the sale, lease or rental of any housing;

L. "Personal residence" means a building or structure containing living quarters occupied or intended to be occupied by no more than four (4) persons, four groups, or four families living independently of each other, and used by the owner thereof as a bona fide residence for himself/herself and any member of his/her family;

M. "Public accommodation" includes every business, professional, or commercial enterprise, hospital or nursing home, refreshment, entertainment, sports, recreation or transportation facility located in the County, whether licensed or not, public or private, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available in any manner to the public. "Public accommodation" does not include a

bona fide private club or other establishment not in fact open to the public;

N. "Real estate broker" means a person doing business in the County of Fairfax who is the holder of a real estate brokers' license issued pursuant to Article 3 or Article 5 of Chapter 18 of Title 54 of the Code of Virginia;

O. "Real estate salesman" means a person doing business in the County of Fairfax who is the holder of a real estate salesman's license issued pursuant to Article 3 or Article 5 of Chapter 18 of Title 54 of the Code of Virginia;

P. "Real estate transaction" means any sale, exchange, rental, lease, assignment, sublease or other transfer of housing;

Q. "Restrictive Covenant" means any specification purporting to restrict or affect the holding, occupancy, ownership, rental lease, or transfer of any interest in land or housing on the basis of race, color, religion, sex, ancestry, or national origin;

SECTION 15D-2 Unlawful Practices

A. Housing

1. It shall be unlawful for any person, real estate broker, or real estate salesman on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age:

(a) to refuse to sell, lease, sublease, rent, assign, or transfer any housing, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny any housing;

(b) to represent that housing is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available;

(c) to knowingly represent that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which or on which it is in fact available to the generality of persons or to otherwise discriminate against any person in the terms, conditions, or privileges of sale or rental of housing;

(d) to fail to provide services, facilities, or other amenities connected with one's ownership, lease, sublease, rental, possession or occupancy of housing;

(e) to interfere with, interrupt or terminate one's ownership, lease, sublease, rental, possession or occupancy of housing or other enjoyment of any interest therein;

(f) to deny access to, membership or participation in, or other benefit of any multiple-listing service or other service, organization or facility related to the business of selling or renting housing;

(g) to include in the terms or conditions of any sale lease, sublease, rental, assignment, or other transfer of housing any condition or provision that purports to forbid or discourages or attempts to discourage the

ownership, leasing, possession, occupancy or use of such housing;

(h) to make, print or publish or cause to be made, printed or published any notice, statement or advertisement, in connection with the sale, lease, sublease, rental, assignment or other transfer of housing that indicates discrimination or an intention to engage in discrimination; or

(i) to make or use a written or oral inquiry or form of application or photograph in connection with the sale, lease, sublease, rental, assignment or other transfer of housing that elicits or attempts to elicit information concerning race, color, religion, sex, ancestry, national origin, marital status, or age.

2. It shall be unlawful for any lending institution to discriminate on the basis of race, color, religion, sex, ancestry, national origin, or marital status, in lending money, guaranteeing loans, ^{ex} accepting mortgages or otherwise making available money for the purchase, acquisition, construction, alteration, improvement, repair or maintenance of any housing or to discriminate in the fixing of the rate or any other terms or conditions of any such financing or in the extension of service in connection therewith.

3. It shall be unlawful for any real estate broker, real estate salesman or other person in the business of housing to:

(a) solicit the sale, lease, sublease, rental, assignment or other transfer of housing, or discourage

the purchase, lease, sublease, rental, assignment or other transfer of housing by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of a particular race, color, religion, sex, ancestry, national origin, marital status, or age;

(b) display a sign or otherwise represent that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is not so available.

4. It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust or other instrument affecting title to or any interest in land or housing in the County to knowingly:

(a) include therein any restrictive covenant;

(b) fail to include in any report or abstract of title pertaining to land or housing located in Fairfax County prepared or furnished by him/her, a notation that any restrictive covenant contained therein is invalid and unenforceable; or

(c) fail to include in any deed, mortgage, deed of trust or other instrument affecting title to or any interest in land or housing in the County, where any restrictive covenant is incorporated by reference to another document or instrument, a statement that such restrictive covenant is invalid and unenforceable.

5. The Clerk of the Circuit Court shall:

(a) not comply with any request to copy any deed, mortgage, deed of trust or other instrument affecting title to or any interest in land, or housing or declaration of covenants, filed or recorded in his/her office, unless he/she imprints on or affixes to such copy a clear and conspicuous statement that any provision contained therein which purports to restrict or affect the holding, occupancy, ownership, rental, lease, or transfer of any interest in land or housing on the basis of race, color, religion, sex, ancestry or national origin is invalid and unenforceable; and

(b) post in a conspicuous location in the main clerk's office and in the record room a notice that contains the following language printed in black on a light-colored background, in not less than fourteen-point type:

It is a violation of the Human Rights Ordinance of the County of Fairfax, Virginia, for any person to include any provision in a deed, mortgage, deed of trust, or other instrument affecting title to or any interest in land or housing which purports to restrict or affect, on the basis of race, color, religion,

sex, ancestry, or national origin the holding, occupancy, or transfer of any interest in land or housing, and any such provisions are invalid and unenforceable.

Fairfax County Code, SECTION 15D-2.A.4.

This language shall also be imprinted or affixed to every liber volume in the custody of the Clerk of the Court. The Clerk of the Court shall also exhibit in a conspicuous location in the main clerk's office and in the record room a copy of this chapter.

6. Nothing contained herein shall be construed to apply to the rental or leasing of a room or rooms in a personal residence.

7. The Commission by written rule upon application of any person may permit the rental, leasing, sale, or other disposition of housing for

(a) persons of the same sex, or

(b) unmarried persons.

The status of housing in these categories existing on the effective date of this Chapter shall be reviewed by the Commission upon recommendation of the Board of Supervisors.

B. Employment

1. It shall be unlawful for any employer on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age:

(a) to refuse to hire an applicant for employment;

(b) to discharge an employee;

(c) to deny an employee any opportunity

with respect to hiring, promotion, tenure, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of employment; or

(d) to disqualify an individual from taking a competitive examination or otherwise deny any benefits pertaining to the grading or processing of applications with respect to any aspect of employment.

2. It shall be unlawful for an employment agency on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age:

(a) to refuse or fail to accept, register, properly classify, or refer for employment any person; or

(b) to comply with any request by an employer for referral of applicants if the request indicates directly or indirectly that the employer desires any discriminatory limitation of applicants or in any other way fails to comply with the requirements of this Chapter.

3. It shall be unlawful for a labor organization on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age:

(a) to deny full and equal membership rights to an applicant for membership or a member;

(b) to expel a member from membership; or

(c) to deny a member or applicant an opportunity with respect to hiring, seniority, tenure, referral, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of membership or employment.

4. It shall be unlawful for any person to circulate, or publish any notice or advertisement related to employment, or membership in a labor organization which indicates directly or indirectly any preference, limitation, specification, or discrimination based upon race, color, religion, sex, ancestry, national origin, marital status, or age.

5. It shall be unlawful for any member of a joint-labor-industry apprenticeship committee or board to participate in any act of discrimination on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age, notwithstanding the fact that the employer members of such committee or board are not in fact the employer of an apprentice against whom an act of discrimination has been committed.

6. Bona fide occupational qualifications. Notwithstanding any other provision of this Chapter, it shall not be an unlawful employment practice to discriminate in those certain instances where

religion, sex, ancestry, national origin, marital status, or age is a bona fide occupational qualification.

7. Retirement. It is not an unlawful act for an employer to terminate employment or otherwise take action concerning a person under the terms of a bona fide retirement, pension, or disability plan or group or employee insurance plan.

C. Public Accommodations

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

D. Credit

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

1. discriminate against any person in the furnishing of credit or other credit-related services; or

2. deny or terminate credit or credit-related services or to affect adversely a person's credit rating or standing.

E. Education

It shall be an unlawful act for any educational institution or its agents, employees, or officers on the basis of race or color:

1. to discriminate against any person with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution;
2. to make or use a written or oral inquiry or form of application for admission to an educational institution that elicits or attempts to elicit information concerning race or color;
3. to require, or cause to be required, that a photograph of any applicant for admission to an educational institution be submitted with any form of application for admission;
4. to establish, make, or follow a policy of denial or limitation of educational opportunities through a quota system or otherwise; or
5. to knowingly permit potential employers to recruit students on its premises or to permit such employers to use its placement facilities for referral of students for employment or permit such employers to participate in any job-training or work-study program operated by or in conjunction with the educational institution if the potential employer discriminates in employment on the basis of race or color, except as otherwise provided herein.

F. Retaliation

It shall be unlawful for any person to directly or indirectly cause or coerce, or attempt to cause or coerce, any person to do any act declared to be an unlawful act under this Chapter, or to directly or indirectly engage in economic reprisal or to do or to threaten to do harm to the person or property or otherwise retaliate, or to cause or coerce or attempt to cause or coerce another person to engage in economic reprisal or to do or to threaten to do harm to the person or property or otherwise retaliate or discriminate against any person because such person has opposed any practice made unlawful by this Chapter, or has complied with the terms of this Chapter, or has filed a complaint or has testified, assisted or participated in any manner in any investigation, proceeding or hearing under this Chapter or exercised or attempted to exercise any right conferred herein.

SECTION 15D-3 Human Rights Commission

A. There is hereby created in the County of Fairfax a Human Rights Commission, hereinafter referred to as the "Commission." The Commission shall consist of eleven (11) members who shall be residents of the County and broadly representative of the racial, sexual, religious, ethnic, and age groups in the County. The members shall be appointed by the Board of Supervisors and shall be entitled to receive such compensation as the Board of Supervisors shall direct. Of the members first appointed four (4) shall be appointed for terms of three (3) years, four (4) shall be appointed

for terms of two (2) years, and three (3) shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of three (3) years each. Any vacancy shall be filled by the Board of Supervisors for the unexpired portion of a term.

B. There shall be an Executive Director of the Commission who shall be appointed by the Board of Supervisors upon the joint recommendation of the Commission and the County Executive and who shall serve full time in that capacity. The Board of Supervisors shall authorize the Commission to employ such additional staff personnel as are deemed warranted to secure effective enforcement of this Chapter.

SECTION 15D-4 Basic Functions, Powers and Duties of the Commission

A. Functions. The basic functions of the Commission shall be to eliminate discrimination in housing, public accommodations, employment, education, credit facilities, and County services by:

1. Utilizing its full enforcement powers under this Chapter;

2. Conciliating individual complaints of any acts or practices prohibited under this Chapter;

3. Negotiating with wide sectors of business, unions, professions, official agencies and private organizations for the taking of action by them to improve opportunities available to minority and other disadvantaged groups; and by

4. Establishing affirmative action programs.

B. Powers and Duties. The Commission shall have the power:

1. To subpoena witnesses, compel their attendance, take the testimony of any person under oath, and in connection with

this to require production for examination of any books or records or papers relating to any matter under investigation or in question;

2. To utilize methods of persuasion, conciliation, and mediation or informal adjustment of grievances, to hold public hearings, and, in the case of complaints of alleged unlawful discriminatory acts, to make findings of fact, issue orders, and publish its findings of fact, and orders in accordance with this Chapter;

3. To investigate by means of public hearings or otherwise any particular or general conditions having an adverse effect upon any rights protected by this Chapter including alleged violations of this Chapter;

4. To use such voluntary and uncompensated services of private persons, institutions, civic organizations, officials and advisory committees as may from time to time be offered and needed to perform advisory functions.

5. To gather and disseminate reliable information about discrimination and human rights problems within the County in such matters as housing, public accommodations, employment, education, credit facilities, and County services;

6. To establish a forum for discussing discrimination and human rights problems within the County and to form committees with representatives from concerned groups to study and propose solutions;

7. To encourage the establishment of advisory committees within County agencies and when requested by the Board of Supervisors to establish such an advisory committee or committees;

8. To adopt, promulgate, amend and rescind, subject to the approval of the Board of Supervisors, rules and regulations to effectuate the purposes and provisions of this Chapter.

SECTION 15D-5 Conduct of Commission

The Commission shall elect a chairman from its membership. A majority, or one-half of the currently serving members of the Commission, whichever is smaller, shall constitute a quorum. Decisions of the Commission shall be made by a majority vote of the members present. The Commission shall render semi-annually to the Board of Supervisors a full written report of its activities under the provisions of this Chapter and its recommendations concerning measures to be taken to further the purposes of this Chapter.

SECTION 15D-6 Enforcement Powers

A. Actions initiated by the Commission.

1. The Commission may proceed upon the recommendation of any of its members whenever a member has reason to believe that a violation of this Chapter has been committed. Upon receiving such a recommendation, concurred in by a majority of the Commission, the Commission shall promptly schedule a public hearing to determine whether a violation of this Chapter has been committed. The Commission shall serve upon the respondent a statement of charges and a summons and shall serve upon all interested parties a notice of the time

and place of hearing. The respondent or his/her authorized representative may file such statements with the Commission prior to the hearing date as he/she deems necessary in support of his/her position. The hearing shall be open to the public and shall be held not less than fifteen (15) days after service of the statement of charges and summons.

2. The parties may present testimony and evidence to be given under oath or by affirmation and shall have the right to cross-examine witnesses and may be represented by private counsel of their choice. The Commission shall not be bound by strict rules of evidence prevailing in courts of law or equity.

3. The Commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person, and upon request by any principal party to the proceedings, the Commission shall furnish such party a copy of the hearing record at such cost, if any, as the Commission deems appropriate.

4. If, at the conclusion of the hearing, the Commission shall determine that the respondent has committed or is committing the unlawful practice or practices charged, the Commission shall state its findings and conclusions and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from such unlawful practice or practices and to take such affirmative action as may be indicated to effectuate

the purpose of this Chapter. It shall be a violation of this Chapter to violate or fail to adhere to any provision of any order issued by the Commission pursuant thereto.

5. The Commission may require payment by respondent of compensatory damages to any person or persons found by the Commission to be so entitled by reason of respondent's violation of this Chapter.

6. If after receiving all evidence presented at the hearing, the Commission shall find that the respondent has not engaged in the unlawful practice or practices charged, the Commission shall state its findings and conclusions and shall dismiss the complaint. Notice of such action shall be given to the complainant and to the respondent.

7. The Executive Director of the Commission shall be responsible for developing the evidentiary record before the Commission and may use any investigative techniques permissible under the law.

8. No formal action shall be initiated by the Commission if more than ninety (90) days has elapsed since the cessation of the unlawful practice that the Commission has reason to believe occurred. The ninety (90) days limitation shall be inapplicable where the Commission believes that the effects of the unlawful practice continue to exist.

B. Actions initiated by the complainant. The procedure of the Commission in the case of the filing with it of a complaint shall be that prescribed in subsection A, above, except as modified by paragraphs 1 through 8 below.

1. A complaint alleging a violation of this Chapter, in writing and sworn to or affirmed, may be filed with the Commission by the complainant. Such a complaint shall state the name and address of the complainant, and of the person or persons against whom the complaint is made, and shall also state the alleged facts surrounding the alleged commission of an unlawful practice, the date the unlawful practice was allegedly committed, and such other information as the Commission by regulation may require. Every complaint shall be held in confidence by the Commission unless and until the complainant and the person complained against consent in writing to its being made public or a hearing such as described in subsection A, above, is begun.

2. Upon the filing of a complaint as set forth in Section 15D-6. B. 1. the Executive Director shall make such investigation as he/she deems appropriate to ascertain the facts, and within fifteen (15) days determine whether or not there are reasonable grounds to believe a violation has occurred.

3. If the Executive Director shall determine that there are reasonable grounds to believe a violation has occurred, and that it is susceptible of conciliation, he/she may attempt to conciliate the matter by methods of conference and persuasion

with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such initial conferences shall be made public by the Commission or its members or any of its staff unless the parties agree thereto in writing. Conciliation shall not be attempted if the Commission determines that the public interest would be best served by formal enforcement action and that conciliation efforts would impair that objective.

4. The terms of conciliation agreed to by the parties may be reduced to writing and incorporated into a consent order to be signed by the parties, which order is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent orders shall be signed on behalf of the Commission by the Chairman or the Acting Chairman.

5. It shall be a violation of this Chapter to violate or fail to adhere to any provision contained in a consent order. Any failure by the Commission to enforce a violation of any provision of a consent order shall not constitute a waiver of any right of the Commission or provision of such order.

6. If the Executive Director shall determine that there are reasonable grounds to believe a violation has occurred and that the public interest would be best served by formal en-

enforcement action, he/she shall so notify the Commission. The Commission shall treat such action as a recommendation by a member and proceed as set forth under subsection A, above.

7. If the Executive Director determines that the complaint lacks reasonable grounds upon which to base a violation of this Chapter or that conciliation attempts should not be made, he/she shall so notify the Commission and the complainant. The notice shall also state briefly the reasons for the Executive Director's determination and that the complainant has ten (10) days within which to file with the Commission a request for a review of the Executive Director's determination. Upon request for such a review, the Commission shall afford the complainant an opportunity to appear before the Commission in person or by representative, or by letter, as the complainant may desire. After such review the Commission may in its discretion dismiss such complaint. If the Commission determines that there are reasonable grounds to believe an alleged violation of this Chapter has occurred, it shall direct the Executive Director to proceed with conciliation efforts or initiate formal enforcement proceedings. There shall be no appeal from this determination or further review thereof.

8. If the Executive Director or the Commission has determined that there are reasonable grounds to believe an alleged violation of this Chapter has occurred, and that conciliation is an appropriate means to resolve the matter and:

(a) if the Parties fail to conciliate a complaint after the Executive Director or a member of the Commission, in good faith, attempted such conciliation,

(b) if the Parties fail to effect an informal conciliation or a formal consent order, or

(c) if the Executive Director or the said member determines that a complaint is not susceptible of conciliation,

the Commission shall be notified immediately and in no case shall such notice be given more than thirty (30) days after the date of filing of the complaint: provided that such period may be extended up to thirty (30) additional days by the Commission for good cause. Upon the expiration of the applicable period, the Commission shall promptly thereafter initiate formal enforcement proceedings pursuant to subsection A, above.

SECTION 15D-7 Interlocutory Relief

If, at any time after a complaint has been filed, or after institution of any investigation on the Commission's own initiative, the Commission believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Commission may, after consultation with the County Attorney or his/her designee, certify the matter to the County Attorney to bring any action provided for by federal or state law he/she deems necessary to preserve the status quo or to prevent such

irreparable harm, including but not limited to petitioning a court of competent jurisdiction for a temporary restraining order or orders and preliminary injunction or injunctions.

SECTION 15D-8 Judicial Review

Any party aggrieved by an order of the Commission entered after a hearing held pursuant to Section 15D-6 of this Chapter may have such order reviewed by a court of competent jurisdiction. A review proceeding shall be instituted by filing with the court a petition for review naming the Commission as respondent. A copy of the petition shall be served upon the County Attorney, who shall represent the Commission in every review proceeding. No petition for review may be filed more than thirty (30) days after the date of service of the order of which review is sought.

SECTION 15D-9 Enforcement by the Court

If any person refuses or fails to comply with any order of the Commission, the Commission may, after consultation with the County Attorney or his/her designee, refer the matter to the County Attorney to bring an appropriate action as is provided for by federal or state law in a court of competent jurisdiction to secure enforcement of or compliance with the order.

SECTION 15D-10 Exemptions

A. Exemption of religious organizations.

It is not an unlawful act for a religious or denominational organization, association or society, or any charitable, educational or non-profit institution operated, supervised or controlled

by or in connection with a religious or denominational organization to:

1. Limit, or give preference in, a real estate transaction to persons of the same religion or denomination, or make a selection of buyers, tenants, lessees, assignees or sublessees that is reasonably calculated to promote the religious principles for which it is established or maintained;

2. Limit admission to, or give preference in, its accommodations, facilities, services or goods of a place of public accommodation or an educational institution to persons of the same religion or denomination, or make a selection of applicants or individuals that is reasonably calculated to promote the religious principles for which it is established or maintained; or

3. Require membership in a religious group or denomination as a bona fide occupational qualification.

B. Nothing contained herein shall be construed to:

1. Bar bona fide housing for the elderly from limiting admission or giving preference to persons of a given age;

2. Bar a person from maintaining an establishment which provides sleeping accommodations exclusively to persons of the same sex; or

3. Make it an unlawful act to require that a person have legal capacity to enter into an irrevocable contract.

C. The Commission may exempt from the provisions of this Chapter by written ruling upon application any housing or public accommodation facility with respect to persons of a specified age or marital status if it finds that they may lawfully be denied

access to specified housing or public accommodation facilities, and that such exemption does not otherwise deny any right, privilege, or immunity secured or protected by federal or state law.

SECTION 15D-11 Effect on County Agencies

A. Public contractors. Upon publication or receipt of a copy of the final decision finding the respondent to be in violation of this Chapter and order of the Commission, the purchasing agent of Fairfax County may deem the respondent ineligible for award of a public contract until the Commission is satisfied that the respondent will comply with the order of the Commission and the provisions of this Chapter.

B. Labor organizations. Upon publication or receipt of a copy of the final decision finding the respondent to be in violation of this Chapter and order of the Commission, the purchasing agent of Fairfax County may deem the respondent ineligible to negotiate with the County until the Commission is satisfied that the respondent will comply with the order of the Commission and the provisions of this Chapter.

C. County financial assistance. Upon publication or receipt of a copy of the final decision finding the respondent to be in violation of this Chapter and order of the Commission, the County of Fairfax may take appropriate action to terminate or refuse to grant or continue any public financial assistance to a program or activity of respondent.

D. Any respondent hereto, adversely affected by the provisions of this Section, shall retain all rights of appeal provided for by the rules, regulations, or laws of the County of Fairfax.

SECTION 15D-12 Inspection, Records and Notices

A. Every person subject to this Chapter shall post such notices, make and keep such records relevant to the determination of whether discriminatory acts have been or are being committed, preserve such records for such periods, and make such reports therefrom as the Commission shall prescribe by regulation or order as are reasonable and appropriate for the enforcement of this Chapter or the regulations or orders thereunder.

B. The Commission and any designated representative of the Commission may request access at any reasonable time to premises, records, and documents relevant to a charge or complaint and may request the right to examine, photograph, and copy evidence upon presenting written authorization of the Chairman of the Commission or the Executive Director duly executed by the Commission in accordance with its rules and regulations.

C. Any employment, education, real estate transaction, loan or credit, or public accommodation record made or application

taken in the normal course of business by any person shall be preserved by the person or transferee thereof for a period of one year from the last date of the making of the record or the action involved, whichever occurs later. When a charge of discrimination has been filed against a person under this Chapter, the respondent shall preserve all records relevant to the charge or action until final disposition of the charge or action.

SECTION 15D-13 Savings Provisions and Non-Abatement of Matters

A. The provisions of this Chapter, so far as they are the same as those of chapters repealed by this Chapter are intended as a continuation of such chapters and not as new enactments.

B. The provisions of this Chapter shall not affect any act done or any complaint or proceeding pending under authority of the repealed chapters.

C. All rules and regulations adopted pursuant to any chapter repealed by this Chapter shall continue with the same force and effect as if such chapter had not been repealed, unless modified or revoked by the Commission.

D. No matter pending before the Fair Housing Board on the effective date of this Chapter shall abate because of the enactment of this Chapter. Any matter pending before the Fair Housing Board prior to the effective date of this Chapter shall revive upon said effective date.

E. Nothing contained in this chapter shall be construed to conflict with any applicable state or federal law, rule or regulation, and insofar as this Chapter does so conflict, it shall be superseded thereby.

SECTION 15D-14 Non-Exclusive Remedy

Any person who is aggrieved by any act prohibited herein may bring an appropriate action in a court of competent jurisdiction to seek damages, redress of injury, or injunctive relief arising out of any act prohibited herein as provided for by any applicable law. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he/she might otherwise be entitled, nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other agency, except as is otherwise provided by applicable state or federal laws.

SECTION 15D-15 Notice

All notices required under the provisions of this Chapter shall be served either in person or by mailing to the last known address appearing in the Commission's records. Counsel of record shall be entitled to a copy of any notices served upon his/her client which shall be mailed to him/her at his/her last known address as it appears in the records of the Commission.

SECTION 15D-16 Time Limitation

Any complaint filed under the provisions of this Chapter shall be dismissed unless the Commission has within one hundred

eighty (180) days of the date of the alleged unlawful violation served upon the respondent an order pursuant to the provisions of Section 15D-6 or unless the Commission determines that additional time is necessary to achieve the objectives of this Chapter: provided, that in computing time under the provisions of this Section there shall be excluded those days which elapse between the filing and final conclusion of any legal proceedings pertaining to the validity of or seeking to enforce or prohibit the enforcement of any of the provisions of this Chapter; and provided further, that the respondent may waive the provisions of this section by filing with the Commission a written statement, acknowledging his/her awareness of the provisions of this Section and waiving the limitations set forth herein subject to such conditions as the respondent may therein set forth. Upon acceptance of the waiver, the Board shall be bound by such conditions.

SECTION 15D-17 Severability

The provisions of this Chapter are severable, and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Chapter, or their application to other persons or circumstances. It is hereby declared to

be the legislative intent that this Chapter would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstance to which the Chapter or any part thereof is inapplicable had been specifically exempted therefrom.

SECTION 15D-18 Effective Date

The provisions of this Chapter shall become effective on July 29, 1974.

GIVEN under my hand this 29th day of July, 1974.

Ethel Wilcox Register
Ethel Wilcox Register
Clerk of said Board

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building at Fairfax, Virginia on Monday, July 29, 1974, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors of Fairfax County has this day enacted the Human Rights Ordinance, Chapter 15D of the Code of the County of Fairfax; and

WHEREAS, the Board has found that promotion and protection of the public health, safety and general welfare requires that comparable regulations be extended to agencies and services of the County,

NOW, THEREFORE, BE IT RESOLVED, this 29th day of July, 1974, that:

A. Definitions

All definitions set forth in Section I of the Human Rights Ordinance, Chapter 15D of the Code of the County of Fairfax, are expressly made a part hereof and applicable hereto.

B. County Services

1. No agency, officer, agent, or employee of the County shall discriminate in operating public facilities, or performing public services, or processing applications for licenses or any other privilege, or providing access to, use of, or benefit from any duly authorized County activity on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age except as otherwise provided by law.

2. When for any County document information, the race, color, religion, sex, ancestry, national origin, marital status, or age of

a person is required to be furnished, said information shall be recorded as supplied by the person and shall be accepted as furnished in good faith; except that in the case of a minor, the information may be supplied by the parent or guardian.

3. No County official, including probation officer, clerk of court, sheriff or deputy sheriff, jailor or jail custodian, shall discriminate on the basis of race, color, religion, sex, ancestry, national origin, marital status, or age in discipline, treatment, arrest and bail procedures, conditions of incarceration, training, counseling, and rehabilitation opportunities or privileges.

C. Employment Opportunity

1. Any contracts to which the County is a party shall include the following provisions, which may be incorporated by reference to this section:

"During the performance of this contract, the contractor agrees that:

(a) Non-discrimination clause. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, ancestry, national origin, marital status, or age, except as is otherwise provided by law. The contractor will take affirmative action to insure that applicants and employees are treated without discrimination on said bases. Such action will include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or

recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the Human Rights Commission, of Fairfax County setting forth the provisions of this non-discrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or in behalf of the contractor, state that all qualified applicants will receive consideration for employment.

(c) The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Human Rights Commission advising the labor organization and workers' representatives of the contractor's commitment under this Chapter and will post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any rules, regulations or orders of the Commission, this contract may be terminated or suspended in whole or in part, and the contractor may be declared ineligible for County contracts,

and subject to such other sanctions as may be imposed and remedies invoked by rule, regulation or order of the Human Rights Commission of the County, or as otherwise provided by law.

(e) The contractor will include the provisions of sections (a) through (d) above in every subcontract so that such provisions will be binding upon each subcontractor."

2. Every contractor party to a contract with Fairfax County shall file and shall cause each of his/her subcontractors engaged pursuant to his/her contract with the County to file compliance reports with the Commission as may be required within such time and containing such information as to the practice, policies, programs and employment policies or employment statistics of the contractor and each subcontractor and in such form as the Commission may prescribe.

D. Complaints Against the County

1. The Human Rights Commission of the County shall receive and record any complaint against any County officer or employee which alleges any discriminatory act prohibited or made unlawful under the Human Rights Ordinance of the County.

2. When the Commission finds that any such complaint has merit, it shall so notify the Board of Supervisors and may conduct an investigation of the complaint unless otherwise directed by the Board of Supervisors.

3. When requested by the Board of Supervisors, the Commission shall investigate any such complaint and hold a hearing. The officer or employee charged, the complaining parties, all known witnesses, and the Board of Supervisors shall be given notice of the time and place of the hearing not less than fourteen (14) days prior thereto. The officer or employee charged shall be given copies of the specific charges with the name of the complaining party as soon as possible after the Board has authorized a hearing, but no later than the time of serving notice of the hearing.

4. The Commission shall submit to the Board of Supervisors its findings and recommendations for approval or other appropriate action.

E. Effect of Human Rights Commission Decisions on County Agencies

1. The final decision of the Commission, as to the fact of discrimination by a respondent, in violation of Chapter 15D of the Code of the County of Fairfax, Virginia, shall be binding on all County agencies.

2. Upon publication or receipt of a copy of the final decision and order of the Commission finding a respondent to be in violation of Chapter 15D of the Code of the County of Fairfax, the purchasing agent of Fairfax County may deem the respondent therein ineligible for award of a public contract until the Commission is satisfied that the respondent will carry out policies in compliance with the order of the Commission and the provisions of the Human Rights Ordinance of the County.

3. Upon publication or receipt of a copy of the final decision and order of the Commission finding a respondent to be in violation of Chapter 15D of the Code of the County of Fairfax, the purchasing agent of Fairfax County may deem the respondent therein ineligible to negotiate with the County until the Commission is satisfied that the respondent will carry out policies in compliance with the order of the Commission and the provisions of the Human Rights Ordinance.

4. Upon publication or receipt of a copy of the final decision and order of the Commission finding a respondent to be in violation of Chapter 15D of the Code of the County of Fairfax, the County Executive of the County of Fairfax may take appropriate action to terminate or refuse to grant or continue any public financial assistance to a program or activity of the respondent.

5. All county agencies, officers, or employees affected by the provisions herein shall preserve records made or applications received in the normal course of business for a period of one year from the last date of the making of the record or the action taken, whichever occurs later. When a charge of discrimination has been filed against any County agency, officer, or employee pursuant to this resolution, said agency, officer, or employee shall preserve all records relevant to the charge or action until final disposition of the charge or action.

6. Any person adversely affected by the provisions herein shall

retain all rights of appeal and remedies otherwise provided for by County, State or Federal laws, rules, or regulations.

F. Construction with other Laws

Nothing contained herein shall be construed to conflict with any state or federal law, rule, or regulation, and insofar as any provision herein does so conflict, it shall be superseded thereby.

A Copy - Teste:

Ethel Wilcox Register
Ethel Wilcox Register
Clerk of said Board