

## Chapter 58

### HUMAN RELATIONS

#### Article I. In General

Secs. 58-1-58-25. Reserved.

#### Article II. Discrimination

##### Division 1. Generally

Sec. 58-26. Definitions.  
Secs. 58-27-58-35. Reserved.

##### Division 2. Community Relations Commission

Sec. 58-36. Established.  
Sec. 58-37. Duties.  
Sec. 58-38. Procedures and powers.  
Sec. 58-39. Service of notices.  
Secs. 58-40-58-50. Reserved.

##### Division 3. Employment

Sec. 58-51. Employers.  
Sec. 58-52. Employment agencies.  
Sec. 58-53. Labor organizations.  
Sec. 58-54. Training programs.  
Sec. 58-55. Other discriminatory practices.  
Sec. 58-56. Exceptions.  
Sec. 58-57. Imbalance; number or percentage.  
Sec. 58-58. Application of federal or state law.  
Secs. 58-59-58-70. Reserved.

##### Division 4. Public Accommodations

Sec. 58-71. Discriminatory practice.  
Secs. 58-72-58-82. Reserved.

##### Division 5. Fair Housing

Sec. 58-83. Policy.  
Sec. 58-84. Definitions.  
Sec. 58-85. Unlawful practices.  
Sec. 58-86. Discrimination in the sale or rental of housing.  
Sec. 58-87. Discrimination in financing or housing.  
Sec. 58-88. Discrimination in the provision of brokerage services.  
Sec. 58-89. Exemption.  
Sec. 58-90. Administration.  
Sec. 58-91. Education and conciliation.  
Sec. 58-92. Enforcement.  
Sec. 58-93. Investigations, subpoenas, giving of evidence.  
Sec. 58-94. Enforcement by private persons.  
Sec. 58-95. Interference, coercion or intimidation.  
Sec. 58-96. Separability of provisions.  
Sec. 58-97. Prevention of intimidation in fair housing cases.

## ARTICLE I. IN GENERAL

Secs. 58-1-58-25. Reserved.

## ARTICLE II. DISCRIMINATION\*

## DIVISION 1. GENERALLY

Sec. 58-26. Definitions.

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

*Age* means that period of time when a worker is at least 40 years old and less than 70 years old.

*Commission* means the community relations commission.

*Commissioner* means a member of the commission.

*Discriminatory practice* means the practice designated as discriminatory under this article.

*Employer* means a person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, or a person who as a contractor or subcontractor is furnishing the material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person but does not include an Indian tribe or a bona fide membership club not organized for profit.

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

*Handicapped person* means a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment.

.Cross reference-Businesses, ch. 22.  
State law references-Discrimination, 25 O.S. § 1201 et seq.; local antidiscrimination ordinances, 25 O.S. § 1702.

*Labor organization* includes:

- (1) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
- (2) A conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.
- (3) An agent of a labor organization.

*National origin* includes the national origin of an ancestor.

*Owner* means the owner, co-owner, lessee, sublessee, mortgagee, assignee, manager, agent, employee or any other person having the right of ownership or possession or the authority to sell, rent or lease any dwelling unit, or any person having an equitable or security interest in any dwelling unit, including the city and its departments, boards, commissions and authorities.

*Person* means an individual, association, corporation, joint apprenticeship, committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, any other legal or commercial entity, the state, or any governmental entity or agency, including the city.

*Place of public accommodation* means any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds; except, that a private club is not a place of public accommodation, if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests. However, a place of public accommodation shall not include barbershops or beauty shops or privately owned resort or amusement establishments or an establishment located within

a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as his residence.

*Real estate broker* means any person who for a fee or other valuable consideration manages, sells, purchases, exchanges or rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of, the real property of another, or holds itself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, or collects rent for the use of the real property of another, and includes real estate salesmen or agents or any other person employed by a real estate broker to perform or to assist in the performance of his business.

(Code 1974, § 2-72)

Crossreference-Definitions generally, § 1-2.  
State law reference-Similar provisions, 25 O.S. §§ 1201, 1301, 1401, 1451.

Secs. 58-27-58-35. Reserved.

DIVISION 2. COMMUNITY RELATIONS COMMISSION\*

Sec. 58-36. Established.

There is hereby established a community relations commission of the city, consisting of five members, to be appointed by the mayor and city council, for terms of two years; provided, however, that for the first appointment under the provisions of this article, three members shall be appointed for a period of two years and two members shall be appointed for a period of one year. All appointments thereafter shall be for a term of two years. The mayor, or his designee, shall serve as an ex officio member.

(Code 1974, § 2-84)

State law reference-Commission authorized, 25 O.S. § 1703.

.Cross reference-Boards and commissions, § 2.166 et seq.  
State law reference-Community relations commissions, 25 O.S. § 1703 et seq.

Sec. 58-37. Duties.

The community relations commission shall have the following duties to:

- (1) Receive, investigate, and seek the satisfactory adjustment of complaints which charge discriminatory practices as set forth in this article.
- (2) Study and investigate by means of public hearings or otherwise any condition having an adverse effect on intergroup relations in the city and study the problems of prejudice and intolerance, bigotry and discrimination as they affect the public safety and general welfare of the city.
- (3) Institute and conduct educational and other programs to promote the equal rights and opportunities of all persons regardless of their race, color, religion, national origin, sex, political affiliation, age, marital status or handicap, and to promote understanding among persons, groups of different races, colors, religions, national origins, sex, political affiliations, ages, marital status or handicaps. In performance of this duty, the commission may cooperate with interested citizens, private agencies, and agencies of the federal, state and local government.
- (4) Hold hearings, make findings of fact, adopt such rules and policies as may be necessary within the limits of this article, and otherwise carry out the purposes and provisions of this article.

(Code 1974, § 2-85)

State law reference-Additional powers, 25 O.S. § 1704.

Sec. 58.38. Procedures and powers.

(a) Any person aggrieved by discriminatory practices prohibited by this article may file with the community relations commission a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved, and shall state the name and address of the person alleged to have violated the provisions of this article, and shall further set forth the particulars of the violation, and may include such other information as may be required by the commission. Complaints filed under this section shall be filed

within 60 days after the alleged violation, and failure to file within such time shall be considered a waiver of the application of this article. The commission may issue a complaint on its own initiative, at any time it has knowledge that a person has violated any of the provisions of this article.

(b) The commission shall investigate each complaint filed, and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty days shall be allowed for the purpose of investigation, conference and conciliation. Upon determination that a complaint is not well founded, the commission shall dismiss the complaint and notify the complainant and respondent in writing of such dismissal. If the commission takes no action within 90 days of the filing of the complaint, it shall be considered dismissed.

(c) If conference or conciliation does not result in compliance with this article, the commission shall cause to be issued and served in the name of the city a written notice together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as the respondent, to answer charges of the complaint at a hearing before the commission at a time and place to be specified in the notice.

(d) At the hearing provided for in subsection (c) above, the complainant or person aggrieved may appear in person and/or by counsel, and the respondent may file a written answer to the complaint and may appear in person and/or by legal counsel. The commission, when conducting any hearing, pursuant to this section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the commission. If the commission finds at the hearing that the respondent has engaged in any discriminatory practice or practices prohibited by this article, it shall state its findings of fact, and shall so certify the matter to the city attorney for appropriate action. No prosecution shall be brought under this article except upon such certification. If the commission, upon hearing, finds that the respondent has not engaged in any discriminatory practice, it shall state its findings of fact, and shall issue and file an order dismissing the com-

plaint. The commission shall establish rules and regulations to govern, expedite and effectuate the foregoing procedure, and shall maintain the files provided for herein.  
(Code 1974, § 2-86)

Sec. 58-39. Service of notices.

All notices required under this article to be served upon any person may be served personally on such person, or by mailing a copy thereof by certified or registered mail, with return receipt requested, to the current business or residence address of such person.  
(Code 1974, § 2-87)

Secs. 58-40-58-50. Reserved.

### DIVISION 3. EMPLOYMENT\*

Sec. 58-51. Employers.

(a) It is a discriminatory practice for an employer to:

- (1) Fail or refuse to hire, to discharge or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
- (2) Limit, segregate or classify an employee in a way which would deprive or tend to deprive him of employment opportunities or otherwise adversely affect his status because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(b) This section shall not apply to the employment of an individual by his parents, spouse or child, or to employment in the domestic service of the employer.  
(Code 1974, § 2-73)

State law reference-Similar provisions, 25 O.S. § 1302.

\*Cross reference-Officers and employees, § 2.66 et seq.  
State law reference-Employment discrimination, 25 O.S. § 1301 et seq.

Sec. 58-52. Employment agencies.

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

(Code 1974, § 2-74)

State law reference-Similar provisions, 25 O.S. § 1303.

Sec. 58-53. Labor organizations.

It is a discriminatory practice for a labor organization to:

- (1) Exclude or to expel from membership, or otherwise to discriminate against, a member or applicant for membership because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
- (2) Limit, segregate or classify membership, or to classify or to fail or refuse to refer for employment an individual in a way:
  - a. Which would deprive or tend to deprive an individual of employment opportunities; or
  - b. Which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
- (3) Cause or attempt to cause an employer to violate the provisions of this article.

(Code 1974, § 2-75)

State law reference-Similar provisions, 25 O.S. § 1304.

Sec. 58-54. Training programs.

It is a discriminatory practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship, on-the-job, or other training or retraining program, to discriminate against an individual because of race, color, religion, national origin, sex, political affil-

iation, age, marital status or handicap in admission to, or employment in, a program established to provide apprenticeship or other training.

(Code 1974, § 2.76)

State law reference-Similar provisions, 25 O.S. § 1305.

Sec. 58-55. Other discriminatory practices.

It is a discriminatory practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex, political affiliation, age, marital status or handicap. However, a notice or advertisement may indicate a preference, limitation, specification or discrimination based on race, color, religion, national origin, sex, political affiliation, age, marital status or handicap when it is a bona fide occupational qualification for employment.

(Code 1974, § 2-80)

State law reference-Similar provisions, 25 O.S. § 1306.

Sec. 58-56. Exceptions.

It is not a discriminatory practice:

- (1) For an employer to hire and employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program to admit or employ an individual in the program, on the basis of his race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
- (2) For a school, college, university or other educational institution to hire and employ

an employee of a particular religion if the school, college, university or other educational institution is, in whole or substantial part owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school, college, university or other educational institution is directed toward the propagation of a particular religion.

- (3) For an employer to apply different standards of compensation or different terms, conditions, privileges or responsibilities of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.
- (4) For an employer to give and to act upon the results of a professionally developed ability test if the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap.

(Code 1974, § 2-81)

State law reference-Similar provisions,25 O.S. § 1308.

Sec. 58-57. Imbalance; number or percent. age.

Nothing in this article requires an employer, employment agency, labor organization, or joint labor-management committee subject to this article to grant preferential treatment to an individual or group because of race, color, religion, national origin, sex, political affiliation, age, marital status or handicap of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, political affiliation, age, marital status or handicap employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or

classified by a labor organization or admitted to, or employed in, an apprenticeship or other training or retraining program in comparison with the total number or percentage of persons of the race, color, religion, national origin, sex, political affiliation, age, marital status or handicap in the state or a community, section or other area. However, it is not a discriminatory practice for a person subject to this article to adopt and carry out a plan to eliminate or reduce imbalance with respect to race, color, religion, national origin, sex, political affiliation, age, marital status or handicap if the plan has been filed with the commission under regulations of the commission and the commission has not disapproved the plan. (Code 1974, § 2-82)

State law reference-Similar provisions,25 O.S. § 1310.

Sec. 58-58. Application of federal or state law.

Notwithstanding any other provisions of this article, it shall not be an unlawful employment practice or discrimination if the act is not prohibited by state or federal laws in regard to discrimination.

(Code 1974, § 2-83)

Secs. 58-59-58-70. Reserved.

#### DIVISION 4. PUBLIC ACCOMMODATIONS

Sec. 58-71. Discriminatory practice.

It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation because of age, sex, race, color, religion, handicap or national origin.

(Code 1974, § 2-77)

State law reference-Similar provisions,25 O.S. § 1402.

Secs. 58-72-58-82. Reserved.

DIVISION 5. FAIR HOUSING\*

Sec. 58-83. Policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city.  
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-84. Definitions.

*Discriminatory housing practice* means an act that is unlawful under sections 58-86, 58-87 and 58-88.

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

*Family* includes a single individual.

*Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries.

*To rent* includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises owned by the occupant.  
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-85. Unlawful practices.

Subject to the provisions of subsection (2) and section 58-89, the prohibitions against discrimination in the sale or rental of housing set forth in section 58-85 shall apply to:

- (1) All dwellings except as exempted by subsection (2).

\*Editor's note-Ord. No. 2123, § 1, adopted Nov. 14, 2000, has been included herein as superseding the provisions of former Div. 5, §§ 58-81 and 58-82, relative to housing, which derived from Code 1974, §§ 2-78, 2-79.

Cross reference-Buildings and building regulations, ch. 18.

State law reference-Discrimination in public housing, 25 O.S. § 1451 et seq.

- (2) Nothing in section 58-86 shall apply to:

- a. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three single-family houses at anyone time; provided further that, in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided further that such bona fide private individual owners does not own any interest in, for is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at anyone time; provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

- 1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman or of such facilities or services on any person in the business of selling or renting dwellings or of any employee or agent of any such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person; and
- 2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 58-86(3). However, nothing in this provision shall prohibit the

use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect or transfer the title; or

- b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:
- a. He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
  - b. He has, within the preceding 12 months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - c. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-86. Discrimination in the sale or rental of housing.

AB made applicable by section 58-85 and except as exempted by sections 58-85(2) and 58-89, it shall be unlawful to:

- (1) Refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny an dwelling to any person because of race, sex, color, religion, national origin, disability or familial status.

- (2) 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 therewith because of race, sex, color, religion, national origin, disability or familial status.
- (3) Make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, disability or familial status or an intention to make any such preference, limitation or discrimination.
- (4) Represent to any person because of race, sex, color, religion, national origin, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is, in fact, so available.
- (5) Induce or attempt to induce any person to sell or rent any dwelling, for profit, by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, disability or familial status.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-87. Discrimination in financing or housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of race, sex, color, religion, national origin, disability or familial status of such person or of any person associated with him in connection with such loan or other

financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in the relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 58-85(2).

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-88. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, rental or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, sex, color, religion, national origin, disability or familial status.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-89. Exemption.

Nothing in this division shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, disability or familial status. Nor shall anything in this division prohibit a private club not, in fact, open to the public which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-90. Administration.

(a) The authority and responsibility for administering the division shall be in the chief executive officer of the city.

(b) The chief executive officer may delegate any of these functions, duties and powers to employees of the city or to boards of such employees, including functions, duties and powers, with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this division. The chief executive officer shall, by rule, prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner to affirmatively further the purposes of this division and shall cooperate with the chief executive officer to further such purposes.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-91. Education and conciliation.

Immediately after the enactment of this division, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this division. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this division and his suggested means of implementing it and shall endeavor, with their advice, to work out programs of voluntary compliance and of enforcement.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-92. Enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form, as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within

30 days after receiving a complaint or within 30 days after the expiration of any period of reference under subsection (c), the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file and answer to the complaint against him and, with the leave of the chief executive officer which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If, within 30 days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this division, the person aggrieved may, within 30 days thereafter, file a complaint with the secretary of the department of housing and urban development. The chief executive officer will assist in this filing.

(d) If the chief executive officer has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by this division insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceedings brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-93. Investigations, subpoenas, giving of evidence.

(a) In conducting an investigation, the chief executive officer shall have access at all reasonable time to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statement of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

(b) Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena

issued at the request of a respondent shall be paid by him. Within five days after service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(d) In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

(e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than \$200.00. Any person who, with intent to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief executive officer pursuant to his subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be fined not more than \$200.00.

(f) The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this division. (Ord. No. 2123, § 1, 11-14-00)

Sec. 58-94. Enforcement by private persons.

(a) The rights granted herein by sections 58-85, 58-86, 58-87 and 58-88 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory

housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or section 58-92(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief executive officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the chief executive officer and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this division and involving a bona fide purchaser, encumbrance or tenant, without actual notice of the existence of the filing of a complaint or civil action under the provisions of this division, shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than \$1,000.00 punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff, provided that the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-95. Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his having exercised or enjoyed or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by sections 58-85, 58-86, 58-87 or 58-93. This section may be enforced by appropriate civil action.

(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-96. Separability of provisions.

If any provision of this division or the application thereof to any person or circumstance is held invalid, the remainder of the division and the

application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.  
(Ord. No. 2123, § 1, 11-14-00)

Sec. 58-97. **Prevention of intimidation in fair housing** cases.

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

- (1) Any person because of his race, sex, color, religion, national origin, disability or familial status and because he is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or
- (2) Any person because he is or has been or in order to intimidate such person or any other person or class of persons from:
  - a. Participating without discrimination on account of race, sex, color, religion, national origin, disability or familial status in any of the activities, services, organizations or facilities described in subsection 58-97(1); or
  - b. Affording another person or class of persons opportunity or protection so to participate.
- (3) Any citizen because he is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, sex, color, religion, national origin, disability or familial status, in any of the activities, services, organizations or facilities described in subsection 58-97(1) or from participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$200.00, and if bodily in-

jury results, shall be fined not more than \$200.00; and if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. No. 2123, § 1, 11-14-00)

Chapters 59-61

**RESERVED**