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CHAPTER 13

HUMAN RELATIONS

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**ARTICLE I.
IN GENERAL**

Secs. 13-1—13-15. Reserved.

**ARTICLE II.
DISCRIMINATION***

Sec. 13-16. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

City Manager shall mean the chief administrative official of the City, including any person appointed or designated by the City Manager to carry out any or all of the duties, obligations, rights and powers appointed to the City Manager under this Article.

Complainant shall mean the person filing a formal charge or accusation of violation of this Article.

Disabled individual shall mean any person who has a physical or mental impairment that substantially limits one (1) or more of the major life activities of such person, has a record of such an impairment, or is regarded as having such an impairment. In reference to employment, *disabled individual* means a disabled individual as defined herein who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Discriminate and *discriminate against*, *discriminatory reason* or *reason of discrimination* shall mean under the given circumstances, a person makes a limitation or specification as to another because of the latter person's race, color, religion, national origin, sex or marital status or because of the race, color, religion, national origin, sex or marital status of the other person's friends or associates. The term *discriminatory reason* or *reason of discrimination* may be used to have the following sense or meaning and at the same time save repeated use of the term based upon or because of the race, color, religion, national origin, sex or marital status of the other person, or because of the race, color, religion, national origin, sex or marital status of such other person's friends or associates. The foregoing terms will include the phrase *age between forty (40) and seventy (70)* when used in the area of employment under § 13-17. The foregoing shall include discrimination against a disabled individual, as defined herein, when used in the areas of housing under § 13-18, employment under § 13-17 and public accommodations under § 13-19 of the Code.

Employer shall mean any person employing any person in any capacity other than domestic service in the employer's own home.

Employment shall mean any character of service rendered or to be rendered for wages, salary, commission or other form of remuneration, and to use or engage any character of service rendered or to be rendered for wages, salary, commission or other form of remuneration.

Employment agency shall mean any person undertaking, with or without compensation, to procure employees or opportunities to work for any person or holding itself out as equipped to do so.

Person shall mean any individual, group, association, corporation, joint apprenticeship, committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trustee or unincorporated organization or other legal, commercial or governmental entity but shall not include an agency or school district of the State of Colorado or an agency of the United States of America.

Place of public accommodations shall mean any place of business engaged in any sales to the general public and any place that offers services, facilities, privileges or advantages to the general public or that receives financial support through solicitation of the general public or through governmental subsidy of any kind.

* **Cross-references**—The Commission on Disability, § 2-166 et seq.; Commission on the Status of Women, § 2-181 et seq.; Human Relations Commission, § 2-261 et seq.

Real estate transaction shall mean the sale, exchange, rental or lease of any real property and also includes offering or listing of any real property for sale, exchange, rental or lease.

Respondent shall mean the person being formally charged with a violation of this Article.
(Code 1972, § 45-1; Ord. No. 105, 1988, § 1, 8-16-88; Ord. 126, 2002, §§ 1,2, 9-17-02)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 13-17. Discriminatory employment practices prohibited.

- (a) It is a discriminatory employment practice and a violation of this Section for:
- (1) Any employer, because of discriminatory reason, to refuse to hire another or otherwise to discriminate against any person with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment except where based upon a bona fide occupational qualification;
 - (2) Any employment agency to fail or refuse to classify property, refer for employment or otherwise to discriminate against any person relating to employment or prospective employment;
 - (3) Any labor organization to discriminate against any person or to limit, segregate or qualify its membership in any way which would tend to deprive any person of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status as an employee or as an applicant for employment or would adversely affect the wages, hours or employment terms, conditions or privileges because of a discriminatory reason;
 - (4) Any person to use a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property to coerce such a person to not accept or discontinue employment;
 - (5) Any person seeking employment to publish or cause to be published any advertisement for employment with specification or limitation based upon a discriminatory reason.
- (b) Except where based on a bona fide occupational qualification, it is a discriminatory employment practice for any employer, employment agency or labor organization prior to employment or admission to membership to:
- (1) Elicit any information for the purpose of discrimination against any applicant for employment or membership;
 - (2) Make or keep a record for the purpose of discrimination against any applicant for employment or membership;
 - (3) Use any form of application for employment or personnel or membership blank seeking to elicit information for the purpose of discrimination;
 - (4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation or specification based on a discriminatory reason;
 - (5) Establish, announce or follow a policy of denying or limiting through a quota system or otherwise employment or membership opportunities of any group because of a discriminatory reason;
 - (6) Utilize in the recruitment or hiring of individuals any employment agency, placement service, training school or center, labor organization or any other employee referring service known by such person to discriminate;
 - (7) Intentionally utilize in the recruitment, hiring, upgrading or promotion of any person any test which tends to discriminate; provided, however, that it shall not be a discriminatory practice to have programs which provide opportunities for persons who have been the traditional targets of discrimination or to use a form or make a record of inquiry as above described for the purpose of required governmental reporting. This Subsection shall not be construed to prohibit a person giving or being required to give the person's name.
- (c) The provisions of this Section shall not apply to prohibit a religious organization or institution from restricting employment opportunities and advertising such restrictions so as to give preference to members of its own religion or

denomination or to make such selection as is reasonably calculated by such organization or institution to promote the religious principles for which it is established or maintained.

(Code 1972, § 45-3; Ord. No. 105, 1988, §§ 2, 3, 8-16-88)

Cross-references—The Commission on Disability, § 2-166 et seq.; Commission on the Status of Women, § 2-181 et seq.; Human Relations Commission, § 2-261 et seq.

Sec. 13-18. Discriminatory housing practices prohibited; exemptions.

- (a) No person for any reason of discrimination shall:
 - (1) Refuse to negotiate for and/or engage in a real estate transaction with another person;
 - (2) Discriminate against another person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
 - (3) Refuse to receive from or fail to transmit to another person a bona fide offer to engage in a real estate transaction;
 - (4) Represent to another person that any real property is not available for inspection or for a real estate transaction when in fact it is available;
 - (5) Fail, in the ordinary course of business, to bring a property listing to another person's attention or to refuse to permit him to inspect real property under reasonable conditions.
- (b) No person shall:
 - (1) Publish or advertise, directly or indirectly, an intent to make a limitation or specification based on a discriminatory reason;
 - (2) Use a form of application for a real estate transaction, or make a record of inquiry in connection with a real estate transaction, for the purpose of making a limitation or specification based on a discriminatory reason. It shall not be a discriminatory practice to have programs which provide opportunities for persons who have been the traditional targets of discrimination or to use a form or make a record of inquiry as above described for the purpose of required governmental reporting. This Subsection shall not be construed so as to prohibit a person giving or being required to give the person's name;
 - (3) Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction, or in the furnishing of facilities or services in connection therewith;
 - (4) Initiate, instigate or participate in representations, advertisements or contacts within a block, neighborhood or area designed to promote real estate transactions therein on the implication directly or indirectly that changes have occurred or will or may occur in the composition thereof with respect to discrimination against the owners or occupants, or that such changes will or may result in lowering of property values or an increase in criminal or antisocial behavior or decline in the quality of schools in the block, neighborhood or area.
- (c) A person or a representative of such person to whom application is made for financial assistance in connection with a real estate transaction, or for the construction, rehabilitation, repair, maintenance or improvement of real property, shall not:
 - (1) Discriminate against the applicant;
 - (2) Use a form of application for financial assistance or make or keep a record of inquiry in connection with applications for financial assistance, for the purpose of making a limitation or specification based on a discriminatory reason. It shall not be a discriminatory practice to have programs which provide opportunities for persons who have been the traditional targets of discrimination or to use a form or make a record of inquiry as above described for the purpose of required governmental reporting. This Subsection shall not be construed so as to prohibit a person giving or being required to give the person's name.

(d) No person for a reason of discrimination shall:

- (1) Provide unequal terms, conditions, privileges and services to another person in regard to real estate ownership, rental or leasing;
 - (2) Use a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property to coerce such person to not buy, rent or lease, or to discontinue ownership, rental or leasing real estate.
- (e) The following exemptions shall apply to the provisions of this Section:

(1) The owner of an owner-occupied single-family or two-family dwelling or housing facility may restrict occupancy of such facility on the basis of the sex of the proposed occupant, and such owner or authorized agent can effectuate said restrictions by advertising or otherwise arranging for the occupancy of the dwelling.

(2) A religious organization or institution may restrict its facilities or housing which are operated in connection with its religious activities and may advertise such restrictions so as to give preference to members of its own religion or denomination or to make such selection as is reasonably calculated by such organization or institution to promote the religious principles for which it is established or maintained.

(Code 1972, § 45-2; Ord. No. 105, 1988, § 4, 8-16-88)

Cross-references—The Commission on Disability, § 2-166 et seq.; Commission on the Status of Women, § 2-181 et seq.; Human Relations Commission, § 2-261 et seq.

Sec. 13-19. Discriminatory public accommodation practices prohibited.

(a) It shall be prohibited as a discriminatory practice for any person to:

- (1) Deny or limit access to a place of public accommodation or provide unequal terms, conditions or privileges to a person because of a discriminatory reason;
- (2) Use a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property to coerce such person to not utilize a place of public accommodation;
- (3) Advertise or cause to be advertised a place of public accommodation as being restricted on the basis of discriminatory reason.

(b) The provisions of this Section shall not apply to prohibit a religious organization or institution from restricting the use of its facilities and advertising such restrictions, thereby discriminating against certain persons so as to give preference to members of its own religion or denomination or to make such selection as is reasonably calculated by such organization or institution to promote the religious principles for which it is established or maintained.

(c) Notwithstanding any other provisions of this Section, it is not a discriminatory practice for a person to restrict admission to a place of public accommodation to individuals of one (1) sex if such restriction has a bona fide relationship to the goods, services, facilities, privileges, advantages or accommodations of such place of public accommodation.

(Code 1972, § 45-4; Ord. No. 105, 1988, §§ 5, 6, 8-16-88; Ord. No. 42, 1990, § 1, 5-1-90)

Cross-references—The Commission on Disability, § 2-166 et seq.; Commission on the Status of Women, § 2-181 et seq.; Human Relations Commission, § 2-261 et seq.

Sec. 13-20. Interference with operation of regulations prohibited.

(a) No person shall:

- (1) Use a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property or discriminate against any person or provide unequal terms, conditions or privileges because that person has entered into a conciliation agreement under this Article or because such other person has opposed a discriminatory practice or because such person has made a charge, filed a complaint, testified, as-

sisted or participated in an investigation, proceedings or hearing before anybody charged by law with the duty to hear complaints relating to problems of discrimination;

- (2) Use a threat communicated by physical, oral or written means of harm or injury to another person, reputation or property to coerce such person to engage in a discriminatory practice or other violation of this Article;
- (3) Willfully obstruct, hinder or interfere with the performance or the proper exercise of a duty, obligation, right or power by the City Manager, the Municipal Court or any other official or body with duties, obligations, rights and powers under this Article.

(b) A complaint for a violation of this Section shall be processed in accordance with §§ 13-22 through 13-25.

(Code 1972, § 45-5)

Cross-references—The Commission on Disability, § 2-166 et seq.; Commission on the Status of Women, § 2-181 et seq.

Sec. 13-21. Appointment of enforcing official.

A person may be appointed or designated by the City Manager to carry out any or all of the duties, obligations, rights or powers under the provisions of this Article. Such appointee shall have such job titles as designated by the City Manager.

(Code 1972, § 45-6)

Sec. 13-22. Complaint.

(a) Any person claiming to be aggrieved by a violation of this Article may, within sixty (60) days of the alleged violation, or thirty (30) days after any complaint concerning the same matter has been dismissed by another agency without a final judgment on the merits, whichever shall last occur, file a written complaint under oath with the City Manager. The complaint shall contain the name of the alleged violator, or set forth facts sufficient to identify such person, and include an outline of the material facts upon which the complaint is based and the date of the alleged violation. In addition, the complaint shall state, if and as applicable, that any acts or conduct of the complainant were for the purpose of accomplishing the real estate transaction, employment objective or public accommodation use in question, and not for the purpose of harassment or entrapment of the person against whom the complaint is made.

(b) The complaint must state:

- (1) Whether or not a complaint concerning this same matter has been filed with another agency;
- (2) Whether any complaint concerning this same matter that has been filed with another agency has been dismissed without a final judgment on the merits.

(c) Upon receiving a complaint which conforms to the requirements of this Section, the City Manager may proceed with a local investigation pursuant to this Article. In the alternative, the City Manager may request that the complaint be investigated, conciliated and fully determined by the State of Colorado in accordance with the provisions of Title 24, Article 34, Parts 3 through 7, C.R.S. If the City Manager's request is accepted by the State or if a complaint concerning the same subject matter has been previously filed by the complainant with the Colorado Civil Rights Commission or another public agency, the City Manager shall hold the City's investigation in abeyance pending further action by the Commission or other agency. If such other agency makes a final judgment on the merits, the City Manager shall dismiss the complaint filed with the City. If such other agency dismisses the complaint without a final judgment on the merits or waives jurisdiction, the City Manager shall proceed with an investigation pursuant to the provisions of § 13-23. In any event, the City Manager shall furnish a copy of the complaint to the respondent within ten (10) days after the complaint is filed with the City.

(Code 1972, § 45-7(A); Ord. No. 42, 1990, §§ 2, 3, 5-1-90)

Sec. 13-23. Investigation by City Manager; appeal.

(a) The City Manager shall promptly conduct a preliminary investigation to determine whether the factual allegations of the complaint constitute probable cause to believe that there has been a violation of this Article. The City Manager shall render a probable cause determination within one hundred twenty (120) days from the date of the

City's receipt of the initial complaint, or, in the event the matter has been submitted for review by another agency, the date of the City's receipt of notice from such other agency that the complaint has been dismissed without final judgment on the merits or that such agency has waived jurisdiction over the complaint. This time limit may be extended by the City Manager with the consent of the complainant. In the event that the City Manager does not render the probable cause determination within the time limit and has not obtained consent for an extension, the complainant may consider the complaint as having been dismissed with a finding of no probable cause, and the complainant may commence an appeal as provided in Subsection (b) of this Section.

(b) If at any time the City Manager determines that the factual allegations of a complaint are materially untrue, or, if true, that a violation under this Article cannot be established, he or she shall dismiss the complaint and notify the complainant and the respondent of such action, which notice shall inform the complainant of the following right of appeal. If the complainant is dissatisfied with the City Manager's decision to dismiss the complaint, the complainant shall have the right to appeal such decision to the Human Relations Commission. Any such appeal shall be filed in writing with the City Manager within thirty (30) days of the complainant's receipt of the notice of dismissal. Within ten (10) days of the City Manager's receipt of the notice of appeal, the City Manager shall notify the complainant of a date, time and place when the appeal will be heard by the Human Relations Commission, which date shall be no more than fifty (50) days subsequent to the City Manager's receipt of the notice of appeal. The Human Relations Commission shall conduct a hearing on the allegations in the complaint. The Human Relations Commission may adopt additional procedures for conducting the appeal process, providing such procedures do not conflict with the provisions of this Subsection or with any other provision of the Code or Charter. If the Human Relations Commission upholds the City Manager's decision, the complainant may seek judicial review of the decision of the Human Relations Commission in the District Court in accordance with the Colorado Rules of Civil Procedure, Rule 106(A)(4). Such review must be sought not later than thirty (30) days after the date of the decision of the Human Relations Commission. If either the Human Relations Commission or the District Court reverses the decision of the City Manager, the City Manager shall pursue the complaint in the same manner as if the City Manager had found the allegations to be materially true and sufficient to establish a violation.

(Code 1972, § 45-7(B); Ord. No. 105, 1988, § 7, 8-16-88; Ord. No. 157, 2001, § 1, 11-6-01; Ord. No. 208, 2001, 12-18-01)

Cross-reference—Human Relations Commission, § 2-261.

Sec. 13-24. Conciliation.

(a) After the filing of a complaint, the City Manager may endeavor to eliminate the alleged violation by conference, conciliation and persuasion. The City Manager is authorized to work toward conciliation agreements whereunder the alleged violation is eliminated and the complaining person is made whole to the extent possible.

(b) Neither the complaint nor information gathered in the investigation shall be made public by the City or any officer, employee, board or commission thereof prior to the time a conciliation is reached or the City Manager determines that he or she is unable to effectuate a conciliation, unless the disclosure is made in connection with the conduct of the investigation or at a public hearing held pursuant to Subsection 13-23(b), above.

(c) If such an agreement is reached, it will be signed by the complainant and the respondent. The agreement shall provide for specific performance. It will not be necessary for the agreement to contain a declaration or finding that a violation has in fact occurred. It may provide for the dismissal of the complaint without prejudice. The complainant and respondent shall be furnished a copy of the agreement. The terms of such an agreement may be made public, but no other information relating to any complaint, its investigation and disposition will be disclosed or made public by the City or any officer, employee, board or commission thereof without the consent of the complainant and the respondent.

(Code 1972, § 45-7(c), (d); Ord. No. 105, 1988, § 7, 8-16-88; Ord. No. 42, 1990, §§ 4, 5, 5-1-90; Ord. No. 157, 2001, §2, 11-6-01)

Sec. 13-25. Commencement of action in Municipal Court.

(a) In the event of a finding of probable cause, either by the City Manager in the first instance or upon review by the Human Relations Commission or the District Court, and in the further event that the City Manager is unable to

effectuate an agreement through conference, conciliation or persuasion within the period of time described in Subsection 13-24(d), the City Manager shall review all available information to determine whether the intent and purpose of this Article would be served by the filing of a complaint in Municipal Court. If so determined, the City Manager shall file a complaint in Municipal Court alleging a violation of the provisions of this Article. The matter shall thereafter be prosecuted by the City, and the complainant shall be subpoenaed to appear and testify at such court proceeding. Any disclosure or statements made by the person charged during the course of conciliation efforts under this Article will not be used as evidence in such court proceeding. Upon conviction, a violation of the provisions of this Article shall be punishable by fine or imprisonment as stated in § 1-15 of this Code.

(b) Nothing herein shall preclude the Municipal Court, upon stipulation between the City and the defendant, from entering an order of deferred prosecution or judgment for such period of time as deemed proper by the Court, upon certain conditions, including but not limited to the following:

- (1) Requiring the defendant to cease and desist from the discriminatory practice;
- (2) Providing for the sale, exchange, lease, rental, assignment or sublease of real property to a particular person;
- (3) Requiring the defendant to pay back pay for discriminatory termination of employment, layoff or denial of promotion opportunity, or to make an offer of employment in the case of discriminatory refusal of employment, or to make an offer of promotion in the case of discriminatory denial of promotion opportunity;
- (4) Requiring that the defendant make available a place of public accommodation in the case of discriminatory denial of the use of such place;
- (5) Requiring reporting by the defendant as to the manner of compliance with the order of court.

(c) If the City Manager determines that the intent and purposes of this Article would not be served by the filing of a complaint in Municipal Court, written notice of such determination shall be given to the complainant; and the jurisdiction of the City and its Human Relations Commission over the complaint shall cease.

(Code 1972, § 45-8; Ord. No. 105, 1988, § 7, 8-16-88; Ord. No. 42, 1990, §§ 6, 7, 5-1-90)

Cross-reference—Municipal Court, Ch. 19.