

## **CHAPTER 12A: HUMAN RIGHTS COMMISSION**

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### **SEC. 12A.1. FINDINGS.**

The population of this City and County is composed of people of various racial, religious and ethnic groups. In this City and County the practice of discrimination on the actual or perceived grounds of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, weight, height or place of birth and the exploitation of prejudice related thereto adversely affects members of minority groups.

Such discriminatory practices are inimical to the public welfare and good order in that they: (a) impede social and economic progress for the entire citizenry by preventing members of minority groups from achieving full development of their individual potentialities and from contributing fully to the cultural and business life of the community; (b) constantly frustrate, degrade and embitter members of minority groups,

thereby diminishing their initiative and interests in the community; and (c) tend to create intergroup hostilities and antisocial behavior.

The products of discrimination accumulate continuously, with the result that the social, economic and educational gaps between those suffering discrimination and the majority of the community constantly widen. As a result, mere prohibition of future and present discrimination, while essential, will not reduce the inequalities and disadvantages which a history of discrimination has produced. Accordingly, affirmative remedial action must be initiated, encouraged and coordinated.

Experiences of other urban centers throughout the nation have proved the need for and effectiveness of commissions empowered to study community race relations problems, to work with interested citizens to develop programs to ameliorate tensions and reduce cultural, social and economic disadvantages and to encourage and coordinate implementation of such programs consistent with the needs and rights of members of both the majority and the minority.

A substantial number of the aforementioned evils in this City and County are beyond the regulation of applicable State law, and insofar as State law is applicable, voluntary compliance therewith should be fostered by a local human relations commission.

(Amended by Ord. 75-77, App. 3/4/77; Ord. 433-94, App. 12/30/94; Ord. 255-99, File No. 991146, App. 10/8/99; Ord. 101-00, File No. 000476, App. 5/26/2000)

## **SEC. 12A.2. DECLARATION OF POLICY.**

It is hereby declared:

That the policy of the City and County of San Francisco is to act to give effect to the rights of every inhabitant of the City and County to equal economic, political and educational opportunity, to equal accommodations in all business establishments in the City and County and to equal service and protection by public agencies;

That an instrumentality should be established to give effect to such rights, to eliminate prejudice and discrimination because of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, or place of birth, to inform the inhabitants of the City and County of developments in human relations, to provide expert advice and assistance to the officers, agencies, boards, departments and employees of the City and County in undertaking ameliorative practices to keep peace and good order and to officially encourage private persons and groups to promote and provide equal opportunity for and good will toward all people.

(Amended by Ord. 75-77, App. 3/4/77; Ord. 433-94, App. 12/30/94)

## **SEC. 12A.3. SCOPE OF ORDINANCE.**

This ordinance applies to all discriminatory practices and to resulting intergroup tensions specifically covered by the provisions of this ordinance that occur within the territorial limits of or within any agency under the jurisdiction of the City and County of San Francisco and to the extent permitted by law, to activities outside this City and County which reasonably affect such practices and tensions within said territorial limits. Nothing in this ordinance, however, shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal or State law.

(a) As used in this Chapter, the term:

"Age" refers to and shall include any person who has attained the age of 40 years and has not attained the age of 65 years.

"Sex" shall mean the character of being male or female.

"Sexual orientation" shall mean the choice of human adult sexual partner according to gender.

"Gender identity" shall mean a person's various individual attributes as they are understood to be masculine and/or feminine.

"Disability" is a physical or mental impairment which substantially limits one or more major life activities, is regarded as having such an impairment, or has a record of such an impairment.

"Qualified Disabled Employee" shall mean a person able to perform the essential functions of a job with reasonable accommodation.

(Amended by Ord. 489-86, App. 12/18/86; Ord. 433-94, App. 12/30/94)

## **SEC. 12A.4. ESTABLISHMENT; APPOINTMENT; TERMS; EXECUTIVE SECRETARY.**

(a) There is hereby established a commission to be known as the Human Rights Commission of the City and County of San Francisco (hereinafter called "Commission"), consisting of 15 members broadly representative of the general public and the employer, labor, religious, racial, age, sex, sexual orientation, gender identity, disabled and ethnic groups in the City and County, to be appointed by the Mayor. Four of the members who are first appointed shall be designated to serve for terms of one year, four for two years, four for three years and three for four years from the date of their appointments. Thereafter, members shall be appointed as aforesaid for a term of office of four years, except that all of the vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his or her successor has been appointed and has qualified. The Commission shall elect a chair from among its members. The term of office as chair of the Commission shall be for the calendar year or for that portion thereof remaining after each such chair is designated or elected. The compensation of members of said Commission shall be \$25 for each meeting of the Commission actually attended by said members; provided, however, that no member shall be paid for attending more than four Commission meetings in any one calendar month.

(b) The position of Executive Secretary to the Commission shall be established pursuant to and subject to Sections 3.500 and 8.200 of the Charter of the City and County of San Francisco. The person occupying such position shall be appointed by the chair of the Commission with the approval of a majority of the members of the Commission. The position of Executive Secretary to the Commission shall be exempted from the residency and electoral requirements of Section 16.98 of the San Francisco Administrative Code. All staff personnel shall be under the immediate direction and supervision of the Executive Secretary.

(Amended by Ord. 503-83 App. 10/14/83; Ord. 271-89, App. 7/28/89; Ord. 433-94, App. 12/30/94)

## **SEC. 12A.5. POWERS AND DUTIES.**

In addition to the other powers and duties set forth in this ordinance, the Commission shall have the power and duty to:

(a) Study, investigate, mediate and hold public hearings on community-wide problems arising in this City and County which may result in intergroup tensions or discrimination because of actual or perceived race, religion, color, ancestry, age, sex, sexual orientation, gender identity, physical disability, weight, height or place of birth. In the performance of its duties under this subsection, the Commission, as permitted by law, may require by subpoena ad testificandum setting forth the specific nature of its inquiry, the attendance and testimony under oath of any person directly involved in or concerned with discrimination within the scope of this ordinance whose presence and testimony is reasonably necessary to its inquiry; provided, however, that any such inquiry involving any agency, board, or officer of the City and County shall be governed by the provisions of Subsection (f) hereof. In case of the refusal of any person to attend or testify as required by a

subpoena ad testificandum issued by the Commission, the Commission may proceed to petition for a court order pursuant to Section 1991 of the California Code of Civil Procedure.

(b) Prepare and disseminate educational and informational material relating to prejudice and discrimination and ways and means of eliminating such prejudice and discrimination.

(c) Furnish cooperation, information, guidance and technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.

(d) Consult with and maintain contact with other public agencies and with representatives of employers, labor unions, property owners associations, realtor associations, religious denominations and institutions, professional associations, national origin groups, community organizations concerned with interracial, interreligious and intercultural understanding, social welfare organizations and such other private organizations and institutions as the Commission shall deem advisable to further the objectives of this ordinance.

(e) Cooperate with and make written recommendations to City and County agencies, boards and officers, as well as the agencies, boards or officers operating under State law within the City and County of San Francisco, towards the development and implementation of programs and practices for the purpose of furthering the objectives of this ordinance. The Commission and the affected agency, board or officer shall submit reports of progress in establishing and implementing such programs and practices as are from time to time requested by the Mayor through the chair of the Commission.

(f) Subject to the approval of the Mayor, request of any City and County agency, board or office information, services, facilities and any other assistance for the purpose of furthering the objectives of this ordinance. All such requests shall be promptly complied with by the affected agency, board or officer.

(g) Investigate and, with the assent of the parties, mediate all incidents of discrimination within the scope of this ordinance to the extent such functions are not within the exclusive responsibilities of the California Fair Employment Practices Commission or any federal or other State agency, and make specific and detailed recommendations to the interested parties as to the method of eliminating such discrimination. The Commission shall also be authorized to investigate complaints of discrimination brought by citizens involving agencies, boards or officers operating under State law within the City and County of San Francisco, and, where appropriate, to make written recommendations to said agencies or to represent citizens before said agencies.

(h) Prepare, encourage and coordinate programs of voluntary affirmative action to reduce or eliminate existing inequalities and disadvantages in the City and County resulting from past discriminatory practices.

(Amended by Ord. 599-82, App. 12/24/82; Ord. 433-94, App. 12/30/94; Ord. 278-96, App. 7/3/96; Ord. 255-99, File No. 991146, App. 10/8/99; Ord. 101-00, File No. 000476, App. 5/26/2000)

## **SEC. 12A.6. ADVISORY COUNCIL; SPECIAL COMMITTEES.**

(a) There shall be established a council to be known as the Advisory Council on Human Rights (hereinafter called "Council"), representative of the following interests or groups: Employer, labor, racial, religious, ethnic, housing, appropriate governmental agencies, and such other as the Mayor shall deem advisable. The members of the Council shall be appointed by the Mayor to serve at his or her pleasure and shall not be subject to the residence requirements of the Charter. The Council shall advise the Commission and shall be authorized to mediate and conciliate, upon specific request by the Commission, and to perform such other functions as shall from time to time be deemed appropriate by the Commission.

Members of the council shall serve without compensation.

(b) The Commission may form such special committees within and without the Advisory Council as are necessary to assist the Commission in the solution of specific problems within the scope of its responsibilities. The members of such committees shall be appointed by the Mayor upon the recommendation of the Commission, and shall serve until released by the Mayor upon the recommendation of the Commission and shall be residents of the City and County of San Francisco.

Members of special committees shall serve without compensation.

(c) There shall be established a special committee of no fewer than three persons who are publicly identified with the lesbian/gay community or who have worked closely with such community. The members of the committee shall be appointed by the Commission and shall serve until released by the Commission. Members shall be residents of the City and County of San Francisco.

The committee shall address itself specifically to the identification and solution of problems associated with the lesbian/gay community, and shall file written reports thereon with the Commission.

Members of the committee shall serve without compensation and all meetings of the committee shall be public.

(d) The Board of Supervisors declares that individuals appointed to the Advisory Council on Human Rights and Special Committees created pursuant to this Section, and other advisory committees created to advise the Commission, are intended to represent and further the interests of Minority Business Enterprises, Woman Business Enterprises and Local Business Enterprises, and that such representation and furtherance will ultimately serve the public interest. Accordingly, the Board of Supervisors finds that for the purposes of persons who hold such office, the owners, officers, and employees of Minority Business Enterprises, Women Business Enterprises and Local Business Enterprises are tantamount to and constitute the public generally within the meaning of Section 87103 of the California Government Code.

(Amended by Ord. 540-82, App. 11/12/82; Ord. 180-91, App. 5/15/91)

## **SEC. 12A.7. COOPERATION WITH OTHER COMMUNITIES.**

The Commission shall consult with and maintain contact with the human relations officers and other appropriate officers of other communities in the Bay Area and shall cooperate in the development and implementation of intercommunity human relations programs to further the objectives of this ordinance. The Commission shall encourage the Association of Bay Area Governments to develop and implement similar programs.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.8. UNFAIR NEIGHBORHOOD PRACTICES.**

(a) It shall be an unfair practice for any person, firm, partnership, association or corporation engaged in the business of real estate development, purchase, sale and/or brokerage to commit intentionally any one or more of the following acts in the course of such business:

(1) Induce directly or indirectly or attempt to induce directly or indirectly the sale or listing for sale of real property by representing that a change has occurred or will or may occur with respect to the racial, religious or ethnic composition of the block, neighborhood or area in which said property is located.

(2) Induce directly or indirectly or attempt to induce directly or indirectly the sale or listing for sale of real property by representing that the residence or anticipated residence of any particular race, religious or ethnic group in the area will or may result in: (i) the lowering of property values; (ii) a change in the racial, religious or ethnic composition of the block, neighborhood or area in which the property is located; (iii) an increase in criminal or antisocial behavior in the area; and (iv) a decline of the quality of the schools

serving the area.

(3) Make any representation to any prospective purchaser that any block, neighborhood or area has undergone or will or might undergo a change with respect to the religious, racial or ethnic composition of the block, neighborhood or area for the purpose of discouraging the purchase of property in a particular area.

(b) Nothing in this ordinance shall be construed to discourage any person, firm, partnership, association or corporation from engaging in legitimate business practices related to the purchase from or sale to persons of any actual or perceived race, religion, color, ancestry, age, sex, sexual orientation, physical disability, weight, height or place of birth, of real property in any neighborhood of this City and County, nor shall anything in this ordinance be construed as discouraging any person or family of whatever race, religion, color, ancestry, age, sex, sexual orientation, physical disability, weight, height or place of birth from seeking real property in any neighborhood of this City and County.

(Amended by Ord. 410-74, App. 8/28/74; Ord. 255-99, File No. 991146, App. 10/8/99; Ord. 101-00, File No. 000476, App. 5/26/2000)

## **SEC. 12A.9. ADJUSTMENT AND SETTLEMENT OF COMPLAINTS.**

(a) Upon the filing with the Commission of a verified written complaint by any person specifying in detail that an unfair practice, as defined in Section 12A.8 hereof, has occurred, the chair of the Commission, pursuant to regulations duly adopted by the Commission, shall designate one of the commissioners to make, with the assistance of the Commission's staff, a full and prompt investigation in connection therewith. If, upon such investigation, it is found that the person charged in the complaint has not engaged in or is not engaging in such unlawful practice, such finding, in writing, shall be filed with the Commission and the complaint shall be dismissed. If, upon such investigation, it is found that probable cause exists for the allegations made in the complaint, the chair of the Commission, pursuant to regulations duly adopted by the Commission, shall direct appropriate personnel to endeavor to eliminate the unfair practice charged in the complaint by means of conciliation and persuasion.

(b) In case of failure to eliminate the unfair practice by the means provided in Subsection (a) of this Section, the Commission shall review the matter and shall, by conciliation and mediation, endeavor to eliminate the unfair practice. The Commissioner who shall have previously made the investigation provided for in Subsection (a) of this Section shall not participate in any of the proceedings hereunder except as a witness and the aforesaid endeavors at conciliation shall not be received in evidence. In furtherance of such conciliation and mediation, the Commission may make specific recommendations to the parties involved, but such recommendations shall not constitute a decision, finding of fact, judgment or order of the Commission, or be binding upon or be admissible in any court in any subsequent proceeding brought under Subsection (f) of this Section.

In the performance of its duties under the provisions of this subsection, the Commission may require, by subpoena setting forth the specific nature of its inquiry, the attendance of any person and/or the production of any papers, documents or records under his or her control which are relevant and reasonably necessary to its activities. In case of the refusal of any person to attend or testify or produce any papers, documents or records required by a subpoena issued by the Commission, the Commission may proceed to petition for a court order pursuant to Section 1991 of the Code of Civil Procedure. All proceedings under this subsection shall be public.

(c) All evidence and information given to or obtained by the Commission in any proceedings under the provisions of Subsection (a) of this Section shall be confidential, and except as provided in Subsection (a) of Section 12A.11 of this ordinance no such evidence or information shall be divulged or revealed to any person other than parties to the proceedings, members of the Commission and its staff, and the City Attorney, or used against any person at any time by any member or employee of the Commission. Violation of this subsection shall constitute official misconduct and shall constitute cause for removal or discharge pursuant to Section 8.341 of the Charter of the City and County of San Francisco.

(d) The voluntary giving or furnishing of any information or evidence to the Commission in any proceedings under the provisions of this Section shall not constitute a waiver of any legal or constitutional privileges or defenses.

(e) If the party committing the unfair practice complies with the recommendations of the Commission, the matter shall be deemed settled and terminated and no other proceedings shall be had or taken.

(f) If the Commission is unable to eliminate the unfair practice, it may certify the matter to the City Attorney for appropriate legal action to eliminate such unfair practice. The Commission shall, at the time of certifying said matter, transmit to the City Attorney a copy of its findings and recommendations in such case. The City Attorney shall proceed in the name of the City and County no less than 20 and no more than 40 days after certification, to secure from an appropriate court an order enjoining the defendant from continuing or repeating such practice. If the Commission, prior to the commencement of the court proceedings, as a result of its effort of adjustment or otherwise, finds that the potential defendant is no longer engaging in the unfair practice described in its findings and has complied with the recommendations of the Commission, no such proceeding shall be instituted.

(g) In any court proceedings instituted by the City Attorney hereunder, the court shall hear and consider the matter as if it had never been before the Commission. There shall be no presumptions in favor of any prior action of the Commission, nor shall there be any presumption against a defendant arising out of said defendant's refusal to comply with any recommendation of the Commission. In such cases, the burden of proof shall be upon the City and County to establish by competent and substantial evidence that the defendant has violated this ordinance.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.10. RULES AND REGULATIONS.**

The Commission shall issue such rules and regulations for the conduct of its business as are necessary to carry out the purpose of this ordinance. Those portions of such rules and regulations which govern public hearings by the Commission shall conform as nearly as practicable to pertinent sections of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of California Government Code.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.11. REPORTS.**

The Commission shall render a written report of its activities to the Mayor and to the Board of Supervisors not less than once every three months. Such reports shall include:

(a) Case histories of conciliation settlements made under this ordinance, the disclosure of which, in the judgment of the Commission, will further the objectives of this ordinance, but such reports of case histories shall not include names or other facts which might clearly identify the parties involved, without the prior consent of the parties first obtained.

(b) Recommendations to the Mayor and the Board of Supervisors for the development of policies and procedures which will further the objectives of this ordinance.

(c) Recommendations to the Mayor and the Board of Supervisors for additional legislation deemed by the Commission to be necessary to carry out the purposes of this ordinance.

(d) Instances of discrimination by any agency, board or officer of this City and County which the Commission determines to have occurred subsequent to the issuance of its prior report.

(e) Recommendations of actions to be taken by any agency, board or officer of this City and County for the purposes of furthering the objectives of this ordinance.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.12. DATA.**

The Commission shall maintain and, subject to the limitations of Section 12A.9(c) of this ordinance, shall serve as the source of accurate and reliable data on practices, activities and other problems which are the subject of this ordinance.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.13. INDIVIDUAL REMEDIES.**

Nothing in this ordinance or the provisions thereof shall be construed as granting to an aggrieved individual any right to pursue a civil action against any person, firm, partnership, association, corporation or any agency, board or officer of this City and County.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.14. REPEAL.**

Any ordinance or part of any ordinance conflicting with the provisions of this ordinance hereby is repealed to the extent of such conflict.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.15. SEVERABILITY.**

If any part or provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this ordinance are severable.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.16. MEETINGS PUBLIC.**

All meetings of the Commission shall be public.

(Added by Ord. 209-64, App. 7/24/64)

## **SEC. 12A.17. DOMESTIC PARTNER INQUIRY REQUIREMENT FOR CITY FORMS.**

(a) It is the official policy of the City and County of San Francisco that to the extent consistent with preemptive state and federal law, the City shall not discriminate in any of its programs, activities or services between members of the public with spouses and those with domestic partners. Nor shall the City discriminate between members of the public who are domestic partners and those who are spouses. This ordinance is intended to require all City departments to take steps to ensure that they are not discriminating in violation of the City's policy.

(b) Whenever a City board, commission, department, officer or agency issues a form that requires or requests information regarding or related to marital status, that form shall also include a separate inquiry field similarly requiring or requesting information regarding or related to domestic partner status.

(c) Every department preparing a form subject to this section shall inform the Human Rights Commission of their plan to implement the ordinance within six months of the effective date of the ordinance and shall allow the Human Rights Commission Director to audit, when necessary, the forms and to dictate changes solely for the purpose of ensuring consistency with the purpose of this ordinance.

(d) This ordinance is not intended to require any City department, agency or official to change a form where the change would conflict with preemptive State or federal laws.

(Added by Ord. 189-99, File No. 990744, App. 7/1/99)

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