



## Legislation Details (With Text)

**File #:** Ord 11-105    **Version:** 1

**Type:** Ordinance    **Status:** Passed

**In control:** City Council

**Final action:** 1/11/2012

**Title:** Amending Chapter 183 of the City of Saint Paul Legislative Code pertaining to human rights.

**Sponsors:** Melvin Carter III

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord 11-105 Financial Impact Statement.pdf

Date	Ver.	Action By	Action	Result
1/12/2012	1	Mayor's Office	Signed	
1/11/2012	1	City Council	Adopted	Pass
1/4/2012	1	City Council	Public Hearing Closed; Laid Over to Fourth Reading/Final Adoption	Pass
12/28/2011	1	City Council	Laid Over to Third Reading/Public Hearing	
12/21/2011	1	City Council	Laid Over to Second Reading	

Amending Chapter 183 of the City of Saint Paul Legislative Code pertaining to human rights.

### THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1.

That chapter 183 of Saint Paul Legislative Code is hereby amended as follows:

#### Section 183.02 - Definitions.

For the purposes of this chapter, the terms defined in this section shall have the meanings ascribed to them in this section:

- (1) *Age.* Prohibitions of discriminatory practices with regard to age shall be limited to persons who have passed the age of majority, which is eighteen (18).
- (2) *Aggrieved Person.* Any person who claims to have been injured or continues to be injured by a discriminatory practice. In the case of Real Property, an aggrieved person can also be someone who "will be injured" by a discriminatory housing practice.
- (3) *Charge of Discrimination.* Initial document filed by the complainant or the Director alleging a prima facie case of discrimination.
- (4) *Complaint of Discrimination.* Document issued by the Director to initiate a civil enforcement hearing after a cause determination has been made on a charge of discrimination.
- (5) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to

occupy premises not owned by the occupant.

(6-2) *Closed case file* means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the director, a panel of three (3) commissioners, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

(7-3) *Confidential, private, and public data on individuals and protected nonpublic data not on individuals, and any other terms concerning the availability of civil rights investigative data* have the meanings provided them by Minnesota Statutes, Section 13.02 of the Minnesota Government Data Practices Act.

(8-4) *Disability* means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

- (a) Has a physical, sensory, or mental impairment which materially limits one (1) or more of such person's major life activities;
- (b) Has a record of such an impairment; or
- (c) Is regarded as having such an impairment.

(9-5) *Discriminate or discrimination* includes all unequal treatment of any person by reason of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status or status with regard to public assistance. For purposes of discrimination based on sex, it includes sexual harassment.

(106) *Education* includes all educational services and all other services offered by educational institutions, whether organized for profit or otherwise, which are open to or solicit the patronage of the general public.

(117) *Elderly person* means a person who is at least fifty-five (55) years of age.

(128) *Employee* includes every person who works for wages, salary, or commissions or any combination thereof, and in context the term also includes those who are seeking or applying for employment.

(139) *Employer* includes all persons, firms, or corporations, wherever situated, who employ one (1) or more employees within the city, or who solicit individuals within the city to apply for employment within the city or elsewhere; the term includes the city itself, the board of education, and all other political subdivisions, public corporations, and governmental units conducting any activity within the city. An employer includes a person, firm or corporation which hires temporary employees through an employment service.

(1440) *Employment agency* includes all persons, firms, or corporations, including government agencies and charitable institutions, who with or without compensation undertake to refer persons to potential employment.

(1544) *Familial status* means the condition of one (1) or more minors being domiciled with their parent or parents or legal guardian or the designee of the parent or parents or guardian. The protection afforded against discrimination on the basis of familial status applies to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

(1642) *Human rights investigative data* means tape recordings or written documents issued or gathered by the department for the purpose of investigating and litigating alleged or suspected discrimination.

(1743) *Labor union* includes any formal or informal organization which includes among its purposes the representation of one (1) or more employees of an employer or employers with respect to wages, hours, working conditions or grievances.

(1844) *Marital status* means whether a person is single, married, remarried, divorced, separated or a surviving spouse and, in employment cases, including protection against discrimination on the basis of the identity, situation, actions or beliefs of a spouse or former spouse.

(1945) *Open case file* means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been issued by the director, a panel of three (3) commissioners, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

(2046) *Person* includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, receivers, political subdivisions, boards, commissions, and their officers and agents. For Real Property cases, a person is defined as stated by the Fair Housing Act.

(2147) *Physical access* means the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services and privileges; or, when necessary the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides or use of alternate accessible locations.

(2248) *Program access* means:

- (a) The use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services and privileges; and
- (b) The absence of criteria or methods of administration that directly, indirectly or through contractual or other arrangements have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

(2349) *Public accommodations* include every business accommodation, refreshment, entertainment, recreation, or transportation facility, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold or otherwise made available to the public. By way of example, but not of limitation, "public accommodation" includes facilities of the following types:

- (a) A facility providing service relating to travel or transportation;
- (b) A barber shop, beauty shop, bathhouse, swimming pool, gymnasium, reducing salon, or other establishment conducted to serve the health, appearance or physical condition of the individual;
- (c) A comfort station, dispensary, clinic, hospital, convalescent or nursing home or other institution for the ill or infirm, or a mortuary;
- (d) A hotel, motel, resort, restaurant or RV park ~~trailer park~~.

However, nothing in this chapter shall prohibit discrimination on the basis of sex in such facilities as rest rooms, locker rooms and other similar places.

(2420) *Public services* include any public facility, department, agency, board or commission operated or managed by or on behalf of the City of Saint Paul, and any public facility, department, agency, board or commission operated by any other unit of government which does business in or provides public services in the City of Saint Paul or to the residents of the City of Saint Paul.

(2524) *Qualified disabled person* means:

- (a) With respect to employment, a disabled person who, with or without reasonable accommodation, can perform the essential functions required of ~~all applicants~~ for the job in question; and
- (b) With respect to services and programs, a disabled person who, with physical and program access, meets the essential eligibility criteria required of all applicants for the program or service in question.

For purposes of this definition, disability excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to the health or safety of others or would result in substantial physical damage to or unlawful conversion of the property of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

(2622) *Real estate broker or salesperson* means, respectively, a real estate broker as defined by Minnesota Statutes, Section Chapter 82 ~~.17, subdivision 4~~ and a real estate salesperson as defined by Minnesota Statutes, Section Chapter 82 ~~.17, subdivision 5~~.

(2723) *Real property* includes real estate, tenements and hereditaments, corporeal and incorporeal.

(2824) *Sex* means being identified as having or being perceived as having male or female characteristics and encompasses, but is not limited to, pregnancy, childbirth, disabilities related to pregnancy or childbirth, and sexual harassment.

(2925) *Sexual harassment* includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (a) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;
- (b) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- (c) That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or

should know of the existence of the harassment and fails to take timely and appropriate action.

When employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(3026) *Sexual or affectional orientation* means having or being perceived as having an emotional or physical attachment to another consenting adult person or persons, or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or one's biological femaleness.

(3127) *Status with regard to public assistance* means the condition of being a recipient of federal, state or local assistance, including medical assistance, or of being a tenant receiving federal, state or local subsidies including rental assistance or rent supplements.

#### **Sec. 183.04. - Affirmative action requirements in employment.**

All city contracts shall include the following provisions, which may be incorporated by reference to this section:

- (1) The contractor will not discriminate against any employee or applicant for employment. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without discrimination. Such action will include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the ~~d~~Department of ~~h~~Human ~~r~~Rights and Equal Economic Opportunity setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or in behalf of the contractor, state that all qualified applicants will receive consideration for employment without discrimination.
- (3) The contractor will send to each labor union or representative of workers with which the contractor has a collective bargaining agreement, other contract or understanding a notice to be provided by the ~~d~~Director of ~~h~~Human ~~r~~Rights and Equal Economic Opportunity advising the labor union and the worker's representative of the contractor's commitment under this ordinance and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of this chapter of the Saint Paul Legislative Code, and of the rules, regulations and relevant orders of the ~~h~~Human ~~r~~Rights and Equal Economic Opportunity ~~e~~C ommission issued pursuant thereto.
- (5) The contractor will furnish all information and reports required by this chapter, and by the rules, regulations and orders of the ~~h~~Human ~~r~~Rights and Equal Economic Opportunity ~~e~~Commission issued pursuant thereto, and will permit access to the contractor's books, records and accounts by the ~~d~~epartment of ~~h~~Human ~~r~~Rights and Equal Economic Opportunity for the purpose of investigations to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be terminated or suspended in whole or in part, and the contractor may be declared ineligible for further city contracts, and such other sanctions may

be imposed and remedies invoked as provided by this chapter of the Saint Paul Legislative Code, or by rule, regulation or order of the ~~h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~, or as otherwise provided by law.

(7) The contractor will include the provisions of this chapter in every subcontract so that such provisions will be binding upon each subcontractor.

(8) Each contractor having a contract with the city shall file and shall cause each of the contractor's subcontractors to file compliance reports with the ~~d~~Department of h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~ as may be required by the director. Compliance reports shall be filed within such time and shall contain such information as to the practice, policies, programs and employment policies and employment statistics of the contractor and each subcontractor and shall be in such form as the ~~d~~Director of h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~ may prescribe with the approval of the ~~h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~.~~~~

(9) In any contract with the city subject also to the requirements of Executive Order 11246 for the filing of "compliance reports" or such other information and reports as may be required by the government of the United States in providing for equal opportunity in federal employment, proof of satisfaction of such federal requirements shall be deemed and considered as full compliance with the requirements of subsections (1), (2), (3), (8) and (9) of this section.

(10) The ~~d~~Director of the d~~Department of h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~ shall be responsible for the administration and enforcement of this section pursuant to such rules, regulations and orders as the ~~h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~ may deem necessary and appropriate to achieve the purpose of this section. Failure to comply with such rules, regulations and orders shall be subject to the civil and criminal enforcement provisions of this ordinance.~~~~

#### **Sec. 183.051. - Education exemptions.**

(c) The ~~d~~Department of h~~Human r~~Rights and Equal Economic Opportunity~~ e~~Commission~~ shall investigate all charges alleging sex discrimination in athletic programs in educational institutions and public services pursuant to the standards and requirements of Minnesota Statutes, Chapter 121A.04 ~~Section 126.24~~ and the procedures enumerated in this chapter.~~

(d) Nothing in this chapter restricts or limits the rights, procedures and remedies available under Section 504 of the Rehabilitation Act of 1973, United States Code, Title 29, Section 794, or the Individuals with Disabilities Education Act ~~Education of the Handicapped Act~~, United States Code, Title 20, Sections 1400 et seq. ~~1401 and following~~.

#### **Sec. 183.06. - Prohibited acts in real property.**

It shall be unlawful to discriminate against any person based on the protected classes identified in Section 183.01 of either the buyer or renter, a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or any person associated with the buyer or renter regarding the following is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of or other person having the right to sell, rent or lease any real property, or any agent of any of these anyone:

a. To discriminate by refusing to: sell, rent, lease; or to offer for sale, rental, or lease; or to negotiate for the sale, rental, or lease; otherwise deny to or withhold from any person or group of persons any real property, or by representing that real property is not available for inspection, sale, rental, or lease when in fact it is so available; or otherwise make unavailable to deny or withhold any person any property or any facilities of real property to or from any person or group of persons; or

b. To discriminate against any person or group of persons in the terms, conditions, or privileges of the sale, rental or lease of any real property or in the full and equal enjoyment of services, facilities, privileges and accommodations or in the furnishing of facilities or services in connection therewith; except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

c. ~~In any transaction involving real property, t~~To make statements, print, circulate, publish, or post, or cause to be printed, circulated, published, or posted, any advertisement, notice, or sign, or statement, or use any form of application for the purchase, rental or lease of any real property, or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property which indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination; except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to elderly persons only if the dwelling meets the federal requirements of exempt housing for the elderly; ~~or~~

d. ~~For a person to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged a third person in the exercise or enjoyment of, any right granted or protected by this subdivision.~~

(2) ~~For a developer, real estate broker, real estate salesperson, appraiser, or other person having the right to sell, rent or lease property, or employee or agent thereof:~~

a. ~~To discriminate by refusing to sell, rent or lease, or to offer for sale, rental or lease, any real property to any person or group of persons or to negotiate for the sale, rental or lease of any real property to any person or group of persons; or to discriminate by representing that real property is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons;~~

b. ~~To discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or~~

c. ~~To make statements, print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of any real property, or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property which indicates any preference, limitation or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to elderly persons only if the dwelling meets the federal requirements of exempt housing for the elderly.~~

(~~2~~3) For a person, bank, banking organization, mortgage company, insurance company or other financial institution or lender to dissuade a person from making an application or to whom an application is requested or made for financial assistance or a loan secured by residential real estate for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

- a. To discriminate against any person ~~or group of persons~~ in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of the financial assistance or in the extension of services in connection therewith;
- b. To use any form of application for the financial assistance or make any record or inquiry in connection with the applications for the financial assistance which discriminates or expresses any intent to discriminate~~ion~~; or
- c. To discriminate against any person ~~or group of persons~~ who desires to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban or rural area, or any part thereof, solely because of the social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of the financial assistance, or in the extension of services in connection therewith.

(3-4) For any developer, real estate broker, real estate salesperson, appraiser, or other person having the right to sell, rent or lease real property, or employee or agent thereof for the purpose of inducing a real property transaction from which the person, the person's firm or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, religion, color, national origin, ancestry, familial status, sex, sexual or affectional orientation, marital status, status with regard to public assistance or disability of the owners or occupants in the block, neighborhood or area in which the real property is located, or to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to, the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(4-5) For a multiple listing service, real estate brokers' organization or facility related the business of selling or renting dwellings to discriminate against a person in the terms or conditions of access, membership or partnership.

Prohibited actions under this section include, but are not limited to:

- a. Setting different fees for access to or membership in a multiple listing service;
- b. Denying or limiting benefits accruing to members in a real estate brokers' organization;
- c. Imposing different standards or criteria for membership in a real estate sales or rental organization; or
- d. Establishing geographic boundaries, office locations or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or facility relating to the business of selling or renting dwellings.

(5-6) For a person to deny a totally or partially blind, physically handicapped or deaf person with a service dog full and equal access to real property provided for in this section. The person may not be required to pay extra compensation for the service dog but is liable for damage done to the premises by the service dog.

(6-7) For a person to coerce, intimidate, threaten or interfere with a person in the exercise or enjoyment of, or on account of having exercised, or enjoyed, or on account of that person having aided or encouraged a third person in the exercise or enjoyment of, any right granted or protected by this section.



~~(7-8) For an owner or managing agent of any rental property, condominium or townhouse complex, condominium association, real estate developer, architect, or any other housing provider anyone:~~

- a. To refuse to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person if modifications are necessary to afford the disabled person full enjoyment of the premises; an owner may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, excluding reasonable wear and tear;
- b. To refuse to make reasonable accommodations in rules, policies, practices or services, when accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling; or in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, to fail to design and construct those dwellings in a manner that:

1. The public use and common use portions are readily accessible to and usable by a disabled person;
2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and
3. All premises contain the following features of adaptive design: at least one (1) building entrance on an accessible route into and through the dwelling; light switches, electrical outlets, thermostats and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

c. A determination by the City of Saint Paul that a dwelling conforms to 183.06(7)(b) subparagraphs 1 through 3 above shall not affect enforcement activities or be conclusive in enforcement proceedings under this section.

~~(8-9)~~ As used in this subdivision, the term "covered multifamily dwelling" means:

- a. A building consisting of four (4) or more units if the building has one (1) or more elevators; and
- b. Ground floor units in other buildings consisting of four (4) or more units.

~~(940)~~ This subdivision does not invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this subdivision applies, in a manner that affords disabled persons greater access than is required by this subdivision.

~~(1044)~~ This subdivision does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health and safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

~~(1142)~~ Notwithstanding the provisions of any law, ordinance or home rule charter to the contrary, no person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one (1) of the exemptions provided for a dwelling unit provided for in section 183.061.

#### **Sec. 183.061. - Real property exemptions.**

(a) The provisions of section 183.06 ~~(other than 183.06(1)(c))~~ prohibiting discrimination because of

familial status shall not be construed to defeat the applicability of any local or state restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit, if the occupancy restrictions are reasonably consistent with the Federal Fair Housing Act, and shall not apply to:

~~(1) Any owner-occupied building containing four (4) or fewer dwelling units; or rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his/her residence; or~~

(1 2) Housing for elderly persons. "Housing for elderly persons" means housing:

a. ~~Provided under any state or federal program that the director~~ Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

b. Is intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

c. Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit; provided, that:

1. There are significant facilities and services specifically designed to meet the physical and social needs of older persons, or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons;

2. At least eighty (80) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

3. There is publication of, and adherence to, policies and procedures that demonstrate an intent of the owner or manager to provide housing for persons fifty-five (55) years of age or older. Housing does not fail to meet the requirements for elderly persons if all new residents as of September 13, 1988, meet the age requirements of clause (a)(2)a. and b. In addition, housing does not fail to meet the requirements by reason of unoccupied units if unoccupied units are reserved for occupancy by persons who meet the age requirements of clause (a)(2)a. or b.

d. To qualify for this exemption for housing for persons 55 years of age and older, the housing facility or community must comply with rules issued by the Secretary of Housing and Urban Development for verification of occupancy as provided under 24 C.F.R. part 100, subpart E.

(b) The provisions of section 183.06 (other than 183.06(1)(c)) of this Legislative Code shall not apply to:

(1) Rooms in a community residential facility as defined in section 65.153 ~~60.203~~ of the Legislative Code; or group foster home as defined in section 65.151 ~~60.206~~; freestanding foster care home as defined in section 65.152 ~~60.412(8)~~; shelter for battered person as defined in sections 65.158 ~~60.219~~ and 60.412(13); or transitional housing facility as defined in section 65.159 ~~60.220~~ of the Legislative Code if the treatment is based on sex in a housing facility with shared bedrooms or bathrooms for the purpose of protecting personal privacy and/or safety in a housing facility with shared bedrooms or bathrooms; or

(2) The rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one (1) of such living quarters as his/her residence. ~~This chapter shall not be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract.~~

#### **Sec. 183.11. - Credit discrimination.**

It is an unfair discriminatory practice:

(1) To discriminate in the extension of personal or commercial credit to a person, or in the requirements for obtaining credit; ~~except it is not discriminatory to base a decision upon status with regard to public assistance; or~~

#### **Sec. 183.121. - Disparate impact cases.**

If the complaining party has met its burden of showing that an employment practice is responsible for a statistically significant adverse impact on a particular class of persons, an employer must justify that practice by demonstrating that the practice is manifestly related to the job or significantly furthers an important business purpose. Upon establishment of this justification, the charging party may prevail upon demonstration of the existence of a comparably effective practice that the court finds would cause a significantly lesser adverse impact on the identified protected class. This burden shifting also applies to a complaint alleging disparate impact discrimination in the area of real property.

#### **Sec. 183.15. - Plan to reduce or eliminate imbalance.**

It is not a violation of this chapter for any person subject thereto to carry out a ~~plan~~ plan to reduce or eliminate imbalance with respect to race, color, sex, sexual or affectional orientation, creed, religion, national origin, ancestry, age or disability, even though such plan may mean selectivity with respect to employment, housing, or education, provided such plan is filed with the department and is not disapproved by the director or commission on grounds it is not a bona fide plan to reduce imbalance. All persons executing such approved plans shall at the request of the director provide relevant information concerning their execution.

#### **Sec. 183.16. - Violation; penalty.**

Violation of any provision of Sections 183.03 through 183.12 hereof is a misdemeanor, and every person who knowingly participates in any prohibited act, or intentionally fails to comply with regulations issued by the ~~h~~ Human Rights and Equal Economic Opportunity ~~e~~Commission pursuant to any section of this chapter, whether as an officer, agent, manager, employee, or otherwise, is liable as a principal, and it shall be no defense that the person charged was acting in accordance with the instructions of that person's employer.

#### **Sec. 183.17. - Statute of limitations.**

No action may be brought for civil enforcement or criminal prosecution unless ~~the~~ a charge of alleged discriminatory practice was filed with the Saint Paul Department of Human Rights and Equal Economic Opportunity ~~Department~~ within one year from the ~~occurrence of the practice~~ date on which the alleged discriminatory practice occurred or terminated.

## Sec. 183.170. - Filing option.

A person has the option of filing a charge with either the Saint Paul Department of Human Rights and Equal Economic Opportunity or the Minnesota Department of Human Rights. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency.

## Sec. 183.18. - Department of ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Opportunity - Duties.

The ~~d~~Director of the ~~d~~Department of ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Opportunity shall have general supervision over all programs of the city with respect to human and civil rights, subject to policies established by the mayor, and shall, without limitations by their enumeration, have the following specific powers and duties:

(4) To receive complaints of violations of the provisions of this chapter; investigate charges alleging unfair discriminatory practices as defined by this chapter, and make the appropriate determination of cause. ~~determine whether or not probable cause exists for a hearing.~~

(5) As part of any investigation referenced in subdivision four (4) the ~~d~~Director, or his or her designee, shall have the power to subpoena witnesses, administer oaths, take testimony, and require the production for examination of any books or papers or documents relative to any matter under investigation or in question (including writings, personnel records, drawings, graphs, charts, photographs, tape, CD, or DVD recordings, phonograph records and other materials from which information can be obtained). Disobedience of any subpoena issued under this subdivision shall be punishable pursuant to the procedures set forth in section 183.21.

(6) The Director shall, to the extent feasible, engage in attempts to resolve each charge of discrimination through a pre-determination settlement agreement, from the time it is filed to when a determination on the charge has been made. ~~To enter into predetermination settlement agreements with the affected parties.~~

(7) To enter into conciliation agreements with the affected parties following a after a finding cause determination in favor of the complainant. ~~that reasonable grounds exist to believe a violation has occurred.~~

(8) A pre-determination settlement agreement and a conciliation agreement shall be an agreement between the complainant, respondent, and the Director. Each agreement may be made public, unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required in order to further the purposes of this Chapter in educating the public. Nothing said or done in the course of a pre-determination settlement agreement or conciliation agreement may be made public or used as evidence in a subsequent proceeding without the written consent of the persons concerned.

~~(9-8)~~ To commence enforcement action as provided under section 183.24 where the ~~d~~Director finds that reasonable grounds exist to believe a violation has occurred or is about to occur.

~~(109)~~ To investigate all city contracts let directly by the city or entered into under its auspices.

~~(1140)~~ To supervise the affairs of the department and to appoint such other employees and agents as are necessary to carry out the duties of the department.

- (1244) To adopt rules and regulations to effectuate the policy set forth in section 183.01.
- (1342) To provide suitable staff and secretarial assistance to the commission created hereunder.
- (1443) The ~~d~~Director shall prepare annually and submit a report to the mayor and council of the activities of the department and its staff with a statistical summary of all ~~complaints~~ charges received, listing the disposition of each, all speaking engagements and other educational activities of the commission and its staff, the number of commission meetings held, together with the names of those commissioners and staff in attendance, and such other information as the ~~d~~Director shall deem appropriate. The report shall be submitted to the mayor no later than July 1 of each year. In conjunction with the human resources director's annual reporting, the human resources director shall also report information about the city's internal workforce efforts and goals to the ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Oppportunity ~~e~~Commission.

**Sec. 183.19. - ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Oppportunity ~~e~~Commission.**

There is established within the ~~d~~Department of ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Oppportunity a ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Oppportunity ~~e~~Commission:

- (8) In conjunction with the ~~d~~Director's three year term, ~~h~~Human ~~r~~Rights and ~~e~~Equal ~~e~~Economic ~~e~~Oppportunity ~~e~~Commission shall conduct an extensive assessment of the department's ~~and director's~~ performance. Prior to 120 days from the expiration of the ~~d~~Director's term, the commission shall also be required to recommend to the ~~m~~Mayor whether the ~~d~~Director should be re-appointed.

**Sec. 183.20. - Enforcement procedures and requirements.**

- (a) Any person aggrieved by a violation of this chapter may file a verified charge with the director stating the name and address of the person alleged to have committed an unfair discriminatory practice, setting out the details of the practice complained of and, if applicable, providing witnesses, documents and any other information required by the director. The director shall advise the complainant of his/her rights and obligations under the ordinance. The director may dismiss a charge when the complainant fails to provide required information, fails to cooperate with the investigation, or cannot be located by the director. The director shall serve upon the respondent by mail a copy of the charge and a request for a response to the allegations within twenty (20) days of receipt of the charge and advise the respondent of his/her rights and obligations under the ordinance. If the respondent fails to cooperate and respond with a written summary of the details of the respondent's position within thirty (30) days after service of the charge, the director may, on behalf of the complaining party, bring an action for default and initiate civil enforcement before the ~~h~~Human ~~r~~Rights and Equal Economic Opportunity ~~e~~Commission. A charge of discrimination may be amended as necessary and conform to the above requirements. A person who is not named as a respondent in the charge of discrimination but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice to the parties. Such notice, in addition to meeting the other requirements of this subsection, shall explain the basis for the belief that the person to whom the notice is addressed is properly joined as a respondent.
- (b) Whenever the ~~d~~Director has reason to believe that a person is engaging in an unfair discriminatory practice, the ~~d~~Director may issue a charge stating an alleged violation of a particular section of Chapter 183.
- (c) No action may be brought for civil enforcement or criminal prosecution unless a ~~complaint~~ charge

of an alleged discriminatory practice has been filed with the City of Saint Paul Department of Human Rights and Equal Economic Opportunity Department within one year after the occurrence of the practice from the date the alleged discriminatory practice occurred or terminated. The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to suspension period has passed.

(d) The ~~d~~Director shall promptly investigate, upon complaint commence an investigation within 30 days upon receipt of the charge or upon the director's own motion promptly investigate any violations of this chapter. The Director shall promptly close a case after coming to a determination of cause or no cause on a charge of discrimination. The Director shall serve the complainant and the respondent with a notice of the final determination.

If, after an investigation concludes that a violation has occurred or is about to occur, the ~~d~~Director shall have reason to believe a violation has occurred, the director may refer the matter to the city attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement conciliation agreement.

~~No information or evidence obtained through a civil enforcement procedure after a formal complaint has been filed by the director shall be used or introduced in any criminal proceeding arising out of the same violation.~~

(e) The ~~d~~Director shall make final administrative disposition with a final investigative report of a charge complaint within one year of the receipt of the charge complaint, unless it is impracticable to do so. If the ~~d~~Director is unable to do so, he/she shall notify, in writing, both the complainant and respondent of the reasons for not doing so. The final investigative report shall consist of: 1) a summary of the complainant's allegations, the respondent's response to the charge, and the complainant's showing of pretext; 2) factual findings; 3) an analysis of the factual findings; and 4) the department's determination on each allegation of discrimination.

(1) For real property cases involving an alleged violation of 183.06 the investigation shall be completed within 100 days of receipt of the charge. If the Director is unable to do so, he/she shall notify, in writing, both the complainant and respondent of the reasons for not doing so.

(f) In cases involving an alleged violation of 183.06, if cause exists to believe that a violation has occurred or is about to occur, then the Director shall bring the charge as a complaint of discrimination before the commission in a civil enforcement hearing. Either the complainant, respondent and/or aggrieved person may elect to pursue the matter in district court instead.

## **Sec. 183.201. - Administrative appeal of a no probable cause determination.**

(a) Within ten (10) days after receipt of notice of a no probable cause determination, the complainant may request in writing that the ~~d~~Director reconsider the decision. The complainant shall at the same time deliver or mail to the respondent a copy of the request for reconsideration. A request for reconsideration shall contain or identify and describe the relevance of one or more of the following:

- (1) Evidence that was not available during the investigation;
  - (2) Evidence that was available during the investigation, but was not properly weighed in reaching the determination; or
  - (3) Statutory or case law indicating that the determination is erroneous.
- (b) Within twenty (20) days after receipt of the request for reconsideration, the dDirector shall:
- (1) Affirm the determination of no probable cause;
  - (2) Reverse the determination of no probable cause; or
  - (3) Vacate the determination of no probable cause and remand the case for further investigation and issue a new determination.

The dDirector shall, within ten (10) days of the review, notify in writing both the complainant and respondent of the decision to affirm, reverse or vacate the determination.

**Sec. 183.202. - Suits by private parties.**

(1) Time frame for action. A person may bring a civil action seeking redress for an unfair discriminatory practice directly to the district court wherein the unlawful discriminatory practice is alleged to have been committed or where the respondent resides or has a principal place of business. In addition, a person may bring civil action:

(a) Within forty-five (45) days after receipt of notice that the dDirector has dismissed a charge because it is frivolous or without merit, because:

1. The complainant has failed to provide required information;
2. The dDirector has determined that further use of department resources is not warranted; or
3. ~~The director has determined that there is no probable cause to credit the allegations contained in a charge filed with the director.~~ The investigation of the charge has concluded in a no cause determination.

(b) Within forty-five (45) days after receipt of notice that the dDirector has reaffirmed a determination of no probable cause if the complainant requested a reconsideration of the no probable cause determination or has decided not to reopen a dismissed case that the complainant has asked to be reopened; or

For the purposes of subsections 183.202(1)(a) and (b) above, receipt of notice is presumed to be five (5) days from the date of service by mail of the written notice.

(c) After forty-five (45) days from the filing of a charge pursuant to Section 183.20(2), if the dDirector has not entered into a predetermination settlement agreement to which the complainant is a party. The complainant shall notify the dDirector of an intention to bring a civil action, which shall be commenced within ninety (90) days of giving the notice. This forty-five (45) day period shall not

apply to real property cases.

For the purposes of clauses (1) and (2), receipt of notice is presumed to be five (5) days from the date of service by mail of the written notice.

(d) For cases involving an alleged violation of 183.06, the aggrieved person may file in court up to two years after the occurrence or termination of an alleged discriminatory housing practice or the breach of a conciliation agreement, whichever occurs later. The statute of limitations in these qualifying cases is tolled during the investigation.

(2) Mixed findings. If the dDirector has issued both a ~~probable~~ cause and a ~~no probable~~ cause determinations on separate issues in the same charge, the complainant may, if a hearing is held, require that all matters be heard at the hearing or may bring a civil action for the ~~no probable~~ cause charge(s) at the same time as the ~~probable~~ cause charge(s) under the rules and time frames that govern the ~~probable~~ cause charges.

(3) Proper notice by complainant. A complainant bringing a civil action shall mail ~~by registered or certified mail~~ a copy of the summons and complaint, by registered or certified mail, to the dDirector, and upon their receipt the dDirector shall terminate all proceedings in the dDepartment relating to the charge upon commencement of the civil action. No charge shall be filed or reinstituted with the dDirector after a civil action relating to the same unfair discriminatory practice has been dismissed without prejudice.

(4) Intervention in Civil Actions. In cases alleging a violation of 183.06, the following rights of intervention are available:

(a) any aggrieved person has the opportunity to intervene as of right when one of the parties in an administrative proceeding elects to resolve the matter via a civil action;

(b) the Director may intervene in a private civil action after certifying the case is of general public importance; and

(c) an aggrieved person or a party to a conciliation agreement may intervene in a civil action commenced by the Director.

5. Relief which may be granted.

(a) In actions brought pursuant to Section 183.202, if the court finds that a violation has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection 183.202(5)(b), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(b) Relief granted under this Section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a verified charge or civil action under this Ordinance.

## **Sec. 183.24. - Civil enforcement hearing procedure.**

Except as otherwise provided for violation of Section 183.04, civil enforcement procedures shall be prosecuted by the dDirector before the commission in the following manner:



(1) The dDirector shall serve upon the complainant and respondent by certified mail a complaint, signed by the dDirector, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of the right to file an answer, to appear in person or by an attorney, and to examine and cross-examine witnesses.

(a) For cases involving an alleged violation of 183.06, the complaint shall be based on the final investigative report and need not be limited to the facts or grounds alleged in the charge of discrimination.

(2) The hearing shall not be less than twenty (20) days after service of the complaint. At any time prior to the hearing, the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the dDirector. The respondent's failure to file an answer shall be deemed to constitute an admission of the allegations contained in the complaint. Testimony may be heard on behalf of the complainant following a respondent's failure to file an answer.

(3) The complaint or answer may be amended at any time prior to the hearing with notification to the consent of the opposing party and granting the opposing party a reasonable opportunity to respond.

(4) Hearings shall be before a panel of three (3) commissioners, designated by the chair, presided over by an attorney who is not a member of the commission as chair and law officer. All members of a panel shall be paid ten dollars (\$10.00) per hour spent in performance of their duties; provided, however, that the payments hereunder shall not exceed for any person one thousand five hundred dollars (\$1,500.00) per year. The law officer shall rule on all legal questions presented but shall not participate in the panel's deliberations. The parties shall not be bound by the Minnesota Rules of Evidence and the law officer may admit evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. In cases involving an alleged violation of 183.06, the Minnesota Rules of Evidence shall apply. The law officer shall give effect to the rules of privilege recognized by law and may exclude incompetent, irrelevant, immaterial and repetitive evidence.

(5) The dDirector may obtain subpoenas from the district court to compel the attendance of witnesses and the production of documents at any hearing. Any party to an administrative hearing can request subpoenas from the other parties.

(8) The Commission's panel shall make its findings of fact and conclusions of law within 60 days of the hearing. If the commission is unable to make its findings of fact and conclusions of law within 60 days, it shall notify the City of Saint Paul, respondent, complainant, and/or aggrieved party in writing of the reasons for not doing so. The panel's findings of fact and order decision shall be served on the complainant and respondent and each member of the commission by mail and shall become the findings and order of the commission and the department unless within thirty (30) days after mailing of the findings and order, the commission shall revoke or amend the order and/or findings. Whether or not the commission revokes or amends the findings and order of the panel, the complainant, and respondent, and/or aggrieved party shall be served by mail with the final order of the commission after the expiration of the thirty (30) days from the service of the panel's findings and order decision.

(12) For cases involving an alleged violation of 183.06, any aggrieved person may intervene in the administrative proceeding as a matter of right.

## **Sec. 183.25. - Judicial enforcement and review.**

The dDirector may obtain judicial review and enforcement of predetermination settlement agreements and conciliation agreements to which the dDirector is a party and commission orders. Any party aggrieved may obtain judicial review in the manner provided by the Laws of Minnesota for 1965, Chapter 866. Any petition for judicial review must be scheduled for a hearing before the district court in special term no later than sixty (60) days after the filing of such petition.

#### **Sec. 183.26. - Construction.**

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this city relating to discrimination because of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance.

#### **Sec. 183.27. - Legal counsel for dDepartment and eCommission.**

- (1) The city attorney shall provide legal counsel for the dDepartment and the eCommission.
- (2) The city attorney shall provide legal counsel to the dDepartment, at no cost to the complainant, in a case in which the dDirector has reason to believe that injunctive relief is appropriate or has found probable cause that a violation of Chapter 183 has occurred where a charge of discrimination has concluded in a cause determination and a civil enforcement proceeding before the Commission or district court is initiated.
- (3) At the time the dDirector initiated civil enforcement procedures in a case involving a violation of Section 183.06, and where such case has been dually filed with the Department of Housing and Urban Development as a violation of Title VIII of the Fair Housing Act prohibiting discrimination in housing pursuant to the contractual agreement between the dDirector and the Department of Housing and Urban Development, the dDirector shall notify the complainant, respondent, and/or aggrieved person of the procedures and of the complainant's option to proceed with the charge before the Saint Paul Human Rights and Equal Economic Opportunity Commission or the Minnesota District Court. In a case involving an alleged violation of 183.06, the city attorney shall bring a cause case before the commission panel or district court, if efforts to engage in a conciliation agreement are unsuccessful.

#### **Section 2.**

The other sections of Chapter 183 shall remain unchanged.

#### **Section 3.**

This ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.