



Commissioner Information Handbook

Minneapolis Commission on Civil Rights

MCCR Information Handbook

Updated: January 2021

Table of Contents

- Section 1: Background Information 3
 - Role of a City Commissioner 3
 - History of the Commissioner 3
- Section 2: Responsibilities & Functions 4
 - Advisory Role 4
 - Adjudicative Role 5
- Section 3: Structure 7
 - Membership 7
 - Elected Officer Positions 7
 - Chair 7
 - Vice Chair 7
 - Treasurer 7
 - Secretary 7
 - Executive Committee 8
 - Standing Committees 8
 - Task Forces and Working Groups 8
- Section 4: Commissioner Duties & Responsibilities 9
 - Participate Effectively 9
 - Meeting Attendance 9

| | |
|--|----|
| Respect for all Commission members | 9 |
| Resolution of Disputes Between Commissioners | 10 |
| Section 5: Resources & Policies | 13 |
| Minneapolis Department of Civil Rights | 13 |
| Staff Divisions | 13 |
| Volunteer Commissions | 13 |
| Commission Liaison | 13 |
| Media Contacts | 14 |
| Commission Website | 14 |
| Communication with the Public | 14 |
| Social Media | 15 |
| Other Resources | 15 |
| Section 6: Laws & Regulations | 15 |
| Minneapolis Civil Rights Ordinance | 15 |
| Ethics in Government | 15 |
| Open Meeting Law | 16 |
| Minnesota Government Data Practices Act | 18 |
| Americans with Disabilities Act | 19 |
| Minnesota Administrative Procedures Act | 20 |
| Other Restrictions and Requirements | 20 |
| Appendices..... | 21 |
| Appendix A: Minneapolis Civil Rights Ordinance | 21 |
| Appendix B: Minneapolis Civil Rights Commission Internal Operating Procedures..... | 62 |
| Appendix C: Minneapolis Civil Commission Rules for Contested Case Hearings | 77 |

Introduction

Welcome to the Minneapolis Civil Rights Commission! This handbook will provide you with general information to introduce you to the Civil Rights Commission and your role as a Commissioner. It provides information on the background of the Commission, the role and structure of the Commission, and an overview of the laws and rules that you are likely to need in your role as a Commissioner.

This handbook is only a summary of the laws and rules that are most likely to apply to your work as a commissioner. It does not create any laws or rules and does not substitute for any federal or state law, City ordinance, or for the Commission's formally adopted Rules of Contested Case Procedure and Internal Operating Procedures.

As part of your work, you may need additional information about these topics. Please consult your Civil Rights Department liaison and/or the City Attorney's office about specific situations.

Section 1: Background Information

Role of a City Commission

Commissions serve as a link between the public and City government. The information and advice that Commissions provide about community needs, concerns and opinions can have a profound impact on City policies and lead to improved services for all residents.

Commissions are most effective when they engage members of the public, outside experts, and individuals within City government to develop timely, relevant, well-researched, thoughtfully analyzed recommendations and reports on issues of importance.

History of the Commission

Protection of civil rights within the City of Minneapolis can be traced back over a half century. In 1946, Mayor Hubert H. Humphrey established by executive order the Mayor's Fair Employment Practices Commission to assure that equal access to jobs in the City for all citizens.

During the 1950s, the City remained engaged in implementing fair employment practices. In fact, the Fair Employment Practices Commission (FEPC) gained national recognition for its work and some members were chosen to serve on a special committee to advise the President of the United States on the formation of the U.S. Equal Employment Opportunity Commission under Title VII of the U.S. Civil Rights Act of 1964.

In August 1967, the City passed the Minneapolis Civil Rights Ordinance. The ordinance created the Department of Civil Rights as an administrative, enforcement, and investigative body. In addition, the Human Rights Commission (renamed the Commission on Civil Rights in 1975) was created as an advisory and adjudicative body.

Subsequent amendments to the Minneapolis Civil Rights Ordinance extended civil rights protections, prohibiting discrimination in employment, labor organization membership, property rental and purchase agreements, lending, access to and use of public accommodations and public services, and membership in professional organizations. In addition, "redlining" (the practice of failing to offer access to mortgages, loans and insurance to residents of certain neighborhoods) and reprisals based on a

person's association with individuals of other protected classes, filing a complaint, participating in an investigation or protesting discrimination in the workplace were made illegal. Finally, coercion regarding the exercise of real estate rights and the aiding and abetting of discrimination was proscribed.

In 1991, a new section was added providing for the registration of Domestic Partners with the Office of the City Clerk, and, in 1995, another amendment provided an option for parties to a case to voluntarily enter into mediation prior to the holding of a public hearing on the complaint.

Currently, the Minneapolis Civil Rights Ordinance enumerates human rights for all residents of the City of Minneapolis. It is one of the most comprehensive in the nation, prohibiting discrimination based on race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to public assistance, and familial status. Equally important, the ordinance establishes mechanisms for implementing and enforcing the strict anti-discrimination provisions. The Commission on Civil Rights can use their capacity as an advisory and adjudicative body to educate, persuade, and impartially adjudicate disputes in order to prevent and eliminate bias and discrimination on the basis of the listed classes.

Section 2: Responsibilities & Functions

The powers and duties of the Commission are listed in the Minneapolis Code of Ordinances, § 141.40. The mission of the Commission is drawn from those powers and duties. All Commission activities must be within the powers and duties given to the Commission by the City's Ordinances.

The mission of the Commission is to:

- ❖ Seek to prevent and eliminate bias and discrimination in the City of Minneapolis by means of education and persuasion.
- ❖ Provide leadership in the area of civil rights
- ❖ Encourage and educate the public in the promotion of civil rights
- ❖ Identify principal civil rights concerns of the community and advise the City of those priorities and objectives
- ❖ Advise the mayor, city council, city agencies and departments on civil rights matters
- ❖ Conduct research and study regarding how to best carry out the objectives of the civil rights ordinance
- ❖ Gather and disseminate civil rights related information to city agencies and the public
- ❖ Cooperate with and coordinate with the activities of persons or groups interested in civil rights
- ❖ Impartially adjudicate complaints of discrimination occurring in the city of Minneapolis

In carrying out this mission, the Commission has two main roles: Advisory and Adjudicative.

Advisory Role

The Commission serves in an advisory capacity to the Mayor, City Council, and City departments. Commissions recommend solutions, but do not have final decision-making authority to set governmental policy. When presenting recommendations to the Mayor, the Minneapolis City Council, or to a City department, keep the following essential points in mind:

- Provide recommendations in writing
- Express your ideas clearly and succinctly
- Propose solutions that are viable and cost effective
- Explain the reasons for the suggested changes
- Ensure that your advice has been approved by the full commission
- Ensure that your recommendations do not inadvertently conflict with current laws

As independent advisory bodies, commissions may occasionally take positions contrary to that of the Mayor, the City Council, or a City department. If this arises, notify the Commission liaison prior to making a public statement. This way the Commission and the governmental policy-makers are provided an opportunity to discuss the issue before releasing information to the public.

Research and Study:

As part of its advisory role, the Commission may conduct research on contemporary civil rights issues affecting Minneapolis residents. Commissioners work to gather data on the issue, hold public forums to hear community concerns, publish the results of the study, and make recommendations on how to solve the civil rights issues at hand.

Public forums:

When a civil rights issue that the Commission, a Working Group or Task Force, is working on affects the community at large, the Commission may choose to hold a public forum to hear community voices share their thoughts on how to solve the issue. Public forums are especially important because they allow community members affected by civil rights issues to have direct involvement in solving the issue. Community members can voice their opinions and provide information on the how civil rights issues affect their daily life. The public forums should be designed to facilitate a conversation between the Commission, policy makers, community organizers, and the general public in order to tackle the civil rights issue from all perspectives, thus reaching a solution that benefits the most amount of people and organizations as possible.

The format of public forums is dependent on the issue and the Commissioners planning the forum, but it is common to have a moderator ask prepared questions to a panel of policy makers, community organizers, and scholarly experts, and then open the floor for community discussion with community attendees.

Public forums can also help to disseminate information to community members, government agencies and officials, and others who may not be aware of civil rights issues affecting their community.

When conducting research and study and when holding public forums, commissioners should keep in mind the overall mission and purpose of the Commission: to eliminate bias and discrimination in the City of Minneapolis. All actions the Commission takes should be understood and implemented within that context.

Adjudicative Role

Following the investigation of a charge of discrimination by the Complaint Investigations Division (CID) of the Minneapolis Department of Civil Rights, the Director makes a final determination.

Dismissal and “No Probable Cause” Determinations:

If the case is Dismissed or the determination is No Probable Cause, then the Complainant who originally filed the charge has the right to appeal the determination to the Minneapolis Commission on Civil Rights.

Upon appeal of a determination, the Commission Chairperson shall designate three (3) members of the Commission, at least two (2) of whom shall be lawyer^s, to review the director’s determination. These Commissioners serve on review panels. The Review Committee has the power to:

- Sustain the Director’s determination, thereby closing the case;
- Reverse the Director’s determination, thereby sending the case to conciliation;
- Remand the case back to the Department for further investigation only when there are specific aspects of the determination in which the investigation needs to be supplemented, and the additional information may show that the dismissal or No Probable Cause decision was clearly erroneous.

Either a non-oral hearing or an oral hearing is held when the Complainant appeals the Director’s “Dismissal” or “No Probable Cause” determination. An oral hearing may be granted if the Complainant has newly discovered material evidence that could not with reasonable diligence have earlier been made known to the Department. Otherwise, the Complainant will have their appeal decided at a non-oral hearing.

An oral hearing is similar to a contested case hearing. The newly discovered evidence will be presented at the hearing and any other relevant and admissible evidence. Then the appointed review committee will issue a decision.

In a non-oral hearing, Commissioners review written statements from the Complainant and Respondent and make a decision based on the statements and the investigative file provided by the Department.

“Probable Cause” Determinations:

If the Director finds “Probable Cause” the case is automatically referred to conciliation (as required by the Minneapolis Code of Ordinances), and the parties are required to participate in conciliation. In most cases, the Department is able to resolve the case through the conciliation process, providing relief to the Complainant and closure to the parties without a public hearing.

In the unusual event that the matter cannot be settled through conciliation, the case is then referred to the Commission on Civil Rights. Upon referral to the Commission, the chairperson shall designate three (3) persons to a Hearing Committee, all of whom shall be lawyers, and conduct a public hearing in accordance with Chapter 14 of the Minnesota Statutes.

At the public hearing, the Hearing Committee makes written findings and issues an order to either dismiss the case or remedy the discrimination. The Hearing Committee has broad powers to remedy discrimination, such as: the ability to award damages, punitive damages, attorney fees, and other relief. Commission orders may be appealed for review by the Minnesota State Court of Appeals.

Both review processes provide the Complainant a neutral third-party review of the Director's decision. This ensures fairness to both parties. Therefore, when sitting on a Review Committee or Hearing Committee, it is important for Commissioners to remain neutral and unbiased in exercising their powers.

This is only a summary of the process for Commission review of the Director's decisions. The Minneapolis Code of Ordinances § 141.50 and the Rules of Contested Case Procedure apply and should be consulted. The Commission liaison and/or City Attorney will also provide guidance on applicable law and Rules to the Review Committees and Hearing Committees as needed based upon the case.

Minneapolis Code of Ordinances § 141.50 is included in Appendix A and the Rules of Contested Case Procedure are found in Appendix C.

Section 3: Structure

Membership

As a Commissioner, you are one of twenty-one (21) members appointed to the Commission by the Mayor and the City Council. Commissioners must be residents of Minneapolis and must be persons known to favor the principles of equity, non-discrimination and the objectives of the Minneapolis Civil Rights Ordinance.

Elected Officer Positions

Once appointed, Commissioners may run for one (1) of four (4) elected officer positions. More details are provided by the Commissions Internal Operating Procedures, which are attached in Appendix B.

Chair

The Chair is responsible for representing the Commission in its business before the Mayor, City Council, Department of Civil Rights, and community, in person and in correspondence. The Chair convenes and sets the agenda for all Executive Committee and Commission meetings. The Chair also appoints members to standing committees, assures processing of case hearings, and delegates tasks as necessary to assure that Commission work is accomplished.

Vice-Chair

The Vice-Chair assists the Chair in duties related to the Commission, as directed by the Chair and attends Executive Committee meetings. The Vice-Chair is also responsible for filling in for the Chair when the Chair is unavailable. The Vice-Chair is second in line to chair Commission meetings.

Treasurer

The Treasurer oversees the Commission's allocated funds, reports to the Commission on the Commission's finances, prepares and submits the Commission's annual budget to the Director of the Minneapolis Department of Civil Rights. The Treasurer also attends Executive Committee meetings, and is third in line to chair Commission meetings.

Secretary

The Secretary takes notes and produces minutes from Commission and Executive Committee meetings to submit to the Commission Liaison for distribution. The Secretary tracks attendance and records votes at Commission meetings, monitors the Commission email, and is fourth in line to chair Commission meetings.

Executive Committee

The Executive Committee is comprised of the Chair, Vice-Chair, Treasurer, Secretary, and chairs of each standing committee. The Committee meets monthly to set an agenda for regular Commission meetings.

Standing Committees

The Commission's Internal Operating Procedures currently provide for three (3) standing committees. As a Commissioner you will be a part of at least one committee and will carry out the committee's responsibilities while serving. If you are an attorney member of the Commission, you will automatically be placed on the Standards and Procedures committee.

- The Community Engagement & Research Committee is responsible for conducting qualitative and quantitative research on issues related to civil rights and engaging the public on civil rights issues, policies, meetings, and events.
- The Contract and Workforce Compliance Committee is responsible for working with the Contract Compliance Division of the Civil Rights Department to review contract and workforce processes as they impact businesses and contractors, review statutes and ordinances, and make recommendations to the full Commission, as well as encouraging women and minority owned businesses in the City.
- The Standards and Procedures Committee monitors and revises Commission internal procedures and external rules and procedures.

Task Forces and Working Groups

The Commission has the power to appoint Commissioners to Task Forces and Working Groups to conduct research on contemporary civil rights issues affecting Minneapolis. Both Task Forces and Working Groups function like the Standing Committees but are designed to focus on a specific civil rights issue.

Task Forces are created when the Commission can complete its recommendations and work on the issue within a year. Task Forces are task oriented and are usually created to achieve a directed goal. Working Groups on the other hand, tackle larger issues that need more research and study. There won't necessarily be a defined task to complete and the group may need longer than a year to complete its recommendations and work on the issue.

Section 4: Commissioner Duties & Responsibilities

Participate Effectively

One of the fundamental responsibilities of any Commissioner is to stay informed about current issues, legislative activities, and laws that affect the work of the Commission and those whom it serves. This makes your services to the community more responsive and effective.

Secondly, come prepared and actively participate in Commission meetings. Active participation in meetings by all Commissioners ensures that diverse perspectives are included in decision-making.

In addition, effective service as a Commissioner means that you:

- Devote time outside of Commission meetings for research, analysis, outreach, meetings, or other activities as needed
- Focus on serving the public interest when making recommendations
- Be willing to take sides in a controversy and weather criticism
- Cooperate with other Commissioners to effectuate the decisions made by the Commission as a body and adhere to the democratic process
- Communicate with members of the public, the Liaison, other Commissioners, and others in government
- Accept leadership opportunities consistent with your availability and competencies
- Develop a questioning attitude toward Commission procedures and maintain openness to continual improvement

Meeting Attendance

Since the effectiveness of the Commission depends on participation of the Commissioners, attendance at meetings is essential. Therefore, the Commission has an attendance policy to ensure Commissioners make attending meetings a priority.

The Commission holds regular meetings once a month for a total of twelve meetings a year. These meeting dates are scheduled and will be communicated to the Commissioners at the beginning of the calendar year. In addition, standing committees meet approximately monthly, or as needed.

The Commission attendance policy is found in the Internal Operating Procedures, which are attached at Appendix B. Commissioners are expected to know and follow this attendance policy. Any Commissioner who has a total of **four (4) unexcused absences** in a year from the Commission's monthly meetings or meetings of their assigned standing committee will automatically forfeit their membership on the Commission.

Respect for all Commission members

Commission members come from many different backgrounds and have diverse viewpoints and life experiences. Commission members also have a diversity of organizational and leadership styles and communication styles. This diversity is a strength of the Commission. Each Commissioner has been appointed by the Mayor or City Council because they bring a valuable perspective to the table.

The Commission is strongest and most effective when all members' ideas and perspectives are heard and valued. Actively listening to Commissioners who have a different perspective from yours is vital to the

Commission's success. Respectful communication is a top priority at all times. Only by doing these things will the Commission maximize its potential to provide leadership on civil rights issues in the Minneapolis community.

Resolution of Disputes Between Commissioners

The Purpose and Process of Mediation within the Context of the Minneapolis Civil Rights Commission

Context and Description:

1. Mediation is a process where a neutral third party, called a mediator, facilitates a conversation that focuses on empowerment and mutual recognition of the participants (commissioners).

The mediator can be a commissioner member, Civil Rights Department staff person, or community member (paid/voluntary) ideally with mediation expertise. The mediator should not be a person who is directly involved in the issues resulting in the mediation request.

2. The mediator's purpose is to assist the parties in analyzing the circumstances prompting the mediation, considering each other's perspective, and ultimately making effective decisions for themselves regarding outcomes.

3. The resolution does not mean settlement. A settlement is not the ultimate or primary goal, but merely one possible outcome of the process. The goals of the mediation should not be solely focused on resolution or settlement of the dispute, but rather autonomy over the process and improving interactions between the individuals involved. A successful mediation is one where the parties emerge with a better understanding of each other's perspectives and clarity over the circumstances that brought them to this process.

4. The purpose of this process is meant to empower those involved by recognizing that they are in the best position to resolve their disputes and the mediator is merely acting as a facilitator of the conversation. The process is voluntary once it has begun, but both parties should participate in good faith, i.e. agreeing to mediation and attempting to do so to the best of their ability. Once the mediation has begun, either party can end the mediation if they feel it is not effective or productive. The mediator should avoid making this determination and allow the process to continue, even if the mediator believes either party is not acting in good faith or the process is devolving.

5. The mediator should focus, and encourage, the parties to express their emotions, feelings, or beliefs and allow each party to respond to those expressions. The parties shall be in control of the discussion, the topics, and the outcome or resolution. The parties, before the mediation, should try to identify ideas or ways the other party could reasonably meet their interests. The party seeking mediation, if possible, should address the issues with the other party before seeking mediation so that, in the event mediation is necessary, the responding party is aware of the issues to be discussed.

6. Mediation is voluntary. The parties are not required to agree, and the mediator does not have the power to decide for the parties but can help the parties find a mutually acceptable resolution. The only people who can resolve the dispute in mediation are the parties themselves.

7. Mediation is not appropriate in all contexts. For example, when the parties do not have equal bargaining power, or when disputes arise out of systemic issues, mediation may make a conflict worse. Disputes that allege direct violations of the Commission's Code of Conduct, raise Civil Rights concerns,

amount to discrimination or hate speech, or rise to the level of criminal conduct may not be suitable for mediation and may need to be raised to the Executive Committee or Civil Rights Department for investigation or complaint. If a person wishes to pursue mediation in the event of any of the foregoing, the party may do so, however, disciplinary action or investigation may still result even after the mediation occurs.

8. Persons interested in mediation should first seek to discuss and resolve the matter directly with the other party, if possible.

Mediation Process:

1. To initiate the mediation process, the party seeking mediation should identify a mediator within the commission, civil rights department, or within the community, and contact the party they wish to engage in mediation with. Contact via email or directly is acceptable. If the commissioner asked to conduct the mediation is unable or unwilling, the requesting party may seek another commissioner or ask the executive committee for assistance.

2. Once a mediator is designated and the request to mediate has been issued, the mediator will work to find a mutually suitable time to conduct the mediation. The mediation can be held virtually, or in person, as circumstances allow, and a minimum of two hours should be planned for the session. If the mediation is held in person, the session should take place in a private, neutral space where there is room for the parties to separate, if necessary. City Hall might be a suitable option for this. The mediator should work with staff in the Civil Rights Department to secure this space. If held virtually, Teams offers “breakout rooms” for participants to go to, where the mediator can also join with the parties individually, if necessary.

3. The mediator may meet with the parties before the mediation session to better understand the dispute and determine the willingness of the parties to participate in the mediation process. That person shall keep all information strictly confidential unless either party agrees that some or all of the content can be shared with the other party beforehand. The mediator should attempt to obtain only the following information:

A. The version of events prompting the mediation request or the issues the requesting party (or both parties) would most like to be addressed.

B. The possible outcomes the requesting party (or both parties) would like to see to best address the issues identified in section (a).

4. Alternatively, the parties may submit a brief written summary of the incidence(s) or interaction(s) prompting the request for mediation and their proposals for resolution instead of meeting with the mediator before the session. This information will remain confidential to the mediator who will review this information before the mediation session and only share the proposals for resolution at the appropriate time.

5. At the time of the mediation session, each party shall have an opportunity to express their expectations for the session, their goals, and they shall determine or agree to the following:

A. The parties are participating voluntarily;

B. Identify the ground rules for mediation, if any (as determined by the parties, only), such as:

1. Whether the mediation is conducted in the same room or separately (known as caucusing), with the mediator traveling back and forth.
2. The agenda for the mediation and how the agenda progresses;
3. How perspectives, positions, and beliefs will be shared (turn-taking, statement response, proposal-counter, debate, monologue, etc.);
4. How expression of emotion or distrust will be expressed; and
5. When breaks are taken, if at all.

C. The mediator will facilitate a conversation that focuses on empowerment and mutual recognition of the parties. The mediator's purpose is to assist the parties in analyzing the situation, consider the other parties' perspectives, and make effective decisions for themselves. A settlement is not the ultimate or primary goal, but merely one possible outcome of this process. Only the parties and the mediators will be present for the mediation. All communication and information will be kept confidential.

D. If a resolution is reached that requires action to be taken by either party, this resolution can be reduced to writing by the mediator and distributed to the parties, if they deem necessary. The parties may, on their own accord, provide the information to the Executive Committee or the Commission at-large, if they feel it is necessary.

6. If at the end of the mediation session, either party determines that another session is needed (with the same or a new mediator), or that the mediation did not provide satisfactory outcomes, that party may wish to pursue another process to address their complaint. This includes, but is not limited to, the following:

- A. Civil or other legal processes;
- B. Submitting a complaint to the Civil Rights Department or other applicable body; or
- C. Requesting the Executive Board to investigate and seek disciplinary/removal action through the appointing body.

Other Considerations:

1. Depending on the type of dispute or the parties involved, outside mediators might be preferable to obtain neutrality or someone with a better understanding of the socio-cultural identities of the disputing parties. Developing a working list of mediators in the community within to offer these services is a good idea, whether voluntary or unpaid or looking for candidates with mediation/conflict resolution expertise to be on the commission in the future.

2. If the parties agree to mediation but do not agree to a particular mediator, the Executive Committee may assign a designee to connect with each party to determine how best to proceed and make recommendations what who may be appropriate to do mediation or whether mediation is appropriate at all.

3. If a party refuses to engage in mediation, the party requesting the mediation may consider their alternatives to addressing the conflict, which may include a complaint process/investigation or disciplinary action as allowed by the Ordinance and Commission IOPS. If the grievance does not rise to the level of any of those alternatives, the requesting party may ask the executive committee to assist in addressing the conduct or behavior by the other party on an individual basis.

Section 5: Resources & Policies

Commissions by their nature are collaborative bodies. Therefore, it is important to use the resources available to you. In addition to your fellow Commissioners, there are many resources available to help you provide excellent service to the City of Minneapolis.

Minneapolis Department of Civil Rights

One of your primary resources is the Minneapolis Department of Civil Rights (MDCR). MDCR is an Executive Department, which means that the MDCR Director reports directly to the Mayor.

Staff Divisions

MDCR is divided into five (5) divisions:

- Office of Police Conduct Review (OPCR)
- Contract Compliance Division (CCD)
- Complaint Investigations Division (CID)
- Civil Rights Equity Division (CRED)
- Labor Standards Enforcement Division (LSED)

Volunteer Commissions

There are three (3) Commissions that support the enforcement work of the Department of Civil Rights, including:

- Minneapolis Commission on Civil Rights (MCCR)
- Workforce Advisory Commission (WAC)
- Police Conduct Oversight Commission (PCOC)

Commission Liaison

MCCR has been assigned a Liaison from the Complaint Investigations Division (the “Commission Liaison”) who will be your primary contact with the Department of Civil Rights. The Liaison provides administrative support to help the Commission successfully complete their work. Your Liaison can help in the following ways:

- Serve as a liaison with elected officials, City of Minneapolis departments, and community organizations
- Staff monthly meeting
- Draft correspondence
- Respond to requests directed to the Commission
- Assist in recruitment and nomination efforts

Other MDCR staff members may be available to assist with research, clarify an issue or policy, help organize an event or special project, make connections with other departments, or help in other ways to ensure successful Commission work. This cooperative relationship is at the request of the Commission and is on a case-by-case basis.

Media Contacts

News media outlets can be a valuable resource for the Commission. They can help you meet your obligation to inform the public about issues related to the Commission's mission. Anticipate when an event or issue will stir the interest of the media; it may be appropriate to send information packets or initiate contact with the media to take a proactive rather than a reactive stance. The Commission should maintain a cooperative and open relationship with the media. MDCR staff can provide background information and media contacts.

When working with the media it is important to:

- Designate a media spokesperson for the commission or for a specific issue
- Follow all established policies for media relations
- Focus on the Commission's perspective, not individual opinions
- Refer the matter to the Director of the Department of Civil Rights if you feel uncomfortable or unsure answering a question

In communications with the media, every statement you make is a public, quotable statement. These statements may appear in the press and may be highlighted in other public arenas. Make sure your statements are accurate, unbiased, and represent the Commission.

Commission Website

MDCR maintains a website for the Commission. You should familiarize yourself with its contents and may submit updated web content when necessary. All suggested changes or additions to web content should be coordinated with your Liaison.

On the website, you will have access to:

- Commission's calendar: <https://lirms.minneapolismn.gov/Calendar/Boards/upcoming/mccr#>
- Commission's meeting agendas and minutes: <https://lirms.minneapolismn.gov/Boards/Meetings/mccr>

Communication with the Public

The Commission routinely uses email to communicate amongst each other and with the public. The Commission has a public email: mccr@minneapolismn.gov. Emails will be provided to commissioners during any of the Commission/Committees meetings.

Correspondence can also be mailed to: Commission on Civil Rights, care of Commission Liaison, at 350 S. 5th St - Room 239 - Minneapolis, MN 55415. Copies will be distributed at the next Commission meeting.

All commission related e-mails that are sent and received, even on your personal computer or account, are subject to the Minnesota Government Data Practices Act and the Open Meeting Law. Treat every email communication as a public document. Additionally, internal communication between Commissioners should be limited; see the Open Meeting Law discussion in Section 6 for more details.

Social Media

Social Media can be a helpful communication resource, but it should be used appropriately and within the City's policies. The Commission maintains a social media presence on several different platforms. These platforms are managed by the Commission members. Members who handle Commission's social media accounts should be familiar with the applicable policies.

Commission social media accounts must follow the City's Social Media policy, which is found at <http://www2.minneapolismn.gov/policies/WCMS1Q-066527>. All postings must be professional, limited to civil rights topics, and represent the views of the Commission as a whole (not individual members). Importantly, do not delete or remove content or block any individual without first consulting the Commission liaison and the City's Social Media Officer. The liaison can help connect you with the Social Media Officer. It is important to follow this requirement carefully and consistently to avoid violations of the law and others' Constitutional rights.

Other Resources

The City Council's membership list, agendas, and informational material can be found on the council website: www.minneapolismn.gov/council/index.htm

The Mayor's website, www.minneapolismn.gov/mayor/index.htm, contains the Mayor's office news, lists the Mayor's priorities, and identifies key staff.

If you have a question about ethics, contact the Ethics Officer at 612-673-3230 or EthicsOfficer@minneapolismn.gov.

The City Attorney's Office can answer legal questions such as questions about Open Meeting Law or the Data Practices Act; ask your Liaison for the appropriate contact for your commission. More information about city services and departments can be found on the website: www.minneapolismn.gov/index.htm

Section 6: Laws & Regulations

Minneapolis Civil Rights Ordinance

The Commission was established under and is governed by Minneapolis Civil Rights Ordinances (MCRO), Chapter 141. All Commission activities, rules, and procedures must be consistent with this Ordinance. As a Commissioner, it is important to read and understand the Minneapolis Civil Rights Ordinance so you can carry out your duties consistent with the law's purpose and parameters. The ordinance, as effective on January 1, 2021, is included in Appendix A.

Ethics in Government

Commissioners must uphold high ethical standards established by Minnesota Code of Ordinances Title 2, Chapter 15, Ethics in Government. It is important that Commissioners avoid conflicts of interest or the appearance of conflict of interest. The Ethics in Government statute sets standards of conduct to ensure that public employees and commissioners perform their duties in the public interest.

As a Commissioner, you are required to:

- Disclose conflicts of interest
- Exercise your judgment and carry out your duties in a way that would further the best interests of the City of Minneapolis
- Refrain from participating in decisions in which you have a financial or personal interest
- Refrain from using your position to gain privileges or special treatment, including using public and government property for private or personal purposes
- Refrain from soliciting or accepting gifts from individuals who have a personal or financial interest in a Commission decision
- Report evidence of fraud, theft, embezzlement, or other unlawful use of public funds or property
- Refrain from disclosing any proprietary information or disclosing information in way that would violate your duty to the Data Practices Act (see below)
- Avoid bias or favoritism, or the appearance of bias or favoritism, when making decisions
- Refrain from participating in political activities in your official capacity as a Commissioner, or from involving the Commission in political activities.

Commissioners can avoid a conflict of interest by following statutory restrictions, using good judgment, being fair at all times, and maintaining an appearance of fairness. If you perceive a potential conflict of interest while serving as a Commissioner, bring this to the attention of your Liaison right away.

If you have a question about ethics, contact the Ethics Officer at 612-673-3230 or EthicsOfficer@minneapolismn.gov for informal guidance. You may also be able to request an advisory opinion about ethical standards or conflicts of interest from the City's Ethical Practices Board.

Open Meeting Law

The Open Meeting Law is Minnesota Statute found in Minnesota Statutes Chapter 13D that imposes certain requirements on public bodies when they hold meetings. The purpose of the law is to promote openness in governmental proceedings, ensuring that the interested public has the opportunity to be fully informed.

The Minneapolis Commission on Civil Rights and its committees, task forces, and working groups are subject to the Open Meeting Law. Any time that any of these groups has a "meeting," it must be open to the public.

What is a "Meeting?"

A meeting occurs when:

1. There is a gathering of a quorum or more members. For the full Commission, a quorum is a majority of the members. For a standing committee, task force or working group, quorum is ½ of that group's members (unless there are only 2 members, in which case both are required for quorum).
AND
2. At the gathering, members discuss, decide, or receive information as a group and those discussions, decisions, or information are related to the official business of that body.

Under the Open Meeting Law, meetings generally must be open to the public and proper notice must be provided regarding the meetings.

With technology advancements, communications between the Commission may qualify as “meetings” even if they do not look like traditional, in-person meetings. For example, an email conversation among a majority of Commissioners discussing information related to civil rights in Minneapolis would likely qualify as a meeting under the Open Meeting Law. So, the adage ‘it’s better safe than sorry’ is applicable here. Courts tend to decide Open Meeting Law cases in the public’s favor; therefore, it is better to make public any gathering or conversation discussing Commission business whenever possible to avoid unintentional violations of the Open Meeting Law. When in doubt, save discussion for a Commission meeting.

The public is entitled to attend the Commission’s meetings. But this is of little use to the public if they do not know about the meetings. Therefore, the law also requires that the public be provided with notice of meetings. Notice of public meetings can be provided in two ways: (1) through a schedule of meetings; or (2) through a “special meeting” notice. The Commission Liaison will assist in these processes.

The first and best way to provide notice is to have a schedule of the regular meetings of the Commission, committee, task force, or working group on file with the MDCR that includes the date, time and location of the meeting to be held.

The second way to provide notice is to provide notice of a “special meeting.” A special meeting notice must comply with the following:

1. A special meeting notice must include the date, time, location and specific purpose of the meeting. The specific purpose must state more than that the business of the Commission/committee/task force/working group will be discussed; it must list the specific subjects that will be discussed at the meeting. Only those subjects that are listed on the special meeting notice can be discussed at the meeting.
2. A special meeting notice must be placed, at least 3 days before the meeting, on the door of the group’s usual meeting room or on its bulletin board.
3. A special meeting notice must be mailed or otherwise delivered at least three days before the meeting to each person who has filed a written request for notice of special meetings.

Emergency meetings are an exception to the 3-day notice rule. Emergency meetings are special meetings called because of circumstances that require immediate consideration by the public body. However, time constraints alone are not sufficient for a meeting to qualify as an emergency meeting. Emergency situations should be used rarely and for circumstances where public safety is jeopardized. Examples of emergency situations would include holding a meeting to respond to a natural disaster, a health epidemic, or a disaster caused by humans such as a train derailment or explosion.

Meeting Materials:

The public's right to be present at a meeting includes the right to see the materials that the Commissioners are discussing or relying upon. At least one copy of the following printed materials must be available for public inspection at a meeting unless the data is "not public" data:

- Material distributed at the meeting to all members of the governing body;
- Material distributed before the meeting to all members; or
- Material available in the meeting room to all members.

If the Commission will be discussing or relying upon written materials, please bring at least two extra copies. At least one must be available for viewing by any interested member of the public. The Commission liaison will collect a copy of these documents and keep it in the Commission records.

Records of Commission votes:

The Open Meeting Law guarantees the public access to information about how each Commissioner votes. Votes must be recorded so that the individual vote of each Commissioner can be determined, except when the vote relates to payments of judgments, claims and amounts fixed by statute (which is likely inapplicable to the Civil Rights Commission). Votes can be recorded by placing them into a journal, or more commonly, into meeting minutes.

Virtual Meetings:

A Commission meeting may only be conducted by telephone or video conference (e.g., Microsoft Teams, Skype, or similar) when all of the following requirements are met:

- Health pandemic or emergency declared by Governor, Mayor or Chair of County Board of Commissioners
- All members can hear one another and all discussions
- Generally, at least one member must be in the meeting room, unless infeasible due to the health pandemic or emergency
- All votes are conducted by roll call
- Compliance with specific statutory notice requirements for telephonic meetings

If a health pandemic or emergency that would permit virtual meetings is declared, the Department, in cooperation with the City Clerk's office, will facilitate the necessary technology for virtual meetings.

Are there any exceptions?

The law includes a few exceptions, such as to discuss potential settlement of a lawsuit against the Commission with the Commission's attorney. However, these exceptions will rarely, if ever, apply to Commission meetings.

Minnesota Government Data Practices Act

The Minnesota Government Data Practices Act (MGDPA), found in Minnesota Statutes Chapter 13, creates a presumption that state and local government records are accessible to the public, unless a state statute, federal law, or temporary classification provides otherwise. All forms of information collected, created, received, maintained, or disseminated by government are covered by the MGDPA.

Any time the Commission receives or creates documents or information, you should assume that it is government data that is subject to the MGDPA

The Act contains many of the rules for when state and local government records, including Commission records, are and are not accessible to the public. The Act also contains:

- Procedures for government agencies to follow in collecting and keeping records
- Procedures for individuals to follow in inspecting and copying government records
- Special protections for individuals who are being asked to supply information about themselves or seeking to obtain government records on themselves]
- Civil and administrative remedies and criminal penalties for violating the Act

As a Commissioner you should:

- Assume that all information you obtain and all documents you create in your role as a Commissioner may have to be made available to the public. This includes all commission-related emails.
- If you believe that you need to obtain sensitive information in order to carry out your duties, consult your Commission liaison or the City Attorney before doing so.
- If you receive a data request from a member of the public, please contact your Commission liaison immediately. City staff will handle the response to ensure that the member of the public receives the information they are entitled to, but that private data is not disclosed.
- If City staff makes a request for Commission data, cooperate by providing the requested information promptly. The City is under a legal obligation to respond to the requestor within certain time limits.

Your Commission Liaison or the City Attorney can help with any questions you may have regarding the MGDPA.

[Americans with Disabilities Act](#)

The Americans with Disabilities Act sets criteria for accessibility and accommodation. Under the ADA, people who have disabilities have a right to an equal opportunity for effective participation in Commission activities, whether as Commissioners or members of the public.

Meetings and other Commission activities should be held in wheelchair accessible locations with accessible restrooms nearby. Qualified sign language interpreters, materials in accessible format such as Braille, large print, audio recording, or other aids for effective communication should be provided upon request. Reasonable modifications in policies and procedures should be made whenever they create a barrier to full and equal participation of a person with a disability. All advertising for meetings and events should include a telephone number and email address for requesting information and accommodations.

Minnesota Administrative Procedures Act

The Minnesota Administrative Procedures Act, found in Minnesota Statutes Chapter 14, applies when the Commission is conducting a Public Hearing following a finding of Probable Cause by the Director. Your Commission liaison and/or City Attorney can provide more information as it is needed.

Other Restrictions and Requirements

The following restrictions and requirements affect you during the time you serve as a Commissioner:

- Commissioners must abide by the requirements of the City Charter, City's Ordinances, Rules of Contested Case Procedure, and Internal Operating Procedures. These are the Commission's governing documents.
- Commissioners must not make unilateral decisions or take action without the consent of the Commission as a whole.
- Commissioners must ensure that they are not misinterpreted as speaking on behalf of the Commission when they lack authorization.
- Commissions exist to serve the public, so it is not appropriate to use commissioner status for a personal platform.
- Use of municipal funds, equipment, or services such as photocopying and telephone is restricted to only Commission business.
- Questions or concerns about Commission issues are best directed to the Commission Liaison or the Minneapolis Department of Civil Rights Director, who will make sure all Commissioners receive full information in a timely manner.

APPENDIX A: Minneapolis Civil Rights Ordinance

Title 7 - CIVIL RIGHTS

Footnotes:

--- (1) ---

Editor's note— As currently set out, Title 7, Chs. 139 and 141, is derived from §§ 1—11 of an ordinance enacted Dec. 30, 1975. Prior to amendment by said ordinance, Ch. 139, §§ 139.10—139.50, and Ch. 141, §§ 141.10—141.70, pertained to similar subject matter and were derived from Code 1960 as amended, §§ 945.010—945.090; and ordinances enacted on the following dates: March 29, 1974, §§ 1—4; April 26, 1974, § 1; Sept. 12, 1974, §§ 1—5; Sept. 27, 1974, §§ 1—5; May 30, 1975, §§ 1, 2.

State Law reference— State department of human rights generally, M.S. Ch. 363.

CHAPTER 139. - IN GENERAL

139.10. - Findings; declaration of policy and purpose; jurisdiction and construction; effective date.

(a) *Findings.* The council finds that discrimination adversely affects the health, welfare, peace and safety of the community by, among other things, degrading individuals, fostering intolerance and hate, and creating and intensifying unemployment, substandard housing, under education, ill health, lawlessness and poverty, thereby injuring the public welfare.

(b) *Declaration of policy and purpose.* It is the public policy of the City of Minneapolis and the purpose of this title to:

- (1) Prevent and prohibit all discriminatory practices in the City of Minneapolis in the following protected areas:
 - a. In business: When race, national origin, color, sex, sexual orientation, gender identity, or disability is a motivating factor.
 - b. In educational institutions: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor.
 - c. In employment and in labor organizations: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor.
 - d. In lending: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance, or familial status is a motivating factor.
 - e. In professional organizations: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to a public assistance program, or familial status is a motivating factor.
 - f. In property rights: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status, emancipated minor status, status with regard to a public assistance program, or any requirement of a public assistance program is a motivating factor.
 - g. In real estate services: With regard to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to a public assistance

program, or familial status.

- h. In public accommodations: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to a public assistance program is a motivating factor.
- i. In public services: When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to a public assistance program is a motivating factor.

(2) Prevent and prohibit the facilitation of any discriminatory act forbidden by this Title.

(3) Prevent and prohibit any retaliation.

(4) Eliminate the existence of and the development of any racially concentrated areas of poverty in the community.

(5) Effectuate the foregoing policy by means of public information and education, mediation and conciliation, and enforcement.

(c) *Jurisdiction.*

(1) The Minneapolis Department of Civil Rights, and the Minneapolis Commission on Civil Rights, may consider a complaint regarding a violation of this title only when the complaint has arisen from events:

- a. Occurring within the City of Minneapolis, and
- b. Occurring within one (1) year prior to the filing of the complaint.

(2) When a complaint or other matter has been previously considered by the State of Minnesota Commissioner of Human Rights as a matter within the commissioner's jurisdiction, that same complaint or matter shall not be considered by either the Minneapolis Department of Civil Rights or the Minneapolis Commission on Civil Rights.

(3) The Minneapolis Department of Civil Rights and the Minneapolis Commission on Civil Rights do not have jurisdiction over, and may not consider a complaint against:

- a. Agencies of the State of Minnesota.
- b. Agencies of any county.

(d) *Neutrality.* The Minneapolis Civil Rights Ordinance protects all persons from discriminatory practices prohibited under this title.

(e) *Computation of time.* Time shall be computed according to Rule 6 of the Minnesota Rules of Civil Procedure.

(f) *Citation.* This title may be cited as the Minneapolis Civil Rights Ordinance (MCRO).

(g) *Liberal construction.* The provisions of the Minneapolis Civil Rights Ordinance are to be liberally construed to accomplish the anti-discrimination purposes of this ordinance.

(h) *Effective dates.*

(1) Effective date of March 2017 amendments. Each provision in this chapter that was amended in March 2017 shall apply to any complaint or charge alleging conduct occurring on or after May 1, 2018, except when such a provision is superseded through a subsequent amendment. The ordinance as enacted prior to the March 2017 amendments shall continue to apply to any complaint or charge alleging conduct arising before May 1, 2018, except when such a provision is superseded through a subsequent amendment.

- (2) Effective date of December 2017 amendments. Each provision in this chapter that was amended in December shall apply to any complaint or charge filed on or after February 1, 2018, except when such a provision is superseded through a subsequent amendment. The ordinance as enacted prior to the December 2017 amendments shall apply to any complaint or charge filed before February 1, 2018, except when such a provision is superseded by a subsequent amendment. (Ord. of 12-30-75, § 1; 82-Or-114, § 1, 6-25-82; 93-Or-132, § 1, 8-27-93; 2003-Or-018-03; 2006-Or-061, § 1, 6-16-06; 2011-Or-067, § 1, 8-5-11; Ord. No. 2017-010, § 1, 3-24-17; Ord. No. 2017-078-17)

Editor's note— Ord. No. 2017-078, § 1, adopted Dec. 8, 2017, amended § 139.10 and in so doing changed the title of said section from "Findings, declaration of policy and purpose, effective date" to "Findings; declaration of policy and purpose; jurisdiction and construction; effective date," as set out herein.

139.20. - Definitions.

For the purposes of this title, the following definitions shall apply:

Age: The prohibition against unfair practices based upon age prohibits using a person's age as a basis for a decision if the person is eighteen (18) years of age or older, except for section 139.40(k), which shall be deemed to protect any individual over the age of twenty-five (25) years.

Agencies of any county: A county, and any office, officer, department, division, bureau, board, commission, authority, district or agency of a county.

Agencies of the State of Minnesota: The State of Minnesota, the University of Minnesota, the Minnesota State Colleges and Universities (MSCU) system, and any office, officer, department, division, bureau, board, commission, authority, district or agency of the State of Minnesota.

American Indian: For the purpose of meeting any goals required pursuant to section 139.50, "American Indian" shall mean any person who is an enrolled member of an Indian tribe, or who is a descendent in the first or second degree of any such member, or who is recognized as an Indian by the Secretary of the Interior.

Auxiliary aids or services: Include, but are not limited to: providing taped texts; interpreters or other methods of making orally delivered materials available; readers in libraries; adapted classroom equipment; and similar auxiliary aids or services.

Business: Any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver. Business does not include the city and its departments, agencies, independent boards and commissions, the state and its departments and agencies, or other political subdivisions of the state.

Commission: The Minneapolis Commission on Civil Rights.

Conciliation: A process convened by the department for the purpose of negotiating a mutually agreeable remedy between the applicable parties and the department after a finding of probable cause.

Complainant: A person who has filed an allegation of unlawful discrimination with the Minneapolis Department of Civil Rights, or the director when the director files a charge.

Contract: For the purposes of ordinance provisions governing contracts with the city, "contract" means any contract or agreement entered into by the city for the provision of goods, services, buildings, improvements and other public works or development property in excess of one hundred thousand dollars (\$100,000.00).

Department: The Minneapolis Department of Civil Rights.

Development contract: Any contract or agreement entered into by the city pursuant to which the city or the Minneapolis Community Development Agency provides direct or indirect financial assistance in excess of one hundred thousand dollars (\$100,000.00) to a developer or owner of real property to facilitate construction or rehabilitation.

"Development contract" shall not include:

- (1) Low income housing tax credits provided pursuant to 26 U.S.C., Section 42.
- (2) Taxable or tax-exempt financing issued for projects located outside of the City of Minneapolis.
- (3) Small business loan programs where public dollars are leveraged or supplemented with private dollars of a participating lender that originates, services and collects the public and private loan payments under an agreement with the city.
- (4) Neighborhood revitalization program funds used for the construction or rehabilitation of seven (7) or fewer residential units where the amount of the assistance is one hundred thousand dollars (\$100,000.00) or less.
- (5) Neighborhood revitalization program funds used for the construction or rehabilitation of a commercial or industrial property where the amount of the assistance is one hundred thousand dollars (\$100,000.00) or less.
- (6) Assistance to an organization that promotes affordable home ownership opportunities through the extensive use of volunteer labor and/or sweat equity components to rehabilitate or construct dwellings.
- (7) Land sales for fair market value with no other assistance to the purchaser greater than one hundred thousand dollars (\$100,000.00).
- (8) Financial assistance used to rehabilitate or construct a single-family dwelling or duplex to be owned and occupied by the recipient of the financial assistance.

Director: The director of the Minneapolis Department of Civil Rights and his or her designee.

Disability: Any condition or characteristic that causes a person to become a person with a disability. A person with a disability is any person who:

- (1) Has a physical, sensory or mental impairment which materially limits one (1) or more major life activities;
or
- (2) Has a record of such an impairment; or
- (3) Is perceived as having such an impairment.

Discriminate or discrimination: Includes any act, attempted act, policy or practice, which results in the unequal treatment, separation or segregation of or which otherwise adversely affects any person who is a member of a class or combination of classes protected by this title.

Dwelling: As defined in Title 12, Chapter 244, Article I.

Dwelling unit: As defined in Title 12, Chapter 244, Article I.

Educational institution: A public or private institution located or operating in the City of Minneapolis which performs educational services, including an academy, college, elementary or secondary school, extension course, kindergarten, nursery school system, business, nursing, professional, secretarial, technical or vocational school; and further includes any agent or employee of an educational institution.

Emancipated minor status: The condition of being a person who is not eighteen (18) years of age or older and:

- (1) Who has been declared by the court to be emancipated with respect to financial support, as long as that declaration is current, valid and enforceable, or
- (2) Who has been allowed, through a court order under Minnesota Statutes, Chapter 260C, to live independently, either alone or with others, as long as that court order is still current, valid, and enforceable.

Employ: To use or be entitled to the use and benefit of the services of a person as an employee.

Employee: Includes all persons who seek to, apply to, or perform services for any employer for compensation, whether in the form of wages, salaries, commissions or otherwise.

Employer: Includes any person within the City of Minneapolis who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the City of Minneapolis.

Employment: The state of being employed as an employee by an employer.

Employment agency: Any person located or operating in the City of Minneapolis, regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer.

Entity under review: A bidder, responder to a request for proposals, developer, owner or prospective contractor seeking to contract with the City or the Minneapolis Community Development Agency.

Equity: The guarantee of fair and just opportunities and outcomes for all people, while at the same time striving to identify and eliminate barriers that have prevented the full participation of some groups.

Familial status: The condition of one (1) or more minors residing with (1) their parent or parents or the minor's legal guardian or (2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of familial status apply 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.

Gender identity: A person's sense of self as a woman, man, another gender, or genderless. When a person's gender identity or gender expression and sex assigned at birth are not congruent, the individual may identify along the transgender spectrum.

Hearing committee: A committee of three (3) persons who have been designated by the chairperson of the commission to hear an appeal after a determination of probable cause or a finding of non-compliance and referral by the director.

Hire: To engage or contract for, or attempt to engage or contract for, the services of any person as an employee.

Housing Choice Vouchers or HCV: Tenant-based assistance under the United States Housing Act of 1937, 42 U.S.C. § 1437f(o) (also known as Section 8).

Housing for older persons: Housing:

- (1) Provided under any federal, state or local program that the director determines is specifically designed and operated to assist elderly persons, as defined in the federal, state or local program; or
- (2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

- (3) Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit, provided that:
- a. 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.
 - b. There is publication of, and adherence to, policies and procedures that demonstrate an intent by 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 "housing for older persons" by reason of persons residing in such housing as of September 13, 1988, who do not meet the age requirements of this definition if new occupants of the housing meet the age requirements of this definition. 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 this subsection.

Labor organization: Includes any person, employee representation committee or plan in which employees participate, or any agent or employee thereof, which operates in the City of Minneapolis or whose members live or are employed in the City of Minneapolis, and which exists wholly or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment and shall include any conference, general committee, joint or system board, or joint council.

Landlord: As defined in Minnesota Statutes, Section 504B.001.

Lawyer: A person duly authorized and licensed by the State of Minnesota or any other state to engage in the practice of law.

Marital status: The state of being single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Mediation: A forum in which a neutral third party facilitates communication between parties to assist the parties in their attempts to reach a mutually acceptable agreement.

National origin: An individual's actual or perceived characteristics related to her or his place of birth, the individual's ancestor's place of birth, language, culture, accent, ethnicity, or appearance of ethnicity.

Person: Includes one (1) or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, public bodies or public corporations, including but not limited to the City of Minneapolis or any department or unit thereof, any other legal or commercial entity, and any agent or employee of all the foregoing.

Professional organization: Includes, but is not limited to, any person, organization, association, collective, or group which requires for membership any educational, experiential, professional or other credentials and provides services associated with the occupation, trade or profession around which the professional organization was formed to promote and service.

Program access:

- (1) The use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges.
- (2) 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.

Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Public accommodations: Includes all services or facilities, other than governmental, of any kind offered or located within the City of Minneapolis which are generally open or offered to the public or which generally solicit public patronage or usage, whether operated for profit or not.

Public assistance program: Federal, state or local assistance, including medical assistance, or tenant-based federal, state or local subsidies, including, but not limited to, rental assistance, rent supplements, and housing choice vouchers.

Public services: Includes all activities, services or facilities offered to the public within the City of Minneapolis by any governmental agency or unit of government owned, operated or managed by any local, state or federal government, including, but not limited to, the Minneapolis Community Development Agency and Special School District No. 1.

Qualified person with a disability:

- (1) With respect to employment, a person with a disability who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question.
- (2) With respect to public services and programs, a person with a disability who, with reasonable accommodation, physical and program access, meets the essential eligibility criteria required of all applicants for the program or service in question.

For the purpose of this chapter, "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 property or the safety of others.

Real estate broker; real estate salesperson: A real estate broker as defined by Minnesota Statutes, Section 82.55, subdivision 19, and real estate salesperson as defined by Minnesota Statutes, Section 82.55, subdivision 20.

Real property: Any right, title, or interest in or to the possession, ownership, enjoyment of occupancy of any parcel of land in the City of Minneapolis, any building situated thereon, or any portion of such buildings.

Reasonable accommodation for known disability: Steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability unless doing so would impose an undue hardship. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require:

- (1) Making facilities readily accessible to and usable by persons with disabilities;
- (2) Job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis;
- (3) Making real property accessible through modifications to the public portions of the real property that renders it accessible to persons with mobility impairments, or other modifications as required to accommodate persons with disabilities; and
- (4) Permitting reasonable modifications of existing premises occupied or to be occupied by the person with a disability if the modifications may be necessary to afford the person with a disability full enjoyment of the premises; provided however, that a landlord 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.

Religious or denominational educational institutions: An educational institution located or operating in the City of Minneapolis which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church through church representation on the board of the institution and through substantial church financial assistance to the institution, providing the institution has certified, in writing, to the commission that it is a religious or denominational educational institution; and further includes any agent or employee of such an institution.

Respondent: A person against whom a complaint alleging unlawful discrimination has been filed or issued.

Retaliation: Retaliation includes, but is not limited to, any form of intimidation, retaliation, or harassment. It is retaliation for an employer to take any of the following with respect to a person because that person has engaged in any of the activities listed in subsection 139.40(m)(3):

- (1) Refuse to hire the person;
- (2) Depart from any customary employment practice;
- (3) Transfer or assign the person to a lesser position in terms of wages, hours, job classification, job security, or other employment status;
- (4) Discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment; or
- (5) Inform another employer that the person has engaged in the activities listed in subsection 139.40(m)(3).

Review committee: A committee of three (3) commissioners, at least two (2) of whom are lawyers, who have been designated by the chair person of the commission to review an appeal by a complainant from a determination of no probable cause by the director.

Sex: The character of being male or female and encompasses, but is not limited to, pregnancy, childbirth, nursing persons, disabilities related to pregnancy or childbirth, and sexual harassment.

Sexual harassment: Includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct, or communication of a sexual nature when:

- (1) Submission to the conduct, or communication, is made a term or condition, either explicitly or implicitly, of obtaining the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending institution, public accommodations, public services, or the services of an educational institution, or;
- (2) Submission to or rejection of that conduct or communication is used as a factor in decisions affecting that individual in obtaining the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending institution, public accommodations, public services, or the services of an educational institution, or;
- (3) That conduct or communication has the purpose or effect of substantially interfering with an individual in regard to, or creating an intimidating, hostile or offensive environment in regard to the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending institution, public accommodations, public services, or the services of an educational institution.

Sexual orientation: A component of identity that includes a person's sexual and emotional attraction to another person and the behavior and/or social affiliation that may result from this attraction. A person may be attracted to men, women, both, neither, and/or to people who are genderqueer, androgynous, or have other gender identities. Individuals may identify as lesbian, gay, heterosexual, bisexual, queer, pansexual, or asexual, among others.

Status with regard to a public assistance program: The condition of being a recipient of or participant in a public assistance program.

Status with regard to public assistance: 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.

Undue hardship: With respect to section 139.40(e)(1) means a situation requiring significant difficulty or expense when considered in light of a number of factors to be determined on a case-by-case basis. These factors include, but are not limited to:

- (1) The nature and net cost of complying with any requirement of a public assistance program, taking into consideration existing property management processes;
- (2) The overall financial resources of the landlord, taking into consideration the overall size of the business with respect to the number of its employees, and the number, type, and location of its housing stock; and
- (3) The impact of complying with any requirement of a public assistance program upon the business and dwelling. (Ord. of 12-30-75, § 2; 78-Or-206, § 1, 10-13-78; 82-Or-114, § 2, 6-25-82; 85-Or-085, § 1, 4-26-85; 87-Or-040, §§ 1—4, 3-13-87; 88-Or-108, § 1, 6-17-88; Pet. No. 249821, § 1, 7-14-89; 90-Or-275, § 1, 11-9-90; 92-Or-063, §§ 1—6, 5-22-92; 93-Or-132, § 2, 8-27-93; 95-Or-163, § 1, 12-29-95; 2006-Or-061, § 2, 6-16-06; 2011-Or-067, § 2, 8-5-11; Ord. No. 2017-010, § 2, 3-24-17; Ord. No. 2017-078, § 1, 12-8-17; Ord. No. 2019-053, § 1, 11-22-19)

139.30. - Exemptions.

(a) *Employment.* The provisions of section 139.40(a), (b), (c), and (d) shall not apply to or prohibit:

- (1) The employment of any individual by his or her parent, grandparent, spouse, domestic partner as defined in Chapter 142 of the Minneapolis Code of Ordinances, child or grandchild, or in the domestic service of any person.
- (2) Any religious corporation, association or society with respect to the hiring or employment of individuals of a particular religion, when religion shall be a bona fide occupational qualification for employment.
- (3) An employer, employment agency or labor organization from requiring or requesting a person to undergo a physical examination which may include a medical history for the purpose of determining the person's capability to perform available employment provided that all of the following are complied with:
 - a. An offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the Board of Peace Officer Standards and Training for psychological evaluations and is otherwise lawful.
 - b. The examination tests only for essential job-related abilities.

- c. The examination, except for examinations required under Minnesota Statutes, Chapter 176, is required of all persons conditionally offered employment for the same position regardless of disability.
 - d. That the information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; first aid safety personnel may be informed, when appropriate, if the disability might require emergency treatment; government officials investigating compliance with this chapter must be provided relevant information on request; and information may be released for purposes mandated by local, state, or federal law; provided that the results of the examination are used only in accordance with this chapter.
- (4) An employer, employment agency or labor organization, with the consent of the employee, after employment has commenced, from obtaining additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; or for purposes of assessing the need to reasonably accommodate an employee or other legitimate business reason not otherwise prohibited by law.
 - (5) An employer, employment agency or labor organization from administering preemployment tests, provided that the tests satisfy all of the following:
 - a. Measure only essential job-related abilities.
 - b. Are required of all applicants for the same position regardless of disability except for tests authorized under Minnesota Statutes, Chapter 176.
 - c. Accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills, except when those skills are the factors that the tests purport to measure.
 - (6) An employer, employment agency or labor organization from limiting receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work.
 - (7) An employer, employment agency or labor organization from providing special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.
- (b) *Property rights and public assistance.* The provisions of section 139.40(e) relating to tenant-based federal, state or local subsidies, including, but not limited to, rental assistance, rent supplements, and housing choice vouchers, or any requirement of such a program, shall not apply to:
- (1) Renting or leasing a room in an owner occupied single-family dwelling.
 - (2) Renting or leasing a single-family dwelling, a single dwelling unit, or a single dwelling unit of a condominium, townhouse, or housing cooperative, by the owner of the dwelling or dwelling unit, for no more than thirty-six (36) months, when such dwelling or dwelling unit is an owner occupied homestead at the start of the thirty-six (36) month period.
 - (3) Renting or leasing a dwelling with two dwelling units when a person who owns or has an ownership interest in the dwelling is residing in the other dwelling unit.

- (4) Renting or leasing a single-family dwelling, a single dwelling unit, or a single dwelling unit of a condominium townhouse, or housing cooperative, by the owner of the dwelling or dwelling unit, while the owner is on active duty and when such dwelling or dwelling unit is an owner occupied homestead at the start of the active military service.
- (c) *Property rights.* The provisions of section 139.40(e) do not prohibit an owner of a dwelling or dwelling unit from:
- (1) Abiding by laws restricting the occupancy of a dwelling or dwelling unit to a maximum number of people.
 - (2) Screening any person who will occupy a dwelling unit based on rental or lease history as allowed by the public assistance program applicable to the rental or lease, or any other non-discriminatory criteria, including, but not limited to, past conduct or the ability to pay their applicable portions of the rent or lease.
 - (3) Abiding by applicable laws, regulations, or this Code, and provisions of Minnesota Statutes, Chapter 504B.
- (d) *Property rights and housing for older persons.* Notwithstanding the provisions of this chapter or any other law to the contrary, no person shall be deemed to have committed an unlawful discriminatory practice based upon age or familial status if the unlawful discriminatory practice alleged is accomplished for the purpose of maintaining housing that qualifies as housing for older persons. (Ord. of 12-30-75, § 3; 82-Or-114, § 3, 6-25-82; 87-Or-040, §§ 5, 6, 3-13-87; 88-Or-108, §§ 2, 3, 6-17-88; 90-Or-275, § 2, 11-9-90; 92-Or-063, §§ 7, 8, 5-22-92; 93-Or-132, § 3, 8-27-93; 2003-Or-108, § 1, 8-22-03; 2006-Or-061, § 3, 6-16-06; Ord. No. 2017-010, § 3, 3-24-17; Ord. No. 2017-078, § 1, 12-8-17)

139.40. - Acts of discrimination specified.

Without limitation, the following are declared to be unfair discriminatory acts:

- (a) *Discrimination by a labor organization.* Except when based on a bona fide occupational qualification, it is an unlawful discriminatory practice for any labor organization when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor:
- (1) To deny full and equal membership rights to a person seeking membership or to a member.
 - (2) To expel a member from membership.
 - (3) To discriminate against a person seeking membership or a member with respect to his hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.
 - (4) To fail to classify properly, or refer for employment or otherwise to discriminate against a person or member.
 - (5) To fail to make reasonable accommodation to the known disability of a qualified person with a disability unless the labor organization can demonstrate that the accommodation would impose an undue hardship on it.

"Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require:

- (i) Making facilities readily accessible to and usable by persons with disabilities.
- (ii) Job restructuring, modified work schedules, acquisition or modification of equipment or devices, and

the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of a labor organization, factors to be considered include:

- a. The overall size of the labor organization with respect to number of members and the number and type of facilities in which those members are employed.
 - b. The type of operation, including the composition and structure of the work force.
 - c. The nature and cost of the needed accommodation.
 - d. The reasonable ability to finance the accommodation at each site of business.
 - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (6) Except when based on a bona fide occupational qualification, it is an unfair employment practice for a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by section 139.40(a)(5).
- (b) *Discrimination by an employer.* Except when based on a bona fide occupational qualification, it is an unlawful discriminatory practice for an employer when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor:
- (1) To fail or refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment.
 - (2) To discharge an employee.
 - (3) To discriminate against a person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge, or any term or condition of employment.
 - (4) For an employer with fifteen (15) or more permanent full-time employees to fail to make reasonable accommodation to the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it.

"Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require:

- (i) Making facilities readily accessible to and usable by persons with disabilities.
- (ii) Job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis. A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant.

In determining whether an accommodation would impose an undue hardship on the operation of an employer, factors to be considered include:

- a. The overall size of the employer with respect to number of employees or members and the number and facilities.
 - b. The type of operation, including the composition and structure of the work force.
 - c. The nature and cost of the needed accommodation.
 - d. The reasonable ability to finance the accommodation at each site of business.
 - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (5) Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by section 139.40(b)(4).
- (c) *Discrimination by an employment agency.* Except when based on a bona fide occupational qualification, for an employment agency when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor:
- (1) To refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person.
 - (2) To comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this title.
 - (3) To fail to make reasonable accommodation to the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability.
- "Reasonable accommodation" may include but is not limited to, nor does it necessarily require:
- (i) Making facilities readily accessible to and usable by persons with a disability.
 - (ii) Job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.
- In determining whether an accommodation would impose an undue hardship on the operation of an employment agency, factors to be considered include:
- a. The overall size of the agency with respect to number of persons referred for employment and the kind or type of employment to which persons are referred.
 - b. The nature and cost of the needed accommodation.
 - c. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (4) Except when based on a bona fide occupational qualification, it is an unfair employment practice for an

employer, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by section 139.40(c)(3).

- (d) *Discriminatory practices in furnishing employment information and employment advertising.* Except when based on a bona fide occupational qualification, for an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization:
- (1) To require a person to furnish information that pertains to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program, unless one (1) of the following apply:
 - a. For the purpose of national security, information pertaining to national origin is required by the United States, the State of Minnesota, or a political subdivision or agency of the United States or the State of Minnesota.
 - b. For the purpose of compliance with the Public Contracts Act or any rule, regulation or laws of the United States or of the State of Minnesota, or the City of Minneapolis, requiring information pertaining to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program where such information is required by the United States, the State of Minnesota or the City of Minneapolis, or a political subdivision or agency of the United States or the State of Minnesota.
 - (2) To cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, ancestry, national origin, sex, sexual orientation, familial status, gender identity, disability, age, marital status, or status with regard to a public assistance program.
- (e) *Discrimination in property rights.* It is an unlawful discriminatory practice for an owner, lessee, sublessee, managing agent, real estate broker, real estate salesperson or other person having the right to sell, rent or lease any property, or any agent or employee of any of these, when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status, emancipated minor status, status with regard to a public assistance program, or any requirement of a public assistance program is a motivating factor:
- (1) To refuse to sell, rent or lease, or to refuse to offer for sale, rental or lease; or to refuse to negotiate for the sale, rental, or lease of any real property; or to represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available; or to otherwise make unavailable any property or any facilities of real property. It is an affirmative defense if the refusal, denial, or withholding is due to a requirement of a public assistance program and that requirement would impose an undue hardship. The department may promulgate rules or regulations establishing standards for undue hardship determinations.
 - (2) To discriminate against any person 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 associated with the real property; 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 or associated with the real property.

- (3) For an owner, lessee, sublessee, managing agent, real estate broker, real estate salesperson or other person having the right to sell, rent or lease any property, or any agent or employee of any of these:
 - a. To fail to make, or refuse to make, reasonable accommodations in rules, policies, practices or services when necessary to afford a person with a disability an opportunity to use, enjoy, or continue to use or enjoy a dwelling; or to otherwise fail to make reasonable accommodation to the known disability of a person, unless such accommodation would impose an undue hardship.
 - b. To refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord 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, reasonable wear and tear excepted.
- (4) To print, circulate, publish or post, or cause to be printed, circulated, published 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, verbal or written, in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status, emancipated minor status, status with regard to a public assistance program, or any requirement of a public assistance program.
 - a. The provisions of this clause regarding familial status and age shall not be construed to prohibit the advertisement of a dwelling unit as available only to older persons if the dwelling meets the requirements of housing for older persons as defined in section 139.20.
 - b. This clause shall not apply to advertisements, notices, signs, or statements describing a living arrangement in which persons intend to occupy the same living quarters as another person including sharing a bathroom, bedroom, kitchen or living room.
- (5) For any person to fail to design and construct covered multifamily dwellings so that:
 - a. The dwellings have at least one (1) building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or
 - b. With respect to dwellings with a building entrance on an accessible route:
 1. The public and common use portions are readily accessible to and usable by persons with disabilities.
 2. There is an accessible route into and through all dwellings and units.
 3. All doors designed to allow passage into, within and through these dwellings and individual units are wide enough for persons with disabilities in wheelchairs.
 4. Light switches, electrical switches, electrical outlets, thermostats, and other environmental controls are in accessible locations.
 5. Bathroom walls are reinforced to allow later installation of grab bars.

6. Kitchens and bathrooms have space for a person in a wheelchair to maneuver.

For purposes of this subsection the term "covered multifamily dwellings" means: Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; or ground floor units in other buildings consisting of four (4) or more units.

- (6) To provide services at different fee schedules between a person with a spouse and a person with a registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.
- (f) *Discrimination by real estate broker or real estate salespersons.* It is an unlawful discriminatory practice for any real estate broker or real estate salesperson, property owner, rental agent, property manager, caretaker or any agent or employee thereof, for the purpose of inducing a real property transaction from which a person, that 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 of the owners or occupants in the block, neighborhood or area in which the real property is located with respect to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to a public assistance program or familial status, and 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.
- (g) *Discrimination by professional organizations.* It is an unlawful discriminatory practice, except when based on a bona fide occupational qualification, for any professional association, when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to a public assistance program, or familial status is a motivating factor:
- (1) To expel a member from membership.
 - (2) To discriminate against a person seeking membership or a member with regard to the availability of membership, membership services, cost of membership or any other terms and conditions of membership, services and privileges associated with membership, participation in all membership activities and benefits, or any other aspect of membership.
 - (3) To fail to make reasonable accommodation to the known disability of a qualified person unless the professional organization can demonstrate that the accommodation would impose an undue hardship on it.
 - (4) To provide services at different fee schedules between a person with a spouse and a person with a registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.
- (h) *Discrimination in lending.* It is an unlawful discriminatory practice for any person, bank, banking organization, mortgage company, insurance company, broker, underwriter or other financial institution or lender, or any agent or employee thereof, to whom application is made for financial assistance:
- (1) To discriminate against any person or group of persons when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance or familial status is a motivating factor in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith.

- (2) To use any form of application for such financial assistance or make any verbal or written record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any preference, limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance or familial status, with the intent to make any such preference, limitation, specification or discrimination.
 - (3) To discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area 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 any such financial assistance or in the extension of services in connection therewith.
- (i) *Discrimination in public accommodations.* It is an unlawful discriminatory practice for any person engaged in the provision of public accommodations, when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to a public assistance program is a motivating factor:
- (1) To fail or refuse to provide to any person access to the use of and benefit from the services, privileges, advantages, accommodations and facilities of such public accommodations.
 - (2) To discriminate against any person with respect to the availability of such services and facilities, the price or other consideration therefor, the scope and quality thereof, or the terms and conditions under which the same are made available, including terms and conditions relating to credit, payment, warranties, delivery, installation and repair.
 - (3) To provide services at different fee schedules between a person with a spouse and a person with a registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.
 - (4) To not make reasonable accommodation to the known physical, sensory, or mental disability of a person with a disability in a place of public accommodation, unless the person engaged in the provision of public accommodation can demonstrate that the accommodation would impose an undue hardship on it. In determining whether an accommodation would impose an undue hardship, the factors to be considered may include, but are not limited to:
 - a. The frequency and predictability with which members of the public will be served by the accommodation at that location.
 - b. The size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees.
 - c. The extent to which persons with disabilities will be further served from the accommodation.
 - d. The type of operation.
 - e. The nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation.
 - f. The extent to which any persons may be adversely affected by the accommodation.
 - (5) To subject a person or class of persons on the basis of a disability of that person or class of persons, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity of the person or class of persons to participate in or benefit from the goods, services, facilities, privileges,

- advantages, or accommodations of an entity.
- (6) To afford a person or class of persons, on the basis of the disability of that individual or class of persons, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other persons.
 - (7) To provide a person or class of persons, on the basis of a disability of that person or class of persons, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others.
 - (8) To not afford goods, services, facilities, privileges, advantages, and accommodations to a person with a disability in the most integrated setting appropriate to the needs of the person with a disability.
 - (9) Notwithstanding the existence of separate or different programs or activities provided in accordance with subsection 139.40(i)(7), to deny a person with a disability the opportunity to participate in the programs or activities that are not separate or different.
 - (10) To, directly or through contractual or other arrangements, use standards or criteria and methods of administration that either:
 - a. Have the effect of discriminating on the basis of disability; or
 - b. Perpetuate on the basis of disability the discrimination of others who are subject to common administrative control.
 - (11) To impose or apply eligibility criteria that screen out or tend to screen out a person with a disability or any class of persons with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations.
 - (12) To fail to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to persons with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.
 - (13) To fail to take all necessary steps to ensure that no person with a disability is excluded, denied services, segregated, or otherwise treated differently than other persons because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered and would result in an undue hardship.
 - (14) To fail to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable.
 - (15) If an entity can demonstrate that the removal of a barrier under subsection 139.40(i)(14) is not readily achievable or cannot be considered a reasonable accommodation, to fail to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means

are readily achievable.

- (16) To deny any person with a disability the full and equal enjoyment of public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce by any of the following:
- a. The imposition or application of eligibility criteria that screen out, or tend to screen out, a person with a disability or a class of persons with disabilities from fully enjoying the specified public transportation services provided by the entity, unless the criteria can be shown to be necessary for the provision of the services being offered.
 - b. The failure to make reasonable modifications, provide auxiliary aids and services, and remove barriers, consistent with subsections 139.40(i)(12) through 139.40(i)(15).
 - c. The purchase or lease of a new vehicle, other than an automobile or van with a seating capacity of fewer than eight (8) passengers, including the driver, or an over-the-road bus, that is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that a new vehicle need not be readily accessible to and usable by individuals with disabilities if the vehicle is to be used solely in a demand responsive system and if the private entity can demonstrate that the system, when viewed in its entirety, provides a level of services to individuals with disabilities equivalent to the level of service provided to the general public.
 - d. The purchase or lease a new, used, or remanufactured vehicle with a seating capacity in excess of sixteen (16) passengers, including the driver, for use on a fixed route public transportation system, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If a private entity that operates a fixed route public transportation system purchases or leases a new, used, or remanufactured vehicle with a seating capacity of sixteen (16) passengers or fewer, including the driver, for use on the system which is not readily accessible to and usable by individuals with disabilities, it is an unfair discriminatory practice for the entity to fail to operate the system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.
 - e. Failing to operate a demand responsive system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. It is an unfair discriminatory practice for the entity to purchase or lease for use on a demand responsive system a new, used, or remanufactured vehicle with a seating capacity in excess of sixteen (16) passengers, including the driver, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the entity can demonstrate that the system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.
- (17) To construct a new facility or station to be used in the provision of public transportation services, unless the facilities or stations are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.
- (18) To fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of facilities or stations currently used for the provision of public transportation services readily

accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If the private entity is undertaking an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function, the entity shall make the alterations so that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, drinking fountains, and telephones serving the altered area, are readily accessible to and usable by individuals with disabilities if the alterations to the path of travel or to the functions mentioned are not disproportionate to the overall alterations in terms of cost and scope. The entity raising this defense has the burden of proof, and the department shall review these cases on a case-by-case basis.

For purposes of subsections 139.40(i)(5), 139.40(i)(6) and 139.40(i)(7) "person" or "class of persons" means clients or customers or prospective clients or customers of the covered public accommodation.

State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

Nothing in this subsection requires an entity to permit a person with a disability to participate in and benefit from the goods, services, facilities, privileges, advantages, and accommodations of the entity if the person with a disability poses a direct threat to the health or safety of others. "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

- (j) *Discrimination in public services.* For any person engaged in the provision of public services:
- (1) When race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to a public assistance program is a motivating factor:
 - a. To discriminate against any person, in the access to, admission to, full use of or benefit from any public service.
 - b. To provide public services at different fee schedules between a person with a spouse and a person with a registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.
 - (2) To fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation. In determining whether providing physical and program access would impose an undue hardship, the factors to be considered include:
 - a. The type and purpose of the public service's operation;
 - b. The nature and cost of the needed accommodation;
 - c. Documented good faith efforts to explore less restrictive or less expensive alternatives; and
 - d. The extent of consultation with knowledgeable disabled persons and organizations.
 - (3) Notwithstanding the requirements of section 139.40(j), It is not an unlawful discriminatory practice for a public service to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one (1) sex, if this separation or restriction meets the requirements of Minnesota Statutes, Section 121A.04.
- (k) *Discrimination in educational institutions.* For any educational institution:
- (1) To discriminate against any person in the full use of or benefit from such institution, or the services

rendered thereby, when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor.

- (2) To fail to ensure physical or program access for disabled persons.
 - (3) To exclude, expel or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student, when race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to a public assistance program is a motivating factor.
 - (4) To fail to make reasonable accommodations for the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it. In determining whether an accommodation would impose an undue hardship on the operation of an educational institution, factors to be considered include:
 - a. The overall size of the educational institution with respect to number of students and the number and type of facilities.
 - b. The nature and cost of the needed accommodation.
 - c. The reasonable ability of the educational institution to finance the accommodation.
 - d. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability or with knowledgeable persons with disabilities or disability organizations.
 - (5) Notwithstanding the provisions section 139.40(k):
 - a. It is not an unlawful discriminatory practice for a religious or denominational educational institution to limit admission or give preference to applicants of the same religion or denomination. The provisions of section 139.40(k) relating to sex shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one (1) sex are permitted to enroll.
 - b. Nothing in this chapter shall prohibit an educational institution from discriminating on the basis of academic qualifications or achievements or requiring from applicants information which relates to academic qualifications or achievements.
 - c. It is not an unlawful discriminatory practice for an educational institution to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one (1) sex, if this separation or restriction meets the requirements of Minnesota Statutes, Section 121A.04.
- (l) *Discrimination in business.* It is an unlawful discriminatory practice for a person engaged in a trade or business or in the provision of a service:
- (1) To intentionally refuse to do business with, to refuse to contract with, or to discriminate in the basic terms, conditions, or performance of the contract when a person's race, national origin, color, sex, sexual orientation, gender identity, or disability is a motivating factor, unless there is a legitimate business purpose for the alleged refusal or discrimination.
 - (2) For the purposes of this subsection, a complainant may be an employee or agent of the person that attempts to or does contract with the respondent.

- (m) Aiding, abetting or facilitating discrimination; retaliation related to discrimination; coercion related to housing. It unlawful discriminatory practice for any person:
- (1) To conceal or attempt to conceal any discriminatory act forbidden by this title or to aid, abet, compel, coerce, incite or induce, or attempt to induce, another person to discriminate.
 - (2) To use any trick, artifice, advertisement, sign, form of application, record or inquiry or any device whatsoever to bring about or facilitate discrimination.
 - (3) To engage in any retaliation, economic or otherwise, because another person opposed a discriminatory act forbidden under this title, has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this title, or has associated with a person or group of persons of a different race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, status with regard to disability, age, marital status, status with regard to a public assistance program or familial status.
 - (4) To coerce, intimidate, threaten, or interfere with any person in the exercise of or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right with regard to real estate granted or protected by subdivisions (e), (f) or (h) of this section. (Ord. of 12-30-75, § 4; 82-Or-114, § 4, 6-25-82; 87-Or-040, §§ 7—9, 3-13-87; 88-Or-108, § 4, 6-17-88; 89-Or-038, 2-24-89; 90-Or-275, §§ 1—3, 11-9-90; 92-Or-063, § 9, 5-22-92; 93-Or-132, §§ 4—8, 8-27-93; 2003-Or-108, § 2, 8-22-03; 2006-Or-061, § 4, 6-16-06; 2011-Or-067, § 3, 8-5-11; Ord. No. 2017-010, § 4, 3-24-17; Ord. No. 2017-078, § 1, 12-8-17)

139.50. - Contracts with city.

(a) *Required contract clauses.* Unless exempted by the director, and in addition to any other contract provisions that may be specifically required by Article IV of Chapter 24, all City of Minneapolis contracts shall include the following provisions, specifically or by reference:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, familial status, or status with regard to a public assistance program.
- (2) The contractor will take affirmative action to ensure that all employment practices are free of such discrimination as described in subsection (a)(1). Such employment practices include but are not limited to the following:
 - a. Ensuring that hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships, are free from unlawful discrimination.
 - b. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Minneapolis Department of Civil Rights ("MDCR") setting forth the provisions of subsection (a)(1).
 - c. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that it is an equal opportunity or affirmative action employer.
 - d. The contractor will send to each labor union or representative of workers with which it has a

collective bargaining agreement or other contract or understanding, a notice, to be provided by the MDCR, advising the labor union or workers' representative of the contractor's commitments under section 139.50 of the Minneapolis Code of Ordinances, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (3) The contractor will comply with all provisions of Title 7 of the Minneapolis Code of Ordinances, and with all rules and regulations issued by the director of the MDCR (director) or the Minneapolis Commission on Civil Rights (commission).
- (4) The contractor will furnish and cause each of its subcontractors to furnish all information and reports required by section 139.50 of the Minneapolis Code of Ordinances, and by the rules and regulations of the director or of the commission, and will permit access to its books, records and accounts by the director, the director's agent, or the commission, for purposes of investigation to ascertain compliance with the rules, regulations and provisions of Title 7.
- (5) The contractor shall take action to afford Minority-Owned Business Enterprises and Women-Owned Business Enterprises, as defined in Chapter 423, full and fair opportunities to compete on this contract and resulting subcontracts. This provision is not intended to limit in any manner the right of a contractor to enter into a contract with a subcontractor whose status as a Minority-Owned Business Enterprise or Women-Owned Business Enterprise has not been determined by the MDCR. Any non-compliance of the provisions of Chapter 423, or of any rules or regulations promulgated by the MDCR pursuant to Chapter 423, may result in the penalties outlined in Chapter 423.
- (6) The contractor shall comply with all applicable requirements under Chapter 24. Any non-compliance with the provisions of Article IV of Chapter 24 in regard to prevailing wage or other obligations to employees may result in the penalties outlined in Article IV of Chapter 24.
- (7) In the event of the contractor's noncompliance with the clauses of this contract identified in subsections 139.50(a)(1) to (a)(4) or with any of the rules, regulations or provisions of Title 7:
 - a. This contract may be canceled, terminated or suspended, in whole or in part.
 - b. Contractor may be declared ineligible by the Minneapolis City Council for further city contracts in addition to other remedies as provided in Title 7.
 - c. Contractor shall be liable for any costs or expenses incurred by the City of Minneapolis in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the city under this contract and for administrative costs incurred in seeking compliance.
 - d. The city shall have the right to specific performance of this contract.
 - e. If the director finds probable cause that the contractor is in noncompliance with the clauses of this contract identified in subsections (a)(1) to (a)(4) or with any applicable rules or regulations, the city may withhold up to fifteen (15) percent of the total contract amount until the contractor demonstrates compliance. In the event that withholding a portion of the contract amount is not feasible, liquidated damages of one thousand dollars (\$1,000.00) per day may be imposed for each day that the director finds probable cause that the contractor is in noncompliance, or until the contractor is otherwise adjudicated to be in compliance.
 - f. If the contractor has materially failed to implement the affirmative action plan approved by the director:

1. The director may suspend or revoke approval of that affirmative action plan for up to one (1) year; a
 2. This contract may be canceled, terminated or suspended, in whole or in part.
- (b) *Noncompliance.* If the director finds probable cause to believe that the contractor is not in compliance with any provision of subsection (a) paragraphs (1) through (4) or with the implementing rules, regulations, provisions, or plans thereto, the director shall notify the city department administering said contract and shall engage the contractor and the administering department in conciliation or persuasion for a period of up to ninety (90) days to provide an opportunity for the contractor to demonstrate compliance. If the acts or practices giving rise to the finding of probable cause of non-compliance are not eliminated within ninety (90) days, the director may issue a finding of non-compliance which may include appropriate remedies.
- (c) *Hearing before a panel of the commission.* Should the foregoing fail to eliminate the noncompliant acts or practices, the director shall file a director's charge and request a hearing before the commission on the subject matter of the noncompliance. Should a contractor wish to appeal a finding of non-compliance by the department, the contractor shall file an appeal and the director shall request a hearing on the appeal before the commission.
- (1) The hearing on the subject matter of the noncompliance shall be held within ninety (90) days of notification of the matter to the commission, or as soon thereafter as practicable.
 - (2) The chairperson of the commission on civil rights shall appoint a three-person hearing committee, who may or may not be members of the commission. At least two (2) members of the hearing committee shall be attorneys, one of whom shall also be the presiding commissioner of the hearing committee. The hearing committee shall hold a hearing on the subject matter of the noncompliance and shall receive evidence pursuant to the provisions of Minnesota Statutes Section 14.60. The hearing committee shall make findings regarding the subject matter of the noncompliance, which may include findings with respect to the contract, ordinance provisions, affirmative action plan, or women and minority business enterprise inclusion. The hearing committee shall order final action including final imposition of sanctions under subsection (a)(7) of this section.
 - (3) In the alternative, after consulting with the director, the chairperson of the commission may designate a hearing examiner who is an attorney and who may or may not be a member of the commission. The hearing examiner shall have all the powers of a hearing committee.
- (d) *Subcontracts.* The contractor will include the provisions of subsection (a) paragraphs (1) through (7) in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the director, so that such provisions will be binding upon each subcontractor or vendor.
- (e) *Written affirmative action plan; pre-award review.* Unless exempted by the director, neither the City of Minneapolis nor the Minneapolis Community Development Agency shall enter into any contract or amend any contract resulting in a cumulative contract award in excess of one hundred thousand dollars (\$100,000.00) with any bidder or prospective contractor until a written affirmative action plan has been approved by the director and until the department has conducted a pre-award review.

Neither the City of Minneapolis nor the Minneapolis Community Development Agency shall close on any development contract until a written affirmative action plan from the recipient of assistance and any prospective contractor with a contract in excess of one hundred thousand dollars (\$100,000.00) has been approved by the director and until the department has conducted a pre-award review.

The director shall, in a pre-award review, examine evidence of the past performance of the entity under review regarding compliance with the provisions of subsection (a) of this section, which should include but not be limited to the following factors: The record of the entity under review regarding observance of the City of Minneapolis contract compliance rules and regulations; the books, records, payrolls and other relevant documents including a list, separated by construction project or work site, of all protected-class employees who worked for the entity under review during the period to be reviewed; documentary evidence of the implementation of each of the affirmative action standards set forth in the specifications and evidence demonstrating whether or not the entity under review has complied with subsections (a)(1) and (a)(2) of this section or similar equal employment opportunity clause in contracts with any other governmental body or any other entity. The director shall have thirty (30) days after receiving notice of the proposed contract to complete the pre-award review and approve or disapprove the affirmative action plan.

- (f) The director may audit any affirmative action plan that has been approved by the director. If as a result of such audit, the director finds that a contractor has failed to implement or failed to make a good faith effort to implement the affirmative action plan, the director shall follow the noncompliance and hearing provisions of section 139.50.
- (g) To implement any of the provisions of this section, the director may create rules, regulations, processes, procedures and/or forms.
- (h) *Jurisdiction.* With regard to development contracts the jurisdiction of the city under this section shall extend for a period of three (3) years from the date of the development contract or until such longer period as may be stated in the development contract and shall include jurisdiction over owner-occupants of any project financed pursuant thereto. (Ord. of 12-30-75, § 5; 80-Or-021, §§ 1, 2, 2-8-80; 81-Or-211, §§ 1—3, 8-14-81; 82-Or-255, § 1, 12-23-82; 83-Or-324, §§ 1—8, 12-30-83; 84-Or-042, §§ 1, 2, 3-30-84; 88-Or-001, § 1, 1-15-88; 90-Or-012, § 1, 1-26-90; 93-Or-132, § 9, 8-27-93; 2006-Or-061, § 5, 6-16-06; 2011-Or-021, § 1, 3-10-11; 2011-Or-067, § 4, 8-5-11; Ord. No. 2016-063, § 1, 9-23-16; Ord. No. 2017-078, § 1, 12-8-17)

Editor's note— Ord. No. 2017-078, § 1, adopted Dec. 8, 2017, amended § 139.50 and in so doing changed the title of said section from "Provisions required in contracts" to "Contracts with city," as set out herein.

139.60. - Responsibilities and duties of city employees; acts of discrimination.

All officials, commissioners, agents, employees and servants of the City of Minneapolis, elected and appointed, including civil service employees, and whether serving with or without compensation, shall observe the terms and provisions of this title and shall, except as expressly prohibited by law, respond promptly to any and all reasonable requests by the director or the commission, within the scope of their authority, for information and for access to data and records for the purpose of enabling the director to carry out his or her responsibilities under this title. The failure of any such official, commissioner, agent, employee or servant of the City of Minneapolis to comply with any provisions of this title relating to any matter within the scope of his or her official duties shall be deemed an act of discrimination. (Ord. of 12-30-75, § 6; Ord. No. 2017-078, § 1, 12-8-17)

139.70. - Reserved.

Editor's note— Ord. No. 2017-078, § 1, adopted Dec. 8, 2017, repealed § 139.70, which pertained to development of affirmative action plans by city departments and derived from Ord. No. 83-Or-324, § 9, adopted Dec. 30, 1983.

139.80. - Reserved.

Editor's note— Ord. No. 2016-063, § 2, adopted Sept. 23, 2016, repealed § 139.80, which pertained to affirmative action requirements in regard to professional or technical services and derived from Ord. No. 83-Or-324, § 10, adopted Dec. 30, 1983; and Ord. No. 84-Or-042, § 3, adopted March 30, 1984.

139.90. - Reporting.

The director shall report annually to the city council as to the department's contract compliance activities. Such report shall also be made to the mayor and shall contain only matter which is classified as public data pursuant to the Minnesota Government Data Practices Act. (83-Or-324, § 11, 12-30-83; Pet. No. 249821, § 2, 7-14-89; 2006-Or-061, § 6, 6-16-06; Ord. No. 2017-078, § 1, 12-8-17)

CHAPTER 141. - ADMINISTRATION AND ENFORCEMENT

141.10. - Commission on civil rights established.

There is hereby created a Minneapolis Commission on Civil Rights for the purpose of carrying forward the policies of the city in the field of human relations to promote civil rights and to enforce the provisions of this title. (Ord. of 12-30-75, § 7)

141.20. - Commission membership.

(a) *Composition and qualifications.* The commission shall consist of twenty-one (21) members all of whom shall be persons known to favor the principles of equity, nondiscrimination and the objectives of this title. A minimum of six (6) and a maximum of eight (8) shall be lawyers. All members shall be residents of the city, unless the residency requirement is waived in accordance with Minneapolis Code of Ordinances Title 2, section 14.180. All members shall be appointed in conformance with the open appointments process as outlined in Minneapolis Code of Ordinances Title 2, section 14.180.

(b) *Appointment, terms.* On and after June 1, 2012, members shall be appointed as follows:

(1) *Seven (7) appointments—Four (4) by the city council and three (3) by the mayor.*

- a. Four (4) appointments have a scheduled term end date of August 31, 2012. One (1) appointment has a scheduled term end date of December 31, 2012. Two (2) membership seats are vacant. The appointments scheduled to end on August 31, 2012 shall have a term end date of December 31, 2012. The appointment scheduled to end on December 31, 2012 shall have a term end date of December 31, 2012. The vacant membership seats shall have a term end date of December 31, 2012. The next term for these four (4) appointments of the city council and three (3) appointments of the mayor shall be January 1, 2013 through December 31, 2015.
- b. All subsequent terms of these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. Four (4) of these appointments shall be appointments of the city council and three (3) of these appointments shall be appointments of the mayor.

(2) *Seven (7) appointments—Three (3) by the city council and four (4) by the mayor.*

- a. Seven (7) appointments have a scheduled term end date of December 31, 2013. These seven (7) appointments scheduled to end on December 31, 2013 shall have a term end date of December 31,

2013. The next term for these three (3) appointments of the city council and four (4) appointments of the mayor shall be January 1, 2014 through December 31, 2016.

- b. All subsequent terms of these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. Three (3) of these appointments shall be appointments of the city council and four (4) of these appointments shall be appointments of the mayor.

(3) *Seven (7) appointments—Seven (7) by the mayor.*

- a. Seven (7) appointments have a scheduled term end date of August 31, 2014. These seven (7) appointments scheduled to end on August 31, 2014 shall have a term end date of December 31, 2014. The next term for these seven (7) appointments of the mayor shall be January 1, 2015 through December 31, 2017.
- b. All subsequent terms for these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. All seven (7) of these appointments shall be appointments of the mayor.

All mayoral appointments shall be subject to city council confirmation; all city council appointments are subject to mayoral consent or veto as provided in the Minneapolis City Charter, Section 4.4(c). Members shall continue to serve until their successors have been appointed.

- (c) *Removal and vacancies; compensation; quorum.* Any member may be removed by the appointing authority for incompetence, neglect of duty, misconduct or malfeasance. Any vacancy occasioned by resignation, death or removal shall be filled for the balance of the unexpired term in the same manner as provided for original appointment. Members of the commission shall be compensated at the rate of thirty-five dollars (\$35.00) per monthly meeting attended and further as provided in subsection 141.50(p). A majority of the members of the commission shall constitute a quorum. (Ord. of 12-30-75, § 7; 78-Or-166, § 1, 8-24-78; 82-Or-115, § 1, 6-25-82; 84-Or-067, § 1, 4-27-84; 85-Or-061, § 1, 3-22-85; 96-Or-131, § 1, 12-13-96; 2006-Or-062, § 1, 6-16-06; 2012-Or-051, § 1, 8-3-12; Ord. No. 2017-078, § 2, 12-8-17)

141.30. - Organizational and administrative powers and duties of commission.

The commission shall:

- (1) Annually designate from among its own membership a chairperson, a vice-chairperson, and such other officers and committees as it may deem appropriate.
- (2) Meet once per month at a regularly scheduled time and place to be decided by the commission and meet at such other times and places as may be determined by the commission, by standing or special rule, or on call of the chairperson.
- (3) Adopt suitable rules and regulations for the conduct of its internal operations.
- (4) Designate and appoint such additional committees as it may from time to time deem appropriate. The membership of such committees may consist of both members and nonmembers of the commission or may consist entirely of either members or nonmembers of the commission. Such committees shall assist and advise the commission in carrying out the objectives of this title. (Ord. of 12-30-75, § 7; Ord. No. 2017-078, § 2, 12-8-17)

141.40. - Substantive and procedural powers and duties of commission.

The commission shall:

- (1) Seek to prevent and eliminate bias and discrimination prohibited under this title based on race, color, creed ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with respect to public assistance program, or familial status by means of education, persuasion, and the impartial resolution and adjudication of disputes, and utilize all the powers at its disposal to carry into execution the provisions of this title.
- (2) Conduct a program of research and study for the purpose of ascertaining how the objectives of this title may best be attained and sustained, and publish results of such research and studies.
- (3) Advise the mayor, the city council and departments or agencies of government with respect to matters relating to the commission's purposes.
- (4) Cooperate with and seek to advise and coordinate the activities of persons or groups interested in the objectives of this title.
- (5) Receive appeals, conduct hearings and reviews, and adjudicate such appeals as provided by the other provisions of this chapter.
- (6) Conduct public meetings and forums, and gather and disseminate information to governmental agencies and to the public.
- (7) Utilize the records and services of municipal, state and federal governmental departments and agencies to the extent permitted by law, and pursuant to agreement with departments and agencies may refer matters for preliminary inquiry, conciliation, hearing and findings.
- (8) Furnish to any appropriate state or federal agency having jurisdiction a transcript of the proceedings and findings in any case in which the commission has, after hearing, found that any person has unlawfully discriminated.
- (9) Adopt and promulgate in the following manner suitable rules and regulations for effectuating the purposes of this title. The following process does not apply to internal operating procedures of the commission.
 - a. The commission shall propose new or amended rules and regulations after consultation with the city attorney or his or her designee.
 - b. The commission shall hold a public hearing affording all interested parties an opportunity to participate; thirty (30) days' prior notice of the hearing shall be published as follows:
 1. Once in either a paper or electronic publication of the Minneapolis Star Tribune newspaper;
 2. Once each in two (2) minority publications, at least one of which shall be a qualified newspaper as defined by Minn. Stat. § 331A.02; and
 3. Once through electronic means by the department.

For the purposes of this rule, a minority publication is a publication which has as its primary intended audience one or more of the diverse communities within the city. Free copies of the proposed rule shall also be available to the public at the Minneapolis Department of Civil Rights.

- c. A recording or other transcription of the public hearing shall be made. After allowing written material to be submitted to the commission for twenty (20) days after the public hearing ends, the commission shall meet to consider and take action.
- d. If the commission adopts the rule, it shall be submitted with the recording or other transcription of the public hearing to the city attorney who shall review the rule as to form and legality; the city attorney, or his or her designee, shall, within thirty (30) days, either approve or disapprove the form

and legality of the rule.

1. If the city attorney approves the form and legality of the rule, the department may then forward the rule to the city council for its approval, disapproval, amendment or referral back to the department for further consideration. The city council shall so act on the rule within thirty (30) days of the referral from the department. A rule approved or amended by the city council shall be filed in the office of the city clerk and shall be effective upon publication unless a later date is specified in the rule.
 2. If the city attorney disapproves the rule, the city attorney or his or her designee shall provide its reasons for disapproving of the rule to the department in writing. The city attorney or his or her designee shall return the rule to the commission providing reasoning for the return and consultation sufficient to permit the commission to revise its proposal.
- e. When the director has submitted to the commission any suggested rule or regulation which the commission after six (6) months has not acted upon, the commission shall vote to either commence the procedures set out in this subdivision or refuse the suggested rule or regulation. (Ord. of 12-30-75, § 7; 76-Or-172, § 1, 9-24-76; 84-Or-043, § 1, 3-30-84; Pet. No. 249821, § 3, 7-14-89; 93-Or-133, § 1, 8-27-93; 95-Or-164, § 1, 12-29-95; 2011-Or-068, § 1, 8-5-11; Ord. No. 2017-078, § 2, 12-8-17)

141.50. - Procedure for complaints; investigations, conciliations, mediations, and hearings before the commission.

(a) *Limitations Period.* A complaint may be filed only if the matter complained of occurred within the City of Minneapolis within one year prior to the filing of the complaint. The running of the one-year limitation period is suspended during the time a potential complainant and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this title, 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 complainant before a charge is filed shall notify the department and the complainant in writing of the participation in the process and the date the process commenced and shall also notify the department and the complainant of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the limitation period has run unless one year plus a period of time equal to the suspension period has passed.

(b) *Complaint filing.* Any person believing they have been damaged by a violation of Chapter 139.40 may file with the director a verified written complaint under oath. The complaint shall state the name and address of each person complained against (respondent) and shall set forth the pertinent facts as known to the complainant. When an amended complaint is permitted, it shall also be a verified written complaint signed under oath by the complainant.

(c) *Director's charge.* If the director has reasonable cause to believe or receives information that a person is engaging in an unlawful discriminatory act or practice, the director may issue a complaint stating an alleged violation.

(d) *Amended complaints.*

(1) *When amendments may be allowed.* The director may allow a complaint to be amended before a dismissal or a finding of probable cause or a finding of no probable cause under the following circumstances:

- a. For an amendment that relates back to the original complaint, when justice so requires, after considering whether the amendment would result in a significant or substantial delay in the complaint investigation process, whether the director would have adequate time to investigate the complaint, whether the complainant and respondent would have adequate time to present evidence, and whether the respondent would be prejudiced by the amendment.
 - b. For an amendment to add allegations of additional unrelated discriminatory acts and/or acts of retaliation that arose after the filing of the original complaint if: (1) the amendment is filed within one (1) year of the occurrence of the act alleged; and (2) justice so requires, after considering whether the amendment would result in a significant or substantial delay in the complaint investigation process, whether the director would have adequate time to investigate the complaint, whether the complainant and respondent would have adequate time to present evidence, and whether the respondent would be prejudiced by the amendment.
 - c. For an amendment to add or modify a respondent if:
 1. The amendment relates back to the original complaint;
 2. Justice so requires, after considering whether the amendment would result in a significant or substantial delay in the complaint investigation process, whether the director would have adequate time to investigate the complaint, and whether the complainant and respondent would have adequate time to present evidence;
 3. The party to be brought in by the amendment has received such notice that the party will not be prejudiced in maintaining a defense on the merits; and
 4. The party to be brought in by the amendment knew or should have known that but for a mistake concerning the identity of the proper party, the complaint would have been brought against that party.
- (2) *When an amendment relates back.* An amendment relates back to the date of the original complaint whenever the claim to be asserted in the amended complaint arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original complaint.
- (3) *Complaint amendment procedures.* If a complaint is proposed to be amended after the respondent has filed the response required by section 149.50(e), the director shall advise the respondent in writing of the director's intent to allow an amendment to the complaint and provide the respondent with a copy of the proposed amended complaint. The respondent may file an objection within ten (10) days of being served with the director's notice of intent to amend the complaint. The director's determination on whether to allow the amendment of the complaint shall be final.
- (4) *Response to amended complaint.* If the director has made a final decision to allow an amendment to the complaint, a response and rebuttal shall be allowed as provided for by section 141.50(e) and (f) for an original complaint.
- (e) *Service and Response.* The director, within ten (10) days of the receipt of the verified complaint, shall serve a copy of the complaint on the respondent personally or as provided by section 141.50(t). The respondent shall file a written response with the department setting out the respondent's position relative to the complaint within twenty (20) days of the service of the complaint. If the respondent fails to respond with a written position statement within twenty (20) days after service of the complaint, the respondent is in default. A

respondent who is in default may cure the default by filing a written position statement or requesting a reasonable extension of time to do so. If the respondent does not cure the default within ten (10) days, the director may deem the allegations of the complaint admitted and issue a determination of probable cause.

- (f) *Rebuttal statement.* The department will provide respondent's written position statement to the complainant. The complainant shall have an opportunity to submit a rebuttal statement to the department, setting out the complainant's response to the respondent's position, within fifteen (15) days of service of the respondent's written position statement. After submission of the rebuttal, no further pleadings or evidence may be submitted unless formally requested by the department or expressly permitted by the department before the submission.
- (g) *Mediation.* Unless exempted by the director, after expiration of the time for submission of a rebuttal statement the parties shall engage in an alternative dispute resolution process which may be facilitated by the department.
- (h) *Inquiry into complaint.* Promptly upon the filing of any complaint, the director shall make such investigation as the director may deem appropriate to determine whether there is probable cause to believe that the allegations of discrimination are well founded. While the director is investigating a complaint, the director may attempt to mediate the matter complained of before making a determination of probable cause. Where the complaint alleges an unlawful discriminatory act under section 139.40(e), the director of the department of regulatory services may be notified of the pendency of the complaint and of its subsequent resolution.
- (i) *Finding of probable cause.* The director shall make a determination as to whether there is probable cause to believe that the allegations of discrimination are well founded.
- (j) *Finding of no probable cause or dismissal and review thereof.* If the director makes a determination of no probable cause or dismisses a complaint, the director shall notify the complainant and respondent of such a determination and of the complainant's right to appeal the determination to a review committee. The complainant may, within fifteen (15) days after service of such notice, file an appeal in writing with the director, who shall promptly transmit said appeal to the chairperson of the commission. The chairperson shall designate three (3) members of the commission, at least two (2) of whom shall be lawyers, to review the director's determination. Upon request the complainant and respondent shall be able to make a presentation to the review committee. The review committee may then either affirm or reverse the director's decision or remand the complaint back to the director for additional investigation. No member of a review committee shall act as a member of a hearing committee in the same case.
- (k) *Finding of probable cause and conciliation.* If the director or a review committee, following an appeal, makes a determination of probable cause, the director shall immediately endeavor to eliminate the acts or practices complained of by conciliation and persuasion. If the director cannot do so, then the director shall refer the complaint to the commission. A conciliation agreement arising out of such conciliation shall be an agreement between the complainant, respondent and the department and shall be subject to approval by the director. Each such conciliation agreement shall be made public to the extent permitted by Minn. Stat. Chap. 13, unless the complainant and respondent otherwise agree and the director determines that disclosure is not required to further the purposes of this title. The department may monitor all conciliation agreements which require specific performance.

At the time the director refers a case to the commission involving a violation of sections 139.40(e), (f), (g), (h), or (i) and where such case has been dual-filed with the department of housing and urban development as a violation of Title VIII of the National Fair Housing Act prohibiting discrimination in housing pursuant to the contractual agreement

existing between the director and the department of housing and urban development, the director shall notify the complainant of the referral and of the complainant's option to proceed with the charge before the commission on civil rights or in Minnesota district court. This notice shall provide that an attorney will be furnished by the city should the complainant decide to proceed before the commission or the district court.

- (l) *Director's authority to dismiss a complaint and review thereof.* If at any time after the signing of a verified complaint and before referral of the complaint to the commission the director shall determine the department lacks jurisdiction over the charge, or that the charge fails to state a claim, is without merit or is frivolous, or that the complainant has consistently failed to provide or has refused to provide requested information, the director may dismiss the complaint. The director may also dismiss the complaint at any time before referral to the commission based upon difficulty of adjudication, lack of evidence, or in the interests of justice. The director shall set forth the reasons for the dismissal in writing and shall serve the complainant and the respondent with a copy of this written decision and a statement explaining the complainant's right to file a civil action or to appeal the determination to the commission review committee and subsequently file a civil action. The complainant's filing of an appeal with the director and the appointment and operation of the review committee shall follow the procedures set forth in section 141.50(j).
- (m) *Notice to commissioners.* The director shall provide the commission annual updates on the status of complaints.
- (n) *Hearing procedure.*
 - (1) Within thirty (30) days following the referral of a complaint, the chairperson of the commission:
 - a. Shall designate three (3) persons who may be members or non-members of the commission, all three (3) of whom shall be lawyers, to serve as a hearing committee;
 - b. Shall designate a presiding commissioner of the hearing committee; and
 - c. Shall set a time and place within the city for the hearing of such complaints and the answers to the allegations thereof.
 - (2) If, after referral to the commission, the parties request alternative dispute resolution, the parties may participate in an alternative dispute resolution process which may be facilitated by the department. If the dispute is resolved through the alternative dispute resolution process, the parties shall notify the presiding commissioner of the hearing committee, who shall incorporate the agreement by reference into an order and dismiss the complaint with prejudice.
- (o) *Determination before public hearing.* At any time after a complaint has been referred to a hearing committee, or to a hearing examiner, but before the public hearing has been completed, the hearing committee or hearing examiner may issue an order dismissing a complaint because it has been resolved by agreement of the parties, because it appears the allegations were not well founded or for any other justifiable reason. However, the hearing committee or hearing examiner shall attach to its order written findings of fact and conclusions of law supporting the dismissal, and shall serve a copy upon all parties. Any such dismissal shall be reviewable the same as any other final decision in a contested case, as provided in Chapter 14 of Minnesota Statutes.
- (p) *Hearings.*
 - (1) Public hearings shall be conducted by the hearing committee or hearing examiner, who shall conduct the hearing in accordance with Chapter 14 of the Minnesota Statutes. After a finding of probable cause, any proposed complaint amendments must be submitted to the hearing committee or the hearing examiner,

whichever is applicable. The hearing committee or hearing examiner will determine, in accordance with the Minnesota Rules of Civil Procedure, whether any complaint amendments will be allowed.

- (2) Each member of a hearing committee, review committee or a presiding commissioner who is also a member of the commission shall be paid one hundred dollars (\$100.00) per day while actually sitting and serving at the public hearing, the review hearing, or the prehearing conference. No fee shall be paid for any work done before or after the public hearing, the review hearing, or the prehearing conference, except that the presiding commissioner shall be paid one hundred dollars (\$100.00) per day for each day following the public hearing, when conducting legal research and preparing the findings of fact, conclusions of law and order. Every member of a hearing committee or presiding commissioner who is not also a member of the commission shall be paid an amount commensurate with experience. Such fees shall be authorized by the director after being requested in writing.
- (3) In the alternative, after consulting with the director, the chairperson of the commission may appoint a hearing examiner who is a lawyer and who may or may not be a member of the commission to conduct the public hearing. In such cases, the hearing examiner shall have the same duties, obligations and powers as a hearing committee. A hearing examiner who is also a member of the commission shall be paid one hundred dollars (\$100.00) per day while actually sitting and serving at the public hearing and shall, in addition thereto, be entitled to one hundred dollars (\$100.00) per day, for each day following the public hearing actually spent deciding the case and preparing the findings of fact, conclusions of law and order. Every hearing examiner who is not also a member of the commission shall be paid an amount commensurate with experience.

(q) *Subpoenas.*

- (1) *Issuing a subpoena.* After the referral of a complaint to the commission, a complainant or a respondent may request that the presiding commissioner of the hearing committee or hearing examiner issue subpoenas requiring the presence of witnesses or the production for examination of books or papers not privileged and relevant to any matter in question at the hearing. The presiding commissioner of the hearing committee or hearing examiner may apply to the district court to punish a person who disobeys a subpoena in like manner as a contempt proceeding is initiated in the district courts of this state.
 - (2) It is not a violation of rights conferred by Chapter 13 of Minnesota Statutes, or any other statute related to the confidentiality of government data, for a city department or independent board or agency to provide data or information under a subpoena issued by the presiding commissioner of a hearing committee or a hearing examiner under this section.
 - (3) A subpoena issued under this section must be served personally or by mailing a copy of the subpoena, by first class mail, to the person to be served. A subpoena served by mail must include two (2) copies of a notice and acknowledgment of service and a return envelope, addressed to the hearing examiner, the presiding commissioner of the hearing committee, or a designated person. If acknowledgment of service is not received by the hearing examiner, the presiding commissioner of the hearing committee, or the designated person, as applicable, within twenty (20) days, service is not effective. Unless good cause is shown for not doing so, a court or administrative law judge shall order the payment of the costs of personal service by the person served if the person does not complete and return the notice and acknowledgment of receipt of the subpoena within the time allowed.
- (r) *Findings.* If the hearing committee or hearing examiner finds that the respondent has engaged in discrimination, the hearing committee or hearing examiner shall make written findings of fact and

conclusions of law, and shall issue an order directing the respondent to cease and desist from the discriminatory act or practice found to exist, and to take such other affirmative action as in the judgment of the hearing committee will effectuate the purposes of this title. Such order shall be a final decision for purposes of appeal or enforcement. The hearing committee or hearing examiner shall order any respondent found to be in violation of any provision of section 139.40 to pay a civil penalty to the City of Minneapolis. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The hearing committee or hearing examiner shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, the cost of investigation incurred by the City of Minneapolis, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the city. In all cases, the hearing committee or hearing examiner may order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three (3) times the actual damages sustained. In all cases, the hearing committee or hearing examiner may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorneys fees in addition to punitive damages in an amount not more than twenty-five thousand dollars (\$25,000.00). Punitive damages shall be awarded pursuant to Minnesota Statutes Section 549.20. In any case where a political subdivision is a respondent, the total punitive damages awarded an aggrieved party may not exceed twenty-five thousand dollars (\$25,000.00) and in that case if there are two (2) or more respondents, the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for the payment of punitive damages pursuant to this section. In addition to the aforesaid remedies, in a case involving discrimination in:

- (1) *Employment*: The hearing committee or hearing examiner may order the hiring, reinstatement or upgrading of an aggrieved party who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or his or her admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program, or any other relief the hearing committee or hearing examiner deems just and equitable.
- (2) *Housing*: The hearing committee or hearing examiner may order the sale, lease or rental of the housing accommodation or other real property to an aggrieved party who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker; or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the hearing committee or hearing examiner deems just and equitable.

The hearing committee or hearing examiner shall cause the findings of fact, conclusions of law and order to be served on the complainant and respondent personally, or pursuant to section 141.50(t), and shall furnish copies to the director and the city attorney.

- (s) *Respondents subject to city's licensing or regulatory power*. In the case of a respondent which is subject to the licensing or regulatory power of the City of Minneapolis or any board, commission, or agency thereof, if the hearing committee or hearing examiner determines that the respondent has engaged in a discriminatory practice, and if the respondent does not cease to engage in such discriminatory practice, the director may so certify to the licensing or regulatory agency. Unless such determination of discriminatory practice is reversed

in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the respondent's license or certificate of public convenience and necessity, if such agency is otherwise authorized to take such action.

- (t) *Service.* All papers required to be served may be served either personally or by mailing them to the person's last known address by first class United States Mail, registered or certified United States Mail, or commercial courier which provides substantially equivalent service. Service is complete upon mailing. (Ord. of 12-30-75, § 8; 77-Or-157, § 1, 7-29-77; 82-Or-115, § 2—4, 6-25-82; 83-Or-325, § 1, 12-30-83; 84-Or-043, §§ 2, 3, 3-30-84; 86-Or-203, § 1, 8-22-86; 87-Or-178, §§ 1, 2, 10-9-87; 88-Or-215, §§ 1, 2, 11-23-88; 89-Or-091, § 1, 5-26-89; 92-Or-064, §§ 1, 2, 5-22-92; 93-Or-133, §§ 2—5, 8-27-93; 95-Or-164, § 2, 12-29-95; 2006-Or-062, §§ 2, 3, 6-16-06; Ord. No. 2017-078, § 2, 12-8-17)

141.60. - Civil action, judicial review and enforcement.

(a) *Civil actions.* A complainant may bring a civil action directly to district court at the following times:

- (1) Within forty-five (45) days after the director, a review committee, a hearing committee or a hearing examiner has dismissed a complaint for reasons other than a conciliation or mediation agreement to which the complainant is a signatory; or
- (2) Within forty-five (45) days after the director or a review committee has made a determination of no probable cause; or
- (3) After forty-five (45) days from the filing of a verified complaint if a hearing has not been held pursuant to section 141.50 and the complainant has not entered in to a settlement agreement with the respondent, or the department has not entered into a conciliation agreement to which the complainant is a signatory. The complainant shall notify the department of his/her intention to bring civil action, which shall be commenced within ninety (90) days of giving the notice.

A complainant bringing a civil action shall mail, by first class United States mail or certified mail, a copy of the summons and complaint to the department and upon receipt of same, or if the director has knowledge that the complainant has brought a civil action, the director shall terminate all proceedings before the department relating to the complaint and shall dismiss the complaint. No complaint shall be filed or reinstated with the department after a civil action relating to the same alleged unlawful discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

(b) *Judicial review.* Any person aggrieved by a final decision of a hearing committee or a hearing examiner or a review committee in a contested case reached after a hearing held pursuant to section 141.50, may seek judicial review in accordance with Chapter 14 of Minnesota Statutes.

(c) *Enforcement.*

- (1) When a respondent fails or refuses to comply with a final decision of a hearing committee or a hearing examiner, the director may file with the district court a petition requesting the court to order the respondent to comply with the order; thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. Notwithstanding the provisions of any law or rule of civil procedure to the contrary, the court shall examine at the hearing on the order to show cause all the evidence in the record and may amend the order in any way the court deems just and

equitable. If the hearing committee or hearing examiner ordered an award of damages and if the court sustains any or all of the award, it shall enter judgment on that order in the same manner as in any civil suit.

- (2) In a case involving a violation of sections 139.40(e), (f), (g), (h) or (i), where the case has been dual filed with the department of housing and urban development pursuant to the contractual agreement existing between the director and the department of housing and urban development and where probable cause has been found and mediation has not been successful, the complainant may, at his/her option, elect to proceed before the commission on civil rights as specified in sections 141.50 (n), (o), (p), (q) and (r); or elect to bring an action in Minnesota District Court. In either instance, the city will furnish legal counsel for the complainant.
- (3) In the event that the complainant or respondent elects to bring the action in the district court, the court shall have the same authority as the commission on civil rights to award appropriate remedies and shall make such awards pursuant to section 141.50(r). (82-Or-115, § 5, 6-25-82; 84-Or-043, § 4, 3-30-84; 92-Or-064, § 3, 5-22-92; 93-Or-133, § 6, 8-27-93; 95-Or-164, § 3, 12-29-95; Ord. No. 2017-078, § 2, 12-8-17)

141.70. - Duties of the city attorney.

The city attorney shall provide sufficient staff to handle all legal matters for the commission, hearing committees, review committees and the department of civil rights. A member of the legal department shall attend public hearings at the request of a presiding commissioner of a hearing committee or hearing examiner and shall provide legal services in the event of judicial review or enforcement of hearing committee or review committee decisions. (82-Or-115, § 6, 6-25-82; 92-Or-064, § 4, 5-22-92; Ord. No. 2017-078, § 2, 12-8-17)

141.80. - Department of civil rights.

- (a) *Creation.* There is hereby created a department of the City of Minneapolis which shall be known as the department of civil rights, which department shall be under the direction of and responsible to the mayor.
- (b) *Duties generally.* Such department shall provide all administrative services for the commission and the Police Conduct Oversight Commission.
- (c) *Appointment of director; powers and duties.* The mayor shall appoint and the council shall confirm a director of such department who shall be the head of the department and such director may appoint such other employees as may from time to time be authorized by the city council. The director is responsible for the following duties:
 - (1) *Complaints:* Receive verified complaints alleging discrimination from aggrieved persons who believe discrimination has occurred.
 - (2) *Investigation:* Make such investigation as the director may deem appropriate to determine whether there is reason to believe that the allegations of discrimination are well founded.
 - (3) *Conciliation:* Engage in conciliation and persuasion to try to eliminate the acts or practices complained of, and may obtain as part of conciliation the costs and all other expenses, including reasonable attorneys' fees, incurred by the department in handling the complaint.
 - (4) *Effectuate public policy.* Effectuate the public policy of the City of Minneapolis regarding issues of civil rights by means of public information and education, mediation and conciliation, and enforcement.

- (5) *Referral*: When deemed necessary, refer a complaint to the commission or any other legal organization deemed appropriate by the director.
- (6) *Subpoenas*: Subpoena witnesses and require the production for examination of any books, papers or documents relative to any verified charge under investigation or in question as the director deems appropriate to carry out the purposes of this title.
- (7) *Enforcement of a subpoena*:
- May apply to the district court to punish a person who disobeys a subpoena issued by the director in like manner as a contempt proceeding is initiated in the district courts of this state.
 - It is not a violation of rights conferred by Chapter 13 of Minnesota Statutes, or any other statute related to the confidentiality of government data, for a city department or independent board or agency to provide data or information under a subpoena issued by the director under this section.
 - A subpoena issued under this section must be served personally or by mailing a copy of the subpoena, by first class mail, postage prepaid, to the person to be served. A subpoena served by mail must include two (2) copies of a notice and acknowledgment of service on a form to be provided by the director and a return envelope, postage prepaid, addressed to the director. If acknowledgment of service is not received by the director within twenty (20) days, service is not effective. Unless good cause is shown for not doing so, a court or administrative law judge shall order the payment of the costs of personal service by the person served if the person does not complete and return the notice and acknowledgment of receipt of the subpoena within the time allowed.
- (8) *Temporary relief*: If at any time after the filing of a complaint, the director has reason to believe that a respondent has engaged in any unlawful discriminatory practice or the director has determined that there is probable cause to believe that a respondent has engaged in discrimination, the director may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business. This petition shall seek appropriate temporary relief against the respondent, pending final determination of a proceeding under this title, including an order or decree restraining the respondent from doing any act tending to render ineffectual any order the director or commission may enter with respect to the complaint.
- The court shall have power to grant such temporary relief or restraining order as it deems just and proper, but no such relief or order extending beyond ten (10) days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discrimination.
- The Minnesota Rules of Civil Procedure shall apply to such petition, and the district court shall have authority to grant or deny such relief sought on such conditions as it deems just and equitable. All hearings under this section shall be given precedence as nearly as practicable over all other pending civil actions.
- (9) *Leadership*: Exercise leadership under the direction of the mayor in the development of civil rights policies and programs, and make recommendations to the mayor, the commission and the city council for consideration and implementation.
- (10) *Programs*: Develop and conduct programs of formal and informal education designed to eliminate discrimination and intergroup conflict, programs which will help determine compliance throughout the city with the provisions of this title, and programs which will benefit personally and economically those

persons who have been subjected to discrimination.

- (11) *Research*: Conduct research and study discriminatory practices.
- (12) *Publications*: Furnish and distribute the results of research and study when in the judgment of the director the purposes of this title will be served thereby.
- (13) *Labor services*: To the extent permitted by law and regulation, utilize the records of the department of Employment and Economic Development when necessary to effectuate the purposes of this title.
- (14) *Requests for services*: Obtain upon request and utilize the services of all city and state governmental departments and agencies.
- (15) *Technical assistance*: Develop and disseminate technical assistance to persons subject to the provisions of this title, and to agencies and officers of governmental and private agencies.
- (16) *Receive grants*: Receive grants and payments from public agencies and charitable nonprofit corporations and deposit them with the Minneapolis City Treasurer.
- (17) *City contracts*: Adopt and promulgate suitable rules and regulations that explain which city contractors and subcontractors are subject to or exempt from the provisions of [section 139.50](#). Receive complaints, investigate and monitor city contractors and subcontractors to insure that they are complying with all of the terms of this title and report the director's findings to the city council.
- (18) *Issuance of charge*: Whenever the director has reason to believe that a person is engaging in an unlawful discriminatory practice under this title, the director may issue a charge specifying the particular section of [section 139.40](#) or a violation of [section 139.50](#).
- (19) *Rules and regulations*: Adopt and publish such rules, regulations, forms, and guidance documents as are reasonably necessary to carry out the provisions of this title. (Ord. of 12-30-75, § 9; 76-Or-172, § 2, 9-24-76; 82-Or-115, § 7, 6-25-82; 83-Or-325, § 2, 12-30-83; 92-Or-064, § 5, 5-22-92; 2003-Or-029, § 1, 3-21-03; 2006-Or-062, § 4, 6-16-06; Ord. No. [2017-078](#), § 2, 12-8-17)

State Law reference— Special act relating to the appointment of director of department of human rights, Laws 1969, Ch. 937; as amended by Laws 1973, Ch. 132; Laws 1974, Ch. 105; Laws 1980, Ch. 448; Laws 1983, Ch. 220 (accepted by 83-R-340 on Aug. 26, 1983); and Laws 1986, Ch. 473 (accepted by 86-R-143 on April 11, 1986).

141.90. - Reserved.

Editor's note— Ord. No. [2017-078](#), § 2, adopted Dec. 8, 2017, repealed [§ 141.90](#), which pertained to conflict with state action and derived from Ord. of 12-30-75, § 10; Ord. No. 82-Or-115, § 7, adopted June 25, 1982; Pet. No. 249821, § 3, adopted July 14, 1989; and Ord. No. 98-Or-042, § 1, adopted May 8, 1998.

141.100. - Reserved.

Editor's note— Ord. No. [2017-078](#), § 2, adopted Dec. 8, 2017, repealed [§ 141.100](#), which pertained to conflict with state action and derived from Ord. of 12-30-75, § 11 and Ord. No. 82-Or-115, § 7, adopted June 25, 1982.

CHAPTER 142. - CIVIL RIGHTS AND DOMESTIC PARTNERSHIPS

142.10. - Purpose.

The City of Minneapolis recognizes that nationwide debate has advanced an expanded concept of familial relationships beyond traditional marital and blood relationships. This expanded concept recognizes the relationship of two (2) non-married but committed adult partners.

Recognizing this the Minneapolis City Council hereby adopts a process to provide persons to declare themselves as domestic partners, thus enabling employers to voluntarily provide equal treatment in employment benefits for such partners and their dependents. (91-Or-015, § 1, 1-25-91)

142.20. - Definitions.

(a) Domestic partners are two (2) adults who:

- (1) Are not related by blood closer than permitted under marriage laws of the state;
- (2) Are not married or related by marriage;
- (3) Are competent to enter into a contract;
- (4) Have no other domestic partner with whom the household is shared, or with whom the adult person has another domestic partner;
- (5) Are jointly responsible to each other for the necessities of life;
- (6) Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities. (91-Or-015, § 1, 1-25-91)

142.30. - Registration of domestic partners.

(a) The city clerk shall accept an application to register as domestic partners from persons who state in such application that they meet the definition of domestic partners set out in section 142.20(a). Subsequent changes in address shall be promptly reported to the city clerk.

- (b) The city clerk shall charge an application fee of twenty dollars (\$20.00) for the registration of [a] domestic partnership and shall charge a reasonable fee per document for providing certified copies of registrations, amendments or notices of termination. There shall be no charge for filing amendments or notices of termination.
- (c) The city clerk shall provide each domestic partner with a registration certificate. The registration certificate shall not be issued prior to the third working day after the date of application.
- (d) This application and certificate may be used as evidence of the existence of a domestic partners relationship.
- (e) The city clerk shall keep a record of all registrations of domestic partnership, amendments to registrations and notices of termination received by the city clerk. The records shall be maintained so that amendments and notices of termination are filed with the registration of domestic partnership to which they pertain.
- (f) The application and amendments thereto, the registration certificate, and termination notices shall constitute government data and will be subject to disclosure pursuant to the terms of the Minnesota Government Data Practices Act.
- (g) For purposes of Chapters 139 and 142, upon production of valid, government-issued documentation and only to the extent of the rights and responsibilities established therein or elsewhere in the Minneapolis Code of Ordinances, the terms "domestic partnership" and "registered domestic partnership" shall include, in

addition to domestic partnerships registered with the City of Minneapolis, and regardless of whether partners in either circumstance have sought further registration with the City of Minneapolis:

- (1) Any person who has a currently registered domestic partnership with a governmental body pursuant to state, local, or other law authorizing such registration. The term domestic partnership should be construed broadly to include same-sex civil unions or other such same-sex unions in which two (2) same-sex individuals are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities; and
- (2) Marriages that would be legally recognized as a contract of lawful marriage in another local, state, or foreign jurisdiction. (91-Or-015, § 1, 1-25-91; 2003-Or-109, § 1, 8-22-03)

142.40. - Reserved.

Editor's note— Ord. No. 2003-Or-109, § 2, adopted Aug. 22, 2003, repealed § 142.40, which pertained to eligibility for registration. See the Code Comparative Table.

142.50. - Amendments.

The city clerk may accept amendments for filing from persons who have domestic partnership application on file except amendments which would change the identity of the partners. (91-Or-015, § 1, 1-25-91)

142.60. - Termination of domestic partnership.

(a) Either person in a domestic partnership may initiate termination of the domestic partnership relationship, by written notification to the city clerk. The city clerk shall promptly notify the other partner at the address of record by certified mail.

(b) A domestic partnership terminates when the earlier of the following occurs:

- (1) One of the partners dies; or
- (2) Forty-five (45) days after one partner sends the other a written notice of termination that he or she has terminated the partnership by filing a notice of termination with the city clerk; or
- (3) Forty-five (45) days after the city clerk notified the non-filing partner of the filing of any notice of termination.

(c) If any of the criteria under section 142.20(a) 4—6, ceases to exist the parties shall be ineligible for any benefits based upon the domestic partnership unless otherwise provided by law or the employer.

(d) If the employee in the domestic partnership has died and if the employer has provided employee benefits, then the non-employee shall be eligible for employee benefits for forty-five (45) days after the death of the employee partner unless the employer has provided otherwise. (91-Or-015, § 1, 1-25-91)

142.70. - Visitation in health care facilities.

(a) *Patient designation.* Where a health care facility restricts a patient's visitors, the health care facility shall allow every patient to name those individuals whom the patient wishes to allow to visit, unless:

- (1) No visitors are allowed; or
- (2) The facility determines that the presence of a particular visitor named by the patient would endanger the

health or safety of a patient or patients, or would endanger the primary operations of the facility.

- (b) *Domestic partners who do not make designations.* If a patient with whom visiting is restricted has not made the designation provided for in subsection (a), and if the patient has not indicated that she or he wishes no visitors, the facility must allow the patient's domestic partner, the children of the patient's domestic partner, or the domestic partner of the patient's parent or child to visit, unless:
- (1) No visitors are allowed, or
 - (2) The facility determines that the presence of a particular visitor would endanger the health or safety of a patient or patients, or would endanger the primary operations of the facility.
- (c) *Health care facility defined.* A "health care facility" for the purpose of this article is hospital, sanitarium, or other institution for the hospitalization or care of human beings licensed under Minnesota Statutes, Sections 144.50 to 144.56. (91-Or-015, § 1, 1-25-91)

APPENDIX B: Minneapolis Civil Rights Commission Internal Operating Procedures



Internal Operating Procedures

Minneapolis Commission on Civil Rights

Amended July 2020

Internal Operating Procedures

Minneapolis Commission on Civil Rights

City of Minneapolis

Table of Contents

| | |
|---|---|
| ARTICLE I: Officers – Election | 1 |
| Section 101 Commission Officers..... | 1 |
| 101.1 Chair..... | 1 |
| 101.2 Vice-Chair..... | 1 |
| 101.3 Treasurer | 1 |
| 101.4 Secretary..... | 1 |
| Section 102 Election Procedure..... | 1 |
| ARTICLE II: Regular Commission Meeting Procedure | 3 |
| Section 201 Meeting Agenda and Minutes..... | 3 |
| Section 202 Public Participation in Regular Commission Meetings..... | 3 |
| ARTICLE III: Committees | 4 |
| Section 301 Executive Committee | 4 |
| Section 302 Standing Committees | 4 |
| Section 303 Standing Committee Membership and Procedure | 4 |
| 303.1 Standing Committee Appointment | 4 |
| 303.2 Standing Committee Procedure..... | 4 |
| Section 304 Task Force | 6 |
| ARTICLE IV: Public Hearings | 7 |
| Section 401 Chair-Related Procedure..... | 7 |
| Section 402 Full Commission Issue-Related Procedure..... | 7 |
| Section 403 Full Commission Charge-Related Procedure | 7 |
| ARTICLE V: Official Communications | 8 |
| Section 501 Commission Stationary | 8 |

| | | |
|--------------|---|----|
| Section 502 | Written Communications | 8 |
| Section 503 | Oral Communications..... | 8 |
| ARTICLE VI: | Attendance and Removal..... | 9 |
| Section 601 | Removal of Commission Members | 9 |
| ARTICLE VII: | Miscellaneous Rules..... | 11 |
| Section 701 | Orientation and Retreat | 11 |
| Section 702 | Commission Roster | 11 |
| Section 703 | Informative Materials..... | 11 |
| Section 704 | Minnesota Clean Indoor Air Act..... | 11 |
| Section 705 | Accessibility of Meeting..... | 11 |
| Section 706 | Martin Luther King, Jr. Education Fund: Guidelines for Distributions..... | 11 |
| Section 707 | Conference/Travel Expenses | 11 |
| Section 708 | Transcript Orders..... | 12 |
| Section 709 | Amendment(s) to the Internal Operating Procedures | 12 |

ARTICLE I: Officers – Election

Section 101 Commission Officers

101.1 Chair

- (1) Represents Commission in its business before the Mayor, City Council, Department of Civil Rights, and community in person and in correspondence;
- (2) Convene and Chair all Executive Committee and Commission meetings;
- (3) With input from the Commission, sets agenda for Commission meetings;
- (4) Appointments members to standing committees;
- (5) Ex-officio member of all Commission committees;
- (6) With Department of Civil Rights, assures processing of contested case hearings (signing needed forms, constituting panels, etc.)
- (7) Delegates tasks as necessary to assure that Commission work gets done.

101.2 Vice-Chair

- (1) Assist Chair in duties related to the MCCR, as directed by the Chair;
- (2) Fill in for Chair when the Chair is unavailable; and
- (3) Attend Executive Committee meetings.

101.3 Treasurer

- (1) Oversight over MCCR's separate bank account, and expenditures from - can sign checks alone up to \$100.00; above \$100.00 requires co-signature of Chair;
- (2) Report to Commission on MCCR's finances quarterly or upon request;
- (3) Prepares and submits a Commission budget for inclusion in the Department of Civil Rights annual budget;
- (4) Attend Executive Committee meetings;
- (5) Third in line to run Commission meetings; and
- (6) Other tasks as directed by Chair.

101.4 Secretary

- (1) Attend regular MCCR meetings, take notes, produce minutes and submit them to the Liaison for formatting and distribution;
- (2) Track attendance, record votes at MCCR meetings;
- (3) Attend Executive Committee meetings, take minutes;
- (4) Fourth in line to chair meetings; and
- (5) Other tasks as directed by Chair.

Section 102 Election Procedure

102.1 The election of officers shall take place at the first regular Commission meeting in January.

102.2 The current Chair shall preside through the entire election process. The election of each office shall be completed before proceeding to elect the next office.

- 102.3 The order of election shall be: Chair, Vice-Chair, Treasurer and Secretary. All four offices are one-year terms. There is no limit on the number of terms a Commissioner may hold an office. No Commissioner shall hold more than one office at a time.
- 102.4 Nominations for an office may be made by any Commissioner present at the meeting. Nominations do not require a second. After nominations are closed, each candidate will be allowed a maximum of three minutes for a speech. After all candidates have completed their speeches, a question and answer period will follow for a maximum time limit of five minutes. The question and answer period shall involve all candidates. The process shall not involve screening or nominating committee.
- 102.5 Election shall be by written and signed ballots. Immediately after all ballots are cast, they shall be read into the record. The new officers shall take their positions immediately after all offices have been elected: Election shall be by simple majority of the Commissioners present and voting. There shall be no absentee ballots or proxy voting. 102.6 Any vacancy in a Commission office shall be filled by special election at the first regular Commission meeting after the vacancy occurs.

ARTICLE II: Regular Commission Meeting Procedure

Section 201 Meeting Agenda and Minutes

- 201.1 The agenda of all regular meetings of the Commission shall be set by the Chair of the Commission, after consultation with the Executive Committee, before each regular Commission meeting. Agenda items shall be described with as great a degree of particularity as the nature of the item allows.
- 201.2 The first item on the agenda shall be approval of the agenda; once the agenda is approved by majority vote, it may not be modified except upon motion by a Commissioner and approval by majority vote or by unanimous consent.
- 201.3 Copies of the agenda shall be available to the public at the Department of Civil Rights office at all regular meetings of the Commission. Copies of the minutes of the regular Commission meetings shall be available to the public at the Department of Civil Rights office.

Section 202 Public Participation in Regular Commission Meetings

- 202.1 Any member of the public who wishes to place an item on the written agenda of any regular Commission meeting shall notify the Commission Liaison, who shall notify the Chair who shall place the request before the Executive Committee. Upon a majority vote of the, Executive Committee, an item may be placed on the proposed agenda for the following regular Commission meeting. At such meeting, the member of the public proposing the agenda item may speak for such time and upon such conditions as the Executive Committee shall approve-in advance.
- 202.2 Members of the public may speak at regular Commission meetings during the Public Commentary portion of the regular Commission meeting agenda. Members of the public wishing to address the Commission should notify the Commission Liaison or the Commission Secretary prior to the Public Commentary portion of the agenda. No person addressing the Commission under this section may speak for more than two minutes. A speaker's time may be extended upon a majority vote of the Commission. Speakers shall speak in the order in which they are called on by the Chair.
- 202.3 Any Commissioner may request a roll call vote on any item.

ARTICLE III: Committees

Section 301 Executive Committee

Consists of the Officers of the Commission and the Chair of each Standing Committee. The Executive Committee shall meet monthly to set the agenda for the regular Commission meeting.

Section 302 Standing Committees

302.1 Community Engagement & Research Committee is responsible for conducting qualitative and quantitative research on issues related to civil rights and engaging the public on civil rights issues, policy, meetings, and events.

302.2 Contract and Workforce Compliance Committee is responsible for working with the Contract Compliance Department to review contract and workforce processes as they impact businesses and contractors. Review statutes and ordinances and make recommendations to the full Commission.

302.3 Standards and Procedures Committee monitors and revises Commission internal procedures and external rules and procedures.

Section 303 Standing Committee Membership and Procedure

303.1 Standing Committee Appointment

- (1) Commissioners shall indicate their committee preferences in writing to the newly elected Chair of the Commission at the January meeting;
- (2) A newly appointed Commissioner shall indicate his/her committee preferences at his/her second regular Commission meeting;
- (3) The Chair shall appoint the members of each Committee based on each Commissioner's preference; and
- (4) Attorney Commissioners shall be members of the Standards and Procedures Committee, but membership in this committee is not limited to attorneys.

303.2 Standing Committee Procedure

- (1) Each committee shall meet briefly at the February regular Commission meeting to elect a Chair of the committee and schedule the committee meetings;
- (2) Election of each committee Chair shall be by simple majority of the committee members present and voting;
- (3) Committees may, but need not, schedule regular meetings;
- (4) Each committee shall set its own agenda and may also be assigned tasks by the Commission, Executive Committee or Chair of the Commission;
- (5) Following the resignation of a Chair of a committee, the committee shall elect a new chair at its next meeting.

The quorum at any meeting of a Standing Committee shall consist of half (1/2) of the committee membership; in the event that the committee membership falls below three (3) members, two (2) members are required for a quorum.¹

¹ Added June 17, 2019.

Section 304 Task Force

- 304.1 Task forces may be appointed by the Commission from time to time to address or make recommendations to the Commission concerning specific issues.
- 304.2 Unless otherwise specified by the Commission, a task force shall remain in existence until completion of its assigned duties but not in excess of one year. A task force's existence may be extended by the Commission.
- 304.3 Task forces shall operate in accordance with Section 303.2.

ARTICLE IV: Public Hearings

Section 401 Chair-Related Procedure

- 401.1 The Chair of the Commission shall appoint a hearing panel chairperson and two additional panel members. In addition, an alternate shall be appointed to each panel. The designated alternate shall be available and on call by telephone during the first half-hour of the scheduled hearing.
- 401.2 Once a hearing has been commenced, an alternate may not be substituted for a panel member.
- 401.3 The hearing panel chair shall notify the Chair of the Commission as soon as possible if a panel member misses a scheduled pre-hearing conference, public hearing or review hearing. The Chair shall immediately send a letter to the commissioner, with a copy of the letter to the commissioner's appointing authority, stating that such conduct cannot be condoned, and directing the commission's attention to Minneapolis Code of Ordinance, Chapter 141.20 (c).

Section 402 Full Commission Issue-Related Procedure

- (1) The public hearing will be chaired by the Chair of the Commission on Civil Rights.
- (2) Testifiers will be asked, but not required, to give sworn testimony.
- (3) The time limit for individual testimony will depend upon the number of individuals wishing to testify.
- (4) Commissioners may conduct a five-minute follow-up question and answer period after each individual's testimony. If time permits, the Chair may recognize questions from the public.
- (5) All testimony given will become part of the Commission's public record.
- (6) Persons wishing to give private testimony can do so by contacting the Commission Liaison.

Section 403 Full Commission Charge-Related Procedure

Reserved for later addition.

ARTICLE V: Official Communications

Section 501 Commission Stationary

The Commission officers, committee chairs and hearing panel chairs shall use official letterhead only for official duties that are specifically authorized by the commission or for such notices and requests for information as are necessary for specific commission business. Letters sent on commission letterhead must be filed concurrently with the Commission Liaison.

Section 502 Written Communications

Any written communication by a commissioner shall clearly indicate that the commissioner is writing in his or her individual capacity and not on behalf of the commission unless specifically authorized to represent the position of the commission. A specific disclaimer is not required.

Section 503 Oral Communications

In speaking before a public agency, a commissioner shall make clear by giving a disclaimer that he/she is not representing the commission when presenting individual views.

ARTICLE VI: Attendance and Removal

Section 601 Removal of Commission Members

601.1 (1) Definitions

Absence: not being physically present for part or all of any Commission meeting or standing committee meeting in which a commissioner is a member.

Unexcused absence: an absence that has not been deemed excused by the Executive Committee or by the Commission as a whole

(2) Attendance policy:²

- a) If a Commissioner has more than three unexcused absences in a calendar year, that Commissioner shall be dismissed from the Commission.
- b) A Commissioner may contact the Chair or Vice Chair at any time to request that the Executive Committee excuse an absence.
- c) After every Commission meeting, the Executive Committee shall notify staff of the Department of Civil Rights of the names of the Commissioners who were absent from that meeting.
- d) Within one week of receiving the notification described in paragraph (c), staff of the Department of Civil Rights shall email the following notification to any Commissioner who was absent from the Commission meeting:

The Executive Committee of the Minneapolis Commission on Civil Rights has noted that you were absent for all or part of the Commission meeting [or standing committee meeting] on [date]. Under the Commission's attendance policy, if a Commissioner has more than three unexcused absences in a calendar year, that Commissioner shall be dismissed from the Commission. You may contact the Commission Chair [email address] or Vice Chair [email address] to request that the Executive Committee excuse your absence. The Executive Committee has the discretion to deem your absence excused if you: (a) provide timely notice of your absence; and (b) show good cause for your absence. If the Executive Committee denies your request, you may appeal that decision to the Commission as a whole.

- e) The Executive Committee has the discretion to deem an absence excused if the absent Commissioner: (1) provides timely notice of the absence; and (2) shows good cause for the absence.
- f) The Executive Committee shall notify the absent Commissioner of its decision no later than one week after the Executive Committee meeting immediately following receipt of the Commissioner's request to excuse an absence.
- g) If the Executive Committee denies a request to excuse an absence, the absent Commissioner may appeal that decision to the Commission as a whole. The Commission shall decide the appeal by a majority vote. The decision of the Commission is final and not subject to appeal.

601.2 Whenever a commissioner is removed from the commission pursuant to any provision of Minneapolis

² Added July 16, 2018

Code of Ordinances, Chapter 141.20 (c), he/she shall immediately be barred from participating in all commission activities and functions. The portion of the Minneapolis Code of Ordinances, Chapter 141.20(b) providing that a commissioner shall continue to serve until his/her successor has been appointed shall not apply to any commissioner removed pursuant to Chapter 141.20 (c)

ARTICLE VII: Miscellaneous Rules

Section 701 Orientation and Retreat

A retreat of the full commission shall be held each fall on a date determined by the commission at its September meeting. Orientation for new commissioners shall be held upon appointment.

Section 702 Commission Roster

A roster of commission members, their addresses and telephone numbers shall be distributed to all commissioners, the Mayor's office, City Council and the Director of the Department of Civil Rights. The roster shall be stamped 'Confidential', and no information in it shall be disclosed without the consent of the commissioner. Any person who wishes to speak to a member of the commission shall contact the Commission Liaison who will then contact the commissioner.

Section 703 Informative Materials

Except for documents prepared by the Commission, the Department or commissioners, no informative materials of more than five (5) pages in length shall be duplicated or distributed to commission members. Material in excess of five (5) pages may be filed with the Commission and a copy shall be sent to any commissioner who specifically requests it.

Section 704 Minnesota Clean Indoor Air Act

Smoking is prohibited at all commission meetings and public hearings.

Section 705 Accessibility of Meeting

All commission meetings, public hearings and other functions shall be held in facilities that are architecturally accessible and barrier free to people with mobility impairments.

Section 706 Martin Luther King, Jr. Education Fund: Guidelines for Distributions

Moneys will be dispersed from this account for civil rights education related activities for the Minneapolis elementary and secondary schools and which support the principles and philosophies of Dr. Martin Luther King, Jr. Activities which promote civil rights education should include the development of curriculum, or other written or audio/visual material and should have long term impact on its proposed audience.

Section 707 Conference/Travel Expenses

Any Commissioner may request that the Commission approve a request to the Department of Civil Rights to pay conference and travel expenses for the Commission to attend a civil rights related event. The Department is not bound by the recommendation from the commission, but may pay such expenses on a funds available basis.

Section 708 Transcript Orders

The presiding officer of an oral or public hearing may request the ordering of a transcript at the Department's expense with the Chair's approval. If the Chair is serving on the hearing panel, the approval of the Vice-Chair shall be required.

Section 709 Amendment(s) to the Internal Operating Procedures

If the Standards & Procedures Committee (hereafter, "S&P Committee") seeks to amend the Internal Operating

Procedures, the following procedure must be followed:

- (1) The S&P Committee shall present a written draft of the amendment(s) at the regularly scheduled Commission meeting;
- (2) At the aforementioned meeting, the Commission will discuss the amendment(s) and give notice that the Commission will vote on the amendment(s) at the next regularly scheduled meeting;
- (3) The Commission shall vote on the amendment(s) at the next regularly scheduled meeting; and
- (4) If adopted by the Commission, the S&P Committee shall incorporate the amendment(s) into the Internal Operating Procedures.

If the Commissioner proposing the amendment(s) is not a member of the S&P Committee, then he/she shall submit the amendment at the S&P Committee meeting prior to the regularly scheduled Commission meeting.

The S&P Committee shall vote on the amendment after it is presented and if approved, present a written draft of the amendment(s) at the next regularly scheduled Commission meeting per subsection (1) above.

The procedure will then proceed as noted in the first paragraph of this section. ³

³ Added September 17, 2018

APPENDIX C: Minneapolis Civil Rights Commission Rules for Contested Case Hearings

**CITY OF MINNEAPOLIS
COMMISSION ON CIVIL RIGHTS**



***RULES OF PROCEDURE FOR
CONTESTED CASE HEARINGS***

Last updated February 29, 2008

MINNEAPOLIS COMMISSION ON CIVIL RIGHTS

Rules of Procedure for Commission Hearings Conducted Pursuant to Chapter 141.50 (d) (*Probable Cause*), Chapter 141.50 (e) (*No Probable Cause*) and Chapter 139.50 *Contract Compliance*).

**MINNEAPOLIS COMMISSION ON CIVIL RIGHTS
RULES OF PROCEDURE FOR CONTESTED CASE HEARINGS**

TABLE OF CONTENTS

| | Page |
|---|-------------|
| RULES APPLICABLE TO ALL HEARINGS | |
| Rule 1. Definitions | 1 |
| Rule 2. Documents Filed..... | 2 |
| Rule 3. Access to Department Files and Personnel..... | 2 |
| Rule 4. Right To Counsel..... | 3 |
| Rule 5. Time..... | 3 |
| Rule 6. Commissioner/Hearing Officer Disqualification | 4 |
| RULES APPLICABLE TO PROBABLE CAUSE HEARINGS | |
| Rule 7. Hearing Committee | 5 |
| Rule 8. Notice of and Order for Hearing..... | 5 |
| Rule 9. Reserved | 6 |
| Rule 10. Intervention by the City Attorney..... | 6 |
| Rule 11. Consolidation of Cases | 7 |
| Rule 12. Prehearing Conference | 8 |
| Rule 13. Mediation..... | 9 |
| Rule 14. Motions..... | 10 |
| Rule 15. Discovery..... | 10 |
| Rule 16. Requests for Admission of Facts or Opinions..... | 11 |
| Rule 17. Depositions to Preserve Testimony | 11 |
| Rule 18. Subpoenas..... | 12 |
| Rule 19. Sanctions..... | 12 |
| Rule 20. Rights and Responsibilities of Parties | 13 |
| Rule 21. Witnesses | 13 |
| Rule 22. Rules of Evidence..... | 13 |
| Rule 23. Hearing Record..... | 14 |
| Rule 24. Continuances | 15 |
| Rule 25. Hearing Committee Conduct | 16 |
| Rule 26. Conduct Of Hearing | 17 |
| Rule 27. Disruption Of Hearing..... | 18 |
| Rule 28. Hearing Committee Decision | 18 |
| Rule 29. Reserved | 19 |

RULES APPLICABLE TO NO PROBABLE CAUSE HEARINGS

Rule 30. Request for Oral Hearing.....20
Rule 31. Review Committee21
Rule 32. Consideration of Hearing Request.....21
Rule 33. Procedure When Request for Oral Hearing is Denied.....21
Rule 34. Procedure When Request for Oral Hearing is Granted22
Rule 35. Record.....22
Rule 36. Decision of Review Committee.....22
Rule 37. Standard Of Review23
Rule 38. Action Following Remand.....23
Rule 39. Appeal.....23

RULES APPLICABLE TO CONTRACT COMPLIANCE HEARINGS

Rule 40. Panel Appointment24
Rule 41. Prehearing Conference24
Rule 42. Hearing24
Rule 43. Panel Decision24

CONSTRUCTION OF RULES

Rule 44. Construction25

RULES APPLICABLE TO ALL HEARINGS

RULE 1. Definitions

Subpart 1. “Chair” means the Chair of the Minneapolis Commission on Civil Rights or that member of the commission who is then discharging the duties of the Chair.

Subpart 2. “Chapter 139 and Chapter 141” mean the Minneapolis Code of Ordinances, Title 7, Chapters 139 and 141.

Subpart 3. “Civil Rights Ordinance” means the Minneapolis Code of Ordinances, Title 7, Chapters 139 and 141. ***Subpart 4. “Commission”*** means the Minneapolis Commission on Civil Rights.

Subpart 5. “Contract Compliance Panel” means the panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear a case following the referral of a complaint pursuant to the provisions of Chapter 139.50 (e), or any hearing examiner duly appointed to hear such a case in lieu of a Commission panel.

Subpart 6. “Department” means the Minneapolis Department of Civil Rights.

Subpart 7. “Director” means the Director of the Minneapolis Department of Civil Rights.

Subpart 8. “Hearing Committee.” means a panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear a case following the Director’s or review committee’s determination of probable cause pursuant to Chapter 141.50 (d), or any hearing examiner duly appointed to hear such a case in lieu of a commission committee.

Subpart 9. “Party” means any person having a legally cognizable interest in a proceeding covered by the civil rights ordinance, or such person’s attorney of record or other representative.

Subpart 10. “Presiding Commissioner” means the attorney member of a contract compliance panel, hearing committee, or review committee, or any hearing examiner who is duly appointed to hear such a case in lieu of a Commission panel or committee.

Subpart 11. “Review Committee” means the panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear an appeal of the Director’s determination that no probable cause exists pursuant to Chapter 141.50(d) or any hearing examiner duly appointed to hear such a case in lieu of a Commission committee.

Subpart 12. “Service or serve” means personal service or, unless otherwise provided by law, service by first class United States mail or a licensed overnight express mail service, postage prepaid and addressed to the party at his or her last known address. An affidavit of service shall be made by the person making the service. Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Personal service may be accomplished by either delivering a document to the person or by leaving a document at the person’s home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address of the person to be served. If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

RULE 2. Documents Filed

Forms, documents, or written materials prepared specifically for and used or filed in any hearings before the Commission must be on standard size 8 ½ inch by 11 inch paper, must be served on the opposing party, and the original and two copies of the form, document or written material must be filed with the Commission along with an affidavit of service on the opposing party.

RULE 3. Access to Department Investigative Files and Personnel

Subpart 1. Access by parties following finding of no probable cause or probable cause. Following the Department’s finding of no probable cause or probable cause, the charge and the Director’s determination are public data. The remaining data contained in the Department’s investigative file is accessible to the parties, except the following data is protected non-public data:

- (a) Opinions of the City Attorney relating to the case;
- (b) Memoranda between or among City Departments unless such memoranda constitute substantive evidence in the case;
- (c) Internal memoranda of or between the Department and the Commission relating to the case;
- (d) Documents relating to mediation or conciliation efforts by the Department or Commission; and
- (e) Medical or private information of the parties or third parties, unless the party receives written consent by the third party, or such information constitutes substantive evidence in the case; or
- (f) Information identified by a party as trade secrets, confidential research development, commercial information, or other security interests of the parties, unless such information constitutes substantive evidence in the case.

The Department shall describe the nature of any redacted or withheld data in a manner that, without revealing information itself privileged or protected, enables the parties to determine the applicability of this Rule.

Upon request of a party, the party shall be informed by a case investigator of the content and meaning of that data contained in the Department's investigative file. After a party has been informed of its meaning, the data need not be explained to that party for six months thereafter unless a dispute or action pursuant to Minn. Stat. § 13.04 is pending or additional data on the party has been collected or created.

Subpart 2. Access to Department investigative file by Commissioners following finding of no probable cause. The Commissioners assigned to a no probable cause review committee pursuant to Rule 31 may examine the Department's investigative data, except for the data noted in Subpart 1 (a) - (f).

Subpart 3. Access by Presiding Commissioner on probable cause proceedings. The Presiding Commissioner may examine the Department's investigative data on a charge assigned to the Presiding Commissioner for purposes of deciding a motion to compel under subpart 4.

Subpart 4. Discoverability of data during probable cause review by Commission. If a party seeks access to removed or redacted data contained in the Department's investigative file during a probable cause review by the Commission, the party seeking access may bring a motion to compel before the Presiding Commissioner pursuant to Rule 14, and shall also serve a copy of the motion upon the Director. Within ten (10) working days after the motion is filed, the Director may intervene with written notice to the Presiding Commissioner and the parties. Prior to ruling on the motion to compel, the Presiding Commissioner may conduct an *in camera* review of the file, and may make the Department's investigative data subject to a protective order, as provided under *Minn. R. Civ. P. 26.03*.

Subpart 5. Copies by parties. A party may make copies of any record in the Department investigative file, except those excluded under Subpart 1(a) - (f), for a reasonable cost as determined by the Department.

RULE 4. Right to Counsel

Parties may be represented by an attorney, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law.

RULE 5. Time

Subpart 1. Computation of time. In computing any period of time prescribed by these rules, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday.

Subpart 2. Extra Time; Service by Mail. Whenever a party has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon the party, or whenever service is required to be made within a prescribed period before a specified event, and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

RULE 6. Commissioner/Hearing Officer Disqualification

Subpart 1. Withdrawal. A commissioner serving on a contract compliance panel, hearing committee, or review committee or a duly appointed hearing examiner shall withdraw at any time if he or she deems himself or herself disqualified for any reason.

Subpart 2. Affidavit of Prejudice. Upon the filing in good faith by a party of any affidavit of prejudice, the Chair shall determine the matter as part of the record provided the affidavit shall be filed no later than five (5) days prior to the date set for the hearing. If the Chair is the subject of the affidavit, the Commission (without participation of the Chair) will decide the question at its next regular meeting or at a special meeting called for that purpose.

RULES APPLICABLE TO PROBABLE CAUSE HEARINGS

RULE 7. Hearing Committee

Subpart 1. Appointment. Within thirty (30) days following the referral of a complaint pursuant to Chapter 141.50 (d), the Chair shall appoint a presiding officer or a hearing examiner and shall notify the Department of the appointment. If a hearing committee is to hear the case, the Chair shall appoint a hearing committee within forty-five (45) days prior to the date of the public hearing and shall notify the Department of the appointment. If a hearing committee is to hear the case, the Chair shall also appoint a fourth commissioner to serve as an alternate committee member.

Subpart 2. Notification. Upon notification of the appointment, the Department shall promptly notify the members of the hearing committee and the alternate or the hearing officer of the appointment. The Department will include with this notice a copy of the complaint and answer, if any. In addition, the presiding commissioner shall also be sent a copy of the Department's proposed settlement terms (with a rationale for them) and a summary of the Department's investigation. The Department shall also at this time notify the parties of the names of the hearing committee members or the hearing examiner.

Subpart 3. Substitutions. The Chair may, if necessary, make substitutions as to the membership of the hearing committee or the appointment of the hearing examiner. Upon notification of such changes, the Department shall promptly provide notice to the hearing committee or hearing examiner and to the parties of such changes.

RULE 8. Notice Of and Order for Hearing

Subpart 1. Commencement of Case. The case is commenced, subsequent to the appointment of the hearing committee, by the service of a notice and order or hearing by the Department.

Subpart 2. Contents of Notice and Order. A notice of and order for hearing, which shall be a single document, shall be served upon all parties by the Department and shall contain, among other things, the following:

- A. The time, date and place of the prehearing conference;
- B. A statement of the determination of the Director or the review committee pursuant to Chapter 141.50 (d) together with a citation to the relevant provisions of the civil rights ordinance;
- C. Notification of the right of the parties to be represented by an attorney, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law;
- D. A citation to these rules and notification of how copies thereof may be obtained;
- E. A brief description of the procedures to be followed at the prehearing conference and the hearing;

- F. A statement advising the parties to bring to the hearing all documents, records, and witnesses they need to support their position;
- G. A statement that subpoenas may be available to compel the attendance of witnesses or the production of documents;
- H. A statement advising the parties that failure to appear at the hearing may result in default and a statement which explains the possible results of default; and
- I. A statement advising the parties that if not public data is admitted into evidence it may become public data unless a party objects and asks for relief.

Subpart 3. Service. The notice of and order for the prehearing conference shall be served at least 14 days prior to the scheduled prehearing conference.

RULE 9. Reserved

RULE 10. Intervention by the City Attorney

Subpart 1. Request for Intervention. Within ten (10) days after the referral of a complaint by the Director to the Commission under Chapter I41.50 (d), the Director may request the Minneapolis City Attorney to intervene in the case for the purpose of representing the general welfare and civil rights of the people of Minneapolis.

Subpart 2. Notice of, objection to, and effect of intervention. If the City Attorney intervenes, these Rules shall apply to the City Attorney in the same manner as they apply to the other parties in the case. Intervention by the City Attorney shall be made by notice to all parties; any objection to the intervention shall be made by written motion in accordance with these rules.

RULE 11. Consolidation of Cases

Subpart 1. Standards for Consolidation. Cases pending before the Commission shall be consolidated in the following circumstances:

- A. Any case filed pursuant to Chapter 139.50 (k)(3) shall be consolidated with the case underlying the Chapter 139.50 (k)(3) complaint; and
- B. Whenever two or more separate cases present substantially the same issues of fact and law, that a holding in one case would affect the rights of parties in another case, that consolidating the cases for hearing would save time and costs, and that consolidation would not prejudice any party, such cases may be consolidated for hearing.

Subpart 2. Service of Petition. A party requesting consolidation shall serve a petition for consolidation on all parties to the cases to be consolidated and shall file the original with the presiding commissioner assigned to the cases, together with a proof of service showing service as required herein. Any party objecting to the petition shall serve and file their objections within ten (10) calendar days following service of the petition for consolidation.

Subpart 3. Determination of Petition. When more than one hearing committee is assigned to the cases which are the subject of the petition for consolidation, the petition will be determined by the presiding commissioner assigned to the first case referred to the Commission pursuant to Chapter 141.50 (d).

Subpart 4. Order. Upon determining whether cases should be consolidated, the presiding commissioner shall serve a written order on all parties which shall contain, among other things, a description of the cases for consolidation, the reasons for the decision, and notification of a consolidated prehearing conference if one is being scheduled.

Subpart 5. Stipulations. Nothing contained in this rule shall be deemed to prohibit parties from stipulating and agreeing to a consolidation which shall be granted upon submission of a written stipulation, signed by all parties, to the presiding commissioner. A presiding commissioner may consolidate two or more cases presently pending before the same hearing committee on the presiding commissioner's own motion, applying the standards in

Subpart 6. Petition for Severance. Following receipt of a notice or order for consolidation, any party may petition for severance by serving it on all other parties and filing it with the presiding commissioner at least seven (7) business days prior to the first scheduled hearing date. If the presiding commissioner finds that the consolidation will prejudice the petitioner, the presiding commissioner shall order the severance or other relief which will prevent the prejudice from occurring.

RULE 12. Prehearing Conference

Subpart 1. Scheduling. The presiding commissioner shall set the date of the initial prehearing conference and shall notify the Department. The time, place and date of the initial prehearing conference shall be included in the notice of and order for the prehearing conference. Upon the request of any party or upon his or her own motion, the presiding commissioner may, in his or her discretion, hold additional prehearing conferences prior to the probable cause hearing.

Subpart 2. Purpose. The purpose of the prehearing conference is to simplify the issues to be determined, to obtain stipulation in regard to foundation for testimony or exhibits, to determine whether the parties are interested in mediation by the Commission, to obtain stipulations or agreement on nondisputed facts or the application of particular laws, to consider the proposed witnesses for each party, to identify and exchange documentary evidence intended to be introduced at the hearing, to determine deadlines for the completion of any discovery, to establish hearing dates, to consider such other matters that may be necessary or advisable and, if possible, to reach a settlement without the necessity of further hearing.

Subpart 3. Prehearing Statements. The parties must file and serve on all parties a completed prehearing statement at least seven (7) days before the scheduled prehearing conference. The prehearing statement shall include, at a minimum, the following information: whether or not a party is interested in mediation by the Commission; statement of legal issues; brief factual statement; proposed exhibits; list of proposed witnesses; and a statement regarding the length of time for presentation of the party's case in chief.

Subpart 4. Procedure. The prehearing conference shall be an informal proceeding conducted expeditiously by the presiding commissioner. Agreements on the simplification of issues, stipulations, or other matters may be entered on the record or may be made the subject of a prehearing order by the presiding commissioner.

Subpart 5. Settlement. The parties, their attorneys or other persons with full authority to settle the case shall appear at the prehearing conference. Any final settlement shall be set forth in a Stipulation for Dismissal and Order for Dismissal. Both the Stipulation and Order shall set forth the terms of the settlement, and may contain a provision providing for enforcement of their terms by application to the District Court by means of an Order to Show Cause, as authorized by Chapter 141.60 (c). Upon receipt of the stipulation signed by all parties, the hearing committee will sign the Order of Dismissal and file it and the Stipulation for Dismissal with the Department.

Subpart 6. Length of Hearing. If the case is not settled at the prehearing conference, the presiding commissioner shall determine how many hours are likely to be needed for the hearing. If the presiding commissioner determines that the hearing will take more than 16 hours, he or she shall so notify the Chair. Thereafter, the Chair may, in his or her discretion, appoint a hearing examiner in lieu of a hearing committee.

Subpart 7. Scheduling Hearing: Notice. Following the prehearing conference, the presiding commissioner, in consultation with the other members of the hearing committee, or the hearing examiner shall determine the date of the hearing and shall so notify the Department. The Department shall then notify the parties thereof. .

RULE 13. Mediation

Subpart. 1. Selection of a mediator. If the parties agree to mediation by the Commission, or other qualified mediators, the presiding commissioner shall notify the Chair of the Commission, the Chair of the Commission shall provide the parties with a list of Commissioners who are qualified neutrals and who are not members or alternates of the hearing committee. From such list or otherwise, the parties may mutually agree on selection of a mediator. Absent such agreement, the Chair of the Commission shall provide the parties with a list of three (3) Commissioners who are so qualified, each party may strike the name of one mediator from such list and the mediator not so stricken shall serve as the designated mediator.

Subpart. 2. Mediation agreement. After selection of a mediator, the parties and the mediator shall execute a mutually acceptable Mediation Agreement, covering such matters as the confidentiality of the proceedings, the scheduling of the proceedings and other matters as the parties and the mediator may agree.

Subpart. 3. Scheduling of mediation. When the parties have agreed to pursue mediation by the Commission, the presiding commissioner shall not schedule a public hearing or take any other action with respect to such matter until the earlier of (i) the date the matter is settled through mediation; (ii) the date the parties or the mediator have advised the presiding commissioner that the parties have reached an impasse; or (iii) 90 days after a mediator has been selected. If the mediation is not successful or if matter is not settled within 90 days after appointment of the mediator, the presiding commissioner shall schedule a public hearing consistent with these rules. Additional time for consolidation may be granted by the presiding commissioner upon the request of the parties and the mediator.

Subpart. 4. Conduct of mediation. The mediator shall conduct mediation at such time and in such manner as the parties and the mediator may agree. Any party or the mediator may determine that settlement is not likely and declare that an impasse has occurred. If any party or the mediator declares than an impasse has occurred, the presiding commissioner shall be notified and a public hearing shall be scheduled in accordance with these rules.

Subpart. 5. Successful mediation. In the event the mediation successfully settles the dispute, the mediator and the parties shall prepare such agreements as they deem appropriate, including a stipulation of dismissal to be submitted to the presiding commissioner and the Chair.

RULE 14. Motions

Any application to the presiding commissioner for an order shall be made by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds there for, and shall set forth the relief or order sought. Motions shall be served on all parties and the presiding commissioner. The written motion shall advise the other parties that should they wish to contest the motion they must file a written response with the presiding commissioner and serve copies on all parties within ten (10) working days after it is received. If any party desires a hearing on the motion, they shall make a request for a hearing at the time of the submission of their motion or response. A response shall set forth the nonmoving party's objections. A hearing on a motion will be ordered by the presiding commissioner only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. All orders on such motions, other than those made during the course of the hearing, shall be in writing and shall be served upon all parties of record. In ruling on motions where these rules are silent, the presiding commissioner shall apply the Rules of Civil Procedure for the District Court for Minnesota to the extent it is determines appropriate in order to promote a fair and expeditious proceeding.

RULE 15. Discovery

Subpart 1. Witnesses; Statement by Parties or Witnesses. Each party shall, within ten (10) days of a demand by another party, disclose the following: A. The names and addresses of all witnesses that a party intends to call at the hearing. All witnesses unknown at the time of said disclosure shall be disclosed as soon as they become known; B. Any relevant written or recorded statements made by the party or by witnesses on behalf of a party. The demanding party shall be permitted and reproduce any such statements. Any party unreasonably failing upon demand to make the disclosure required by this subpart may, in the discretion of the presiding commissioner, be foreclosed from presenting any evidence at the hearing through witnesses not disclosed or through witnesses whose statements are not disclosed.

Subpart 2. Discovery of other information. Any means of discovery available pursuant to the Rules of Civil Procedures for the District Court of Minnesota is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking discovery may bring a motion before the presiding commissioner to obtain an order compelling discovery. In the motion proceeding, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for the purpose of delay, and that the issues or amounts in controversy are significant enough to warrant the discovery. In ruling on a discovery motion, the presiding commissioner shall recognize all privileges recognized by law.

Subpart 3. Noncompliance. Upon the failure of a party to reasonably comply with an order of the presiding commissioner made pursuant to subpart 2, the presiding commissioner may make a further order as follows: A. An order that the subject matter of the order for discovery or any other relevant facts shall be taken as established for the purposes of the case in accordance with the claim of the party requesting the order; B. An order refusing to allow the party failing to comply to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.

Subpart 4. Protective Order. When a party is asked to reveal material considered to be proprietary information or trade secrets, that party shall bring the matter to the attention of the presiding commissioner, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

Subpart 5. Filing. Copies of a party's requests for discovery as well as the responses to those requests and copies of discovery depositions shall not be filed with the Commission unless otherwise ordered by the presiding commissioner or unless they are filed in support of any motion or unless they are introduced as evidence in the hearing.

RULE 16. Requests for Admission of Facts or Opinions

A party may serve upon any other party a written request for the admission of relevant facts or opinions, or of the application of law to relevant facts or opinions, including the genuineness of any document. The request must be served at least fifteen (15) days prior to the hearing, and it shall be answered in writing by the party to whom the request is directed within ten (10) days of receipt of the request. The written answer shall either admit or deny the truth of the matters contained in the request or shall make a specific objection thereto. Failure to make a written answer within ten (10) days will result in the subject matter of the request being admitted unless it can be shown that there was a justifiable excuse for failing to respond.

RULE 17. Depositions to Preserve Testimony

Upon the request of any party, the presiding commissioner may order that the testimony of any witness be taken by deposition to preserve that witness's testimony in the manner prescribed by law for depositions in civil actions. The request shall indicate the relevancy of the testimony and shall make a showing that the witness will be unable or cannot be compelled to attend the hearing or show other good cause.

RULE 18. Subpoenas.

Subpart 1. Request. Pursuant to Chapter 141.50 (1), any party may request in writing that the Chair, the presiding commissioner or the hearing committee apply to the District Court for a subpoena to require a witness to appear at any hearing (or at any deposition held pursuant to the authority of Chapter 141.80 (c)(5) to give testimony or to require the production at the hearing or deposition of any books, papers or documents relative to the complaint which is the subject of the proceeding. The request for subpoena(s) must be filed within fourteen (14) days of the hearing or deposition, and state the name(s) and last known home or business address of the person(s) to be subpoenaed, and shall describe with sufficient particularity the books, papers or documents desired. The person to whom the request is made may require the proponent of the request to state reasons why such witnesses or other materials are needed.

Subpart 2. Procurement; Service; Challenge. The Chair, the presiding commissioner, or the hearing committee shall, if it grants the request for the subpoenas, direct the Department to arrange for the procurement of the requested subpoenas pursuant to Chapter 141.80 (c)(5). The party requesting the subpoenas shall make the request within fourteen (14) days of the hearing or deposition, and shall tender to the Department a check payable to the District Court Administrator for the cost of the subpoenas. The party requesting the subpoena(s) is responsible for serving it in a proper and timely manner. Any person who wishes to challenge a subpoena must do so by proper motion before the issuing court, after giving notice to the requesting party and the City Attorney.

RULE 19. Sanctions

If either party believes that the other is intentionally and frivolously delaying the proceedings in bad faith, they may bring a motion before the presiding commissioner by following the procedures in RULE 14. If the presiding commissioner determines that a party has deliberately delayed the proceedings for immaterial, meritless, trivial or unjustifiable reasons, after also giving consideration to the number of issues and amount of damages in controversy, any pattern of similar acts by the party, and the effects of delay, the presiding commissioner shall issue an order containing any of the following:

- A. That the party shall cease and desist from the acts;
- B. Compelling cooperation during further pendency of the case;
- C. Dismissing any or all charges or defenses to charges, which ever may be appropriate;
- D. Foreclosing the testimony of specified witnesses or the presentation of evidence on specified issues;
- E. That the delay will be taken into consideration in awarding damages or attorney fees; or
- F. Any sanctions available in civil cases in the District Court of Minnesota.

RULE 20. Rights and Responsibilities of Parties

Subpart 1. Generally. All parties shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues, and to cross-examine witnesses.

Subpart 2. Necessary Preparation. A party shall have all evidence to be presented, both oral and written, available on the date for hearing. Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their need becomes evident to the requesting party. In cases where the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the presiding commissioner or as agreed upon at a prehearing conference.

Subpart 3. Responding to Orders. If the presiding commissioner orders that parties do an act or not do an act, the parties shall comply with the order. If a party objects to an order, the objection shall be stated in advance of the order as part of the record. If the party has no advance knowledge that the order was to be issued, any objection shall be made as part of the record as soon as the party becomes aware of the order.

Subpart 4. Copies. The presiding commissioner and hearing committee shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the presiding commissioner or the hearing committee shall simultaneously send a copy to all other parties; provided, however, that this requirement shall not apply to requests for subpoenas.

Subpart 5. Representation by Attorney. A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

RULE 21. Witnesses

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation. At the request of a party or upon the presiding commissioner's own motion, the presiding commissioner shall exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

RULE 22. Rules of Evidence

Subpart 1. Admissible Evidence. The presiding commissioner may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. The presiding commissioner shall give effect to the rules of privilege, recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious shall be excluded.

Subpart 2. Evidence Part of Record. All evidence to be considered in the case, including all records and documents in the possession of the Department not otherwise excluded under these Rules, or a true and accurate photocopy thereof, must be offered by a party and made a part of the record of the case. No other factual documentary or testimonial information or evidence not so offered shall be considered in the determination of the case.

Subpart 3. Documents. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the presiding commissioner or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised as to the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy in lieu of the original.

Subpart 4. Official Notice of Facts. The hearing committee may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Subpart 5. Burden of Proof. The complainant must prove the fact at issue by a preponderance of the evidence. If the respondent asserts an affirmative defense, the respondent shall have the burden of proving the existence of the defense by a preponderance of the evidence.

Subpart 6. Examination of Adverse Party. A party may call an adverse party or managing agent, or employees or an officer, director, managing agent, or employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate that party by leading questions and contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

RULE 23. Hearing Record

Subpart 1. Content The hearing record shall contain the complaint, the answer; the Director's or review committee's determination; prehearing statement; motions; orders; evidence offered or considered; offers of proof; objections and rulings thereon; all memoranda and briefs; a transcript of the proceedings, if one was prepared; and the Findings of Fact, Conclusion of Law, Orders and Memoranda after a decision in the case.

Subpart 2. Verbatim Record. A verbatim record of the hearing shall be taken. The presumptive method of recording the proceeding shall be by using a court reporter, whose presence shall be secured and paid for by the Department, unless all parties agree at the prehearing conference to use a tape recorder. However, the hearing committee may order that a tape recorder be used in lieu of a court reporter at a given hearing if exigent circumstances

Subpart 3. Transcript; Prior to Appeal. The verbatim record shall be transcribed if requested by a party. If a transcription is made, a copy of the transcript shall be provided by the requesting party to the hearing committee. The cost of the transcript shall be paid by the requesting party and other persons who request copies.

Subpart 4. Transcript; Appeal. In the event a decision is appealed pursuant to Chapter 141.60 (b), the petitioner shall order and pay for the necessary transcript according to the pertinent provisions of the “*Minnesota Rules of Appellate Procedure.*” In the event the decision is enforced pursuant to Chapter 141.60 (c), the respondent shall bear the cost of any full or partial transcript which the District Court deems necessary to decide the matter. In either event, a party who is responsible for the cost of a transcript and who claims indigency may file the necessary affidavits with the hearing committee, who shall decide whether to certify the party’s indigent status in the same manner and with the same authority as a trial court. If indigence status is certified by the hearing committee, the Department shall pay for the transcript.

RULE 24. Continuances

Requests for a continuance of a hearing shall be granted upon a showing of good cause. Unless time does not permit, a request for continuance of the hearing shall be made in writing to the presiding commissioner and shall be served upon all parties of record. In determining whether good cause exists, due regard shall be given to the ability of the party requesting a continuance to effectively proceed without a continuance. A request for continuance filed within five business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained.

“Good cause” shall include: Death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties provided that it is shown that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the case and the parties and the presiding commissioner have agreed to a new hearing date, or the parties have agreed to a settlement of the case.

“Good cause” shall not include: Intentional delay; unavailability of counselor or other representative due to engagement in another judicial or administrative proceeding unless all other members of the attorney’s or representative’s firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received subsequent to the notice of the hearing for which the hearing is sought; unavailability of a witness if the witness’ testimony can be taken by deposition; and failure of the attorney or representative to prepare for the hearing in a timely manner. During a hearing, if it appears in the interests of justice that further testimony should be received and sufficient time does not remain to conclude the testimony, the hearing committee shall either order the additional testimony be taken by deposition or continue the hearing to a future date and oral notice on the record shall be sufficient.

RULE 25. Hearing Committee Conduct

Subpart 1. Ex Parte Communication. The members of the hearing committee or a hearing examiner shall not communicate, directly or indirectly, in connection with any issue of fact or law with any person, other than another member of the hearing committee, concerning any pending case except upon notice and opportunity for all parties to participate. When these rules authorize communications contrary to this rule, the communications shall be limited to only those matters permitted by these rules. Members of the hearing committee or the hearing examiner may respond to questions relating solely to procedures for the hearing without violating this rule. Members of the hearing committee or the hearing examiner may also communicate with the City Attorney’s office, as authorized by Chapter 141.70, without violating this part.

Subpart 2. Investigation; Questioning. The hearing committee shall take no part in any independent investigation into the facts or issues involved in the case. However, the hearing committee may ask questions of witnesses called by the parties. Additionally, prior to the conclusion of the hearing and after the parties have rested, the hearing committee may call any witness, by subpoena or otherwise, to testify to any material issue and may receive any exhibit.

Subpart 3. Role of Alternate. The commissioner appointed as an alternate member of the hearing committee shall be available and on-call by telephone during the first half-hour of the first scheduled hearing session to serve in the event that either of the non-attorney members of the hearing committee are unable to be present. If an alternate hears any evidence in the case, the alternate shall replace the original member of the hearing committee in all subsequent proceedings in the case.

Subpart 4. Role of Presiding Commissioner. The presiding commissioner shall decide all questions of law raised during the proceedings. Whenever the presiding commissioner deems it appropriate, he or she may consult with the other members of the hearing committee before ruling on a question of law. However, to avoid the appearance of impropriety, the Presiding Commissioner is the only member of the hearing panel who may attend any pre-hearing conference or proceeding prior to the public hearing, where issues of fact are likely to be discussed or raised by the parties.

RULE 26. Conduct of Hearing

Subpart 1. Procedures. The hearing shall be conducted in substantially the following manner:

- A. The presiding commissioner shall open the hearing by reading the title of the case, briefly stating the issues, including, where applicable, the amount of any monetary claim made by any party.
- B. After opening the hearing, the presiding commissioner shall, unless all parties are represented by counsel or are otherwise familiar with the procedures, state the procedural rules for the hearing including the following:
 - (1) All parties may present evidence and argument with respect to the issues and cross-examine witnesses. At the request of the party or the attorney for the party whose witness is being cross-examined, the presiding commissioner may make such rulings as are necessary to prevent repetitive or irrelevant questioning and to expedite the cross-examination, to the extent consistent with disclosure of all relevant testimony and information.
 - (2) All parties have a right to be represented by an attorney at the hearing.
 - (3) The rules of evidence in RULE 22.
- C. Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing shall be entered into the record
- D. The complainant may make an opening statement. All other parties may make statements in a sequence determined by the presiding commissioner.
- E. After any opening statements, the complainant shall begin with the presentation of evidence unless the parties have agreed otherwise or the presiding commissioner determines that requiring another party to proceed first would be more expeditious and would not jeopardize the rights of any other party. It shall be followed by the other parties in a sequence determined by the presiding commissioner.
- F. Cross-examination of witnesses shall be conducted in a sequence and in a manner determined by the presiding commissioner to expedite the hearing while ensuring a fair hearing. At the request of a party whose witness is being cross-examined, the presiding commissioner shall make rulings as are necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the cross-examination to the extent consistent with the disclosure of all relevant testimony and information.
- G. Any party may be a witness or may present other persons as witnesses at the hearing. All evidentiary testimony presented to prove or disprove a fact at issue shall be under oath or affirmation.
- H. When all parties and witnesses have been heard, opportunity shall be offered to present oral final argument, in a sequence determined by the presiding commissioner. Final argument may, in the discretion of the presiding commissioner, be in the form of written memoranda or oral argument, or both. Final argument need not be recorded, in the discretion of the presiding commissioner. Written memoranda may, in the discretion of the presiding commissioner, be submitted simultaneously or sequentially and within time periods as the presiding commissioner may prescribe.

- I. After final argument, the hearing shall be closed unless a continuance has been ordered. If continued, it shall be either: Continued to a certain time and day, announced at the time of the hearing and made a part of the record; or continued to a date to be determined later, which must be upon no less than five (5) days' written notice to the parties.
- J. The record of the proceeding shall be closed upon receipt of the final written memorandum, transcript, if any, or late filed exhibits which the parties and the presiding commissioner have agreed should be received into the record, whichever occurs latest.

Subpart 2. Minnesota Clean Indoor Act. The Minnesota Clean Indoor Air Act shall be in effect and strictly enforced at all hearings.

Subpart 3. Accessibility. All hearings will be held in facilities which are architecturally accessible and barrier-free to people with impaired mobility.

RULE 27. Disruption of Hearing

Subpart 1. Cameras. Television, newsreel, motion picture, still or other cameras may be operated in the hearing room while the hearing is in progress only with permission of the hearing committee. Audio recording devices may be operated in the hearing room during the course of the hearing only with the permission of the hearing committee.

Subpart 2. Other Conduct. Pursuant to and in accordance with Minnesota Statutes, Section 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. In the event of interference, disruption, or threat, the presiding commissioner shall read this subpart to those persons causing such interference or disruption and thereafter proceed as deemed appropriate, which may include ordering the disruptive person to leave or be removed from the hearing.

RULE 28. Hearing Committee Decision

Subpart 1. Based on Record. No factual information or evidence which is not a part of the record shall be considered by the hearing committee in the determination of a case.

Subpart 2. Administrative Notice. The hearing committee may take administrative notice of general, technical, or scientific facts within their specialized knowledge in conformance with Minnesota Statutes, Section 14.60.

Subpart 3. Completion. After conclusion of the hearing, the hearing committee shall make written findings of fact, conclusion of law and an order, which may be supplemented by a written memorandum. Such order shall constitute the final decision of the Commission and shall be appealable in accordance with Chapter 141.60 (b).

Subpart 4. Service. Service of the findings of fact, conclusion of law and order shall be made in accordance with Chapter 141.50 (m).

Subpart 5. Failure to Make Decision. If a hearing committee fails to render a decision and order within ninety (90) days after the close of the record, any party may petition the Court of Appeals for an order requiring the hearing committee to render a decision and order on the case within such time as the court determines to be appropriate. The order shall be issued unless the hearing committee shows that further delay is reasonable.

RULE 29. Reserved

RULES APPLICABLE TO NO PROBABLE CAUSE HEARINGS

RULE 30. Request for Oral Hearing

Subpart 1. Time for Filing Request. If the complainant wishes to have an oral hearing on an appeal from the Directors determination of No Probable Cause, a request for such hearing must be included in the complainant's notice of appeal filed pursuant to Chapter 141.50 (e).

Subpart 2. Contents of Request. The request for oral hearing must be accompanied by a statement demonstrating the existence of material evidence newly discovered which was not considered by the Department during its investigation and which with reasonable diligence could not have been found and presented to the Department during its investigation.

Subpart 3. Service. The complainant shall serve a copy of the appeal, request for hearing and accompanying statement upon all parties, and shall file an affidavit of service confirming compliance with this subpart.

RULE 31. Review Committee

Subpart 1. Appointment. Within thirty (30) days following the transmittal of an appeal by the complainant of the Director's determination of No Probable Cause, pursuant to Chapter 141.50 (e), the Chair shall assign a case to the next panel of the rotating roster and shall notify the Department of the appointment. If a review committee is to conduct an oral hearing, the Chair shall also appoint a fourth Commissioner to serve as an alternate committee member.

Subpart 2. Notification. Upon notification of the appointment, the Department shall promptly notify the members of the review committee and the alternate or the hearing examiner of the appointment. The Department shall also at this time notify the parties of the names of the review committee members or the hearing examiner.

Subpart 3. Substitutions. The Chair may, if necessary, make substitutions as to the membership of the review committee or the appointment of a hearing examiner. Upon notification of such changes, the Department shall promptly provide notice to the review committee and to the parties of such changes. Should a panelist be unable to participate in the panel to which she or he has been assigned, the panelist requiring replacement shall notify the Chair one month in advance of the panelist' assigned hearing and the Chair shall be responsible for appointing the alternate.

Subpart 4. Review Committee Conduct. The review committee will take no part in any independent investigation into the facts or issues involved in the case. The review committee will not communicate with any person, including a party or Department staff, with respect to any substantive aspect of the case, except upon prior notice and opportunity for all parties to participate. No member of the review committee shall serve as a member of any hearing committee which may later be named to decide the merits of the case.

RULE 32. Consideration of Hearing Request

The presiding commissioner shall review the complainant's hearing request and accompanying statement to determine whether or not the request for hearing should be granted. Unless the presiding commissioner affirmatively determines that there is material evidence newly discovered which the complainant could not with reasonable diligence have earlier been made known to the Department, the presiding commissioner shall deny the complainant's request for an oral hearing.

RULE 33. Procedure When Request for Oral Hearing is Denied

The presentation to the review committee which the complainant is allowed to make pursuant to Chapter 141.50 (e) shall be made in writing. The complainant's written submission shall be made no later than thirty (30) days after receiving notice of the denial of an oral hearing. The respondent may then file a responsive written presentation within twenty (20) days of receiving the complainant's presentation. The review panel's hearing shall be scheduled as soon as practicable following the submission of the respondent's written presentation, or following the expiration of the twenty-day period in which it may be submitted, whichever is earlier. The notice and order for the hearing shall be served on all parties at least ten (10) days prior to the scheduled date.

RULE 34. Procedure When Request for Oral Hearing Is Granted

Subpart 1. Scheduling of Hearing. The date, time and place of the hearing shall be determined by the presiding commissioner. The notice and order for the hearing shall be served on all parties at least twenty (20) days prior to the scheduled date.

Subpart 2. Notice of Rebuttal Evidence. The opposing parties must notify the complainant and the review committee of any evidence (including witnesses) which they intend to use to rebut the complainant's new evidence at least ten (10) days prior to the hearing.

Subpart 3. Conduct of Hearing.

- A. The complainant may make an opening oral statement. All other parties may then make an oral statement in a sequence determined by the presiding commissioner.
- B. The complainant may present evidence to the review committee; only that evidence which was designated in the complainant's request for hearing shall be heard or considered at the hearing. The opposing parties may then present any rebuttal evidence; only that rebuttal evidence which was disclosed pursuant to Subpart 2 shall be heard or considered at the hearing.
- C. The review committee may call for testimony by the Director or any other Department staff which the review committee deems appropriate to hear, for the purpose of clarifying the investigation process and/or for the finding of no probable cause.
- D. After all evidence has been heard, the parties may make final presentations. The complainant shall give the first presentation, and the respondent(s) shall be heard last. The final presentations may be made in writing, orally, or both, at the discretion of the review committee.

Subpart 4. Continuance. At the discretion of the hearing committee, the hearing may be continued to a date certain.

Subpart 5. Rules of Evidence. The rules of evidence for administrative hearings as set forth in Minnesota Statutes 14.60 and Minneapolis Code of Ordinances Chapter 141.50 (i) shall govern the hearing proceeding. The presiding commissioner shall determine all evidentiary and other legal issues.

Subpart 6: Verbatim Record. A verbatim record of the hearing shall be made, and shall be available to a complainant appealing the review committee's decision. The presumptive method of recording the hearing shall be by using a court reporter, whose presence shall be secured and paid for by the Department, unless all parties agree beforehand to use a tape recorder.

Subpart 7. Counsel. All parties may be represented by counsel at the hearing.

Subpart 8. Other Rules. The provisions of Rule 25, Subpart 4 and Rule 26, Subparts 2 and 3 shall apply to hearings held under this rule.

RULE 35. Record

The record in proceedings pursuant to Chapter 141.50(e), whether by written presentation or after hearing, shall consist of the following:

- (1) Complaint, answer of respondent (if any), all other records and documents in the Department file, not otherwise excluded under these Rules, and all legal motions and rulings on them;
- (2) Any testimony and other evidence received at a review hearing;
- (3) Matters judicially noticed;
- (4) Questions and offers of proof, objections, and rulings on them which arise at a review hearing;
- (5) The written presentations submitted by the parties, including legal briefs and memoranda (if any);
- (6) Any transcript prepared.

RULE 36. Decision of Review Committee

A decision of the review committee shall be made within twenty (20) days of the hearing, unless otherwise ordered by the review committee. The review committee may orally notify both parties of the result of its decision, and may request the prevailing party to submit written findings of fact and conclusions of law, if required by Rule 37.

RULE 37. Standard of Review

The review committee shall view the entire record in the light most favorable to the Director's determination of no probable cause. The Director's determination shall be sustained unless the review committee, applying this standard, finds that the Director's determination of no probable cause was clearly erroneous. If the complainant has presented new evidence (regardless of whether the respondent has presented rebuttal evidence) and the review committee either reverses the Director's determination outright or remands the case to the Department for further investigation, the review committee's decision must contain express findings of fact and conclusions of law. If the decision is to remand the case for further investigation, the decision must indicate specific areas in which the investigation is to be supplemented. A decision sustaining the Director's determination may be made summarily, but the review committee may make findings of fact and conclusions of law at its discretion.

RULE 38. Action Following Remand

If the review committee orders the case remanded to the Department for further investigation, and if after conducting that investigation the Director determines that probable cause is still lacking, the Director shall report that opinion, and the results of the further investigation, in writing, to the original review committee appointed to hear the case. The review committee shall then make a final decision on the entire record, without further written or oral presentations by the parties.

RULE 39. Appeal

A complainant who is aggrieved by a decision of the review committee sustaining the Director's determination of no probable cause may seek judicial review pursuant to Chapter 141.60 (b).

RULES APPLICABLE TO CONTRACT COMPLIANCE HEARINGS

RULE 40. Panel Appointment

No later than three business days after a complaint alleging contract non-compliance is certified to the Commission by the Department pursuant to Chapter 139.50 (a)(8)(d), the Chair shall appoint either a panel of three members of the Commission or a hearing examiner to hear the case. If a Commission panel is appointed, the presiding commissioner shall be an attorney. Once the Chair has informed the Department of the appointment(s), neither the Director nor the complaining official may withdraw the complaint except upon motion to the contract compliance panel.

RULE 41. Prehearing Conference

Immediately upon receiving notice of appointment to a contract compliance panel, the presiding commissioner shall schedule a prehearing conference for a date no later than seven (7) days after receipt of notice of the appointment, and shall notify the Department of the date. The Department shall immediately procure suitable facilities in which to hold the prehearing conference, shall notify the parties of the date and location by telephone and letter, and shall transmit to each party a prehearing statement form which must be completed by each party.

An affidavit of notice by telephone and mail shall be filed by the Department staff member who contacts the party or the party's attorney of record. The presiding commissioner shall serve as the prehearing officer. The provisions of Rule 12 shall govern the prehearing conference. If the case is not settled at the prehearing conference, the date of the final hearing shall be scheduled so as to comply with the thirty (30) day limit established by Chapter 139.50 (a)(8)(d). The presiding commissioner and the Department shall act with all the dispatch necessary to issue and serve the prehearing order so as to give all parties as much notice as possible regarding the terms of the prehearing order. The order shall set strict deadlines for the submission of requests for subpoenas so as to ensure compliance with the thirty (30) day limit.

RULE 42. Hearing

The provisions of Rules 14, 18 and 26 shall govern the conduct of the hearing. The provisions of Minnesota Statutes §14.60 and Rule 22 shall govern the receipt of evidence at the hearing.

RULE 43. Panel Decision

After the conclusion of the hearing, the contract compliance panel shall determine whether the respondent contractor is or is not in compliance with the requirements of Chapter 139.50 and shall make specific findings of fact to support its conclusions. If the contract compliance panel concludes that the respondent contractor is not in compliance with the requirements of Chapter 139.50, the panel shall order the imposition of whatever sanctions authorized by Chapter 139.50 (a)(7) the panel deems just and proper.

CONSTRUCTION OF RULES

RULE 44. Construction

Rules 1 - 44 are to be liberally construed so as to provide for the just and efficient resolution of disputes arising out of the civil rights ordinances. Unless a provision of the rules conflicts with an express prohibition contained in a controlling statute, ordinance or court ruling, these rules shall be given the full force and effect of law at all hearings governed by them.