02-O -1580

AN ORDINANCE

BY COUNCILMEMBER NATALYN ARCHIBONG

AN ORDINANCE TO AMEND SECTION 94-10 et seq. OF THE CODE OF ORDINANCES KNOWN AS THE HUMAN RELATIONS COMMISSION ORDINANCE SO AS TO EFFECT CERTAIN OPERATIONAL AND PROCEDURAL CHANGES; AND FOR OTHER PURPOSES.

WHEREAS, ordinance 00-O-1983, adopted by the City Council on December 4, 2000, defined the role of the City's Human Relations Commission so as to provide for an effective vehicle for addressing illegal discrimination in public accommodations, private employment and housing in the City; and

WHEREAS, the role of the Human Relations Commission can be strengthened by including the Mayor, the City Council President and the City Council in the making of appointments to the Commission; and

WHEREAS, the operating procedures of the Human Relations Commission need to be further clarified to make the staffing support of the Commission consistent with other City commissions; and

WHEREAS, certain sections need to be amended to reflect the proper enforcement provisions for violations of City ordinances.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA HEREBY ORDAINS AS FOLLOWS:

<u>**Section 1**</u>. That Section 94-37 which presently reads as follows:

Sec. 94-37. Composition; appointments; terms.

The human relations commission shall consist of seven members, divided into three classes--Class A, Class B, and Class C. Class A shall contain three members, and Class B and Class C shall each contain two members. After the phase-in period, members shall hold office for a three-year term staggered so that the membership terms of only one class of members shall expire each year. The initial members shall be appointed and designated to a class by the president of the council no later than January 1, 2001. The term of office of the initial Class A members shall expire on January 1, 2002; the term of office of the initial Class B members shall expire on January 1, 2003; and the term of office of the initial Class C members shall expire on January 1, 2004. Beginning January 1, 2002, the president shall annually appoint new members for a full three-year term to succeed those members whose terms have expired. No person shall be

appointed to serve more than two consecutive three-year terms upon the commission. The membership of the commission shall be comprised without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, or gender identity.

shall be amended to read:

Sec. 94-37. Composition; appointment; terms.

The human relations commission shall consist of seven members, divided into three classes--Class A, Class B, and Class C. Class A shall contain three members, and Class B and Class C shall each contain two members. After the phase-in period, members shall hold office for a three-year term staggered so that the membership terms of only one class of members shall expire each year. The initial members shall be appointed and designated to a class by the president of the council no later than January 1, 2001. The term of office of the initial Class A members shall expire on January 1, 2002; the term of office of the initial Class B members shall expire on January 1, 2003; and the term of office of the initial Class C members shall expire on January 1, 2004. After January 1, 2002, at the expiration of the terms of the initial Class A members, one Class A member shall be appointed by the President of Council, one shall be appointed by the Mayor and one shall be appointed by the at-large Councilmember in Post 1 in coordination with the Councilmembers for Districts 1 through 4. At the expiration of the terms of the initial two Class B members, one Class B member shall be appointed by the Mayor and one shall be appointed by the at-large Councilmember in Post 2 in coordination with the Councilmembers for Districts 5 through 8. At the expiration of the terms of the initial two Class C members, one Class C member shall be appointed by the President of Council and one shall be appointed by the at-large Councilmember in Post 3 in coordination with the Councilmembers for Districts 9 through 12. No person shall be appointed for more than two consecutive three year terms. The membership of the commission shall reflect, as nearly as practicable, the diversity of individuals protected under this ordinance and shall be comprised without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, or gender identity. The human relation commission will cease to exist on January 1, 2006, subject to the council's authority to continue its existence.

Section 2. That Section 94-39 which presently reads as follows:

Sec. 94-39. Compensation.

All members of the human relations commission shall be non-salaried.

shall be amended to read:

Sec. 94-39. Compensation.

All members of the human relations commission shall be non-salaried. The human relations commission is authorized to seek and procure pro bono assistance for its investigations from appropriate community and business organizations.

Section 3. That Section 94-40 which presently reads as follows:

Sec. 94-40. Meeting; conduct of business.

(a) The human relations commission shall hold meetings once every six months and as necessary to accomplish the timely resolution of pending complaints.

(b) The commission shall conduct business in the manner generally provided by the Charter, and shall have the power to enact its own regulations to the extent such regulations are not inconsistent with this term of the Charter and this chapter.

(c) The presence in person, telephonically, or by proxy of a majority of active commission members shall constitute a quorum at commission meetings.

shall be amended to read:

Sec. 94-40. Meetings; conduct of business.

(a) The human relations commission shall hold meetings once every six months and as necessary to accomplish the timely resolution of pending complaints.

(b) The commission shall conduct business in the manner generally provided by the Charter, and shall have the power to enact its own regulations to the extent such regulations are not inconsistent with this term of the Charter and this chapter.

(c) The City's law department shall provide legal assistance at the request of the human relations commission.

(d) The presence in person, telephonically, or by proxy of a majority of active commission members shall constitute a quorum at commission meetings.

(e) The Director of the Mayor's Office of Constituent Services shall assign a constituent services specialist to serve as an administrative assistant to the human relations commission in the conduct of its business.

Section 4. That Section 94-41 which presently reads as follows:

Sec. 94-41. Functions.

The human relations commission shall perform the following functions:

(1) Receiving, investigating and pass upon complaints alleging violations of article(s) III (Public accommodation), IV (Fair housing), and V (Private employment) of this chapter. The procedures for handling such complaints are set forth in article VI, section 94-121 of this chapter.

(2) Upon its own motion, testing, investigating, making and filing complaints alleging violations of the human relations code.

(3) Making studies, conducting research and preparing recommendations as to needed ordinances and resolutions.

(4) Developing human relations plans and policies for the city and assisting in their execution and making investigations and studies appropriate to effectuate this article and to issue such publications and such results of investigations and research as in its judgment will tend to inform persons of the rights assured and remedies provided under this article, to promote goodwill and minimize or eliminate discrimination because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, or disability.

(5) Inquiring into incidents of the conditions which may lead to tension and conflict among racial, religious and nationality groups and to take such action within the authority granted by law to this office, as may be designed to alleviate such conditions, tension and conflict.

(6) Calling conferences of persons in the industries of housing, public accommodations, and employment to acquaint them with the requirements of articles I through VI of this chapter, and to endeavor with their advice to develop programs of voluntary compliance and enforcement.

(7) Furnishing any person with such technical assistance as the commission deems appropriate, and requiring the production for examination of any documents or items relating to any matter under investigation or in question before the commission.

(8) Receiving, investigating and passing upon complaints alleging instances of racial profiling.

shall be amended to read:

Sec. 94-41. Functions.

The human relations commission shall perform the following functions:

(1) Receiving, investigating and ~~passing upon~~ making recommendations to the Mayor and to appropriate City agencies for the resolution of complaints alleging violations of article(s)

III (Public accommodation), IV (Fair housing), and V (Private employment) of this chapter and within thirty days to secure a response. The procedures for handling such complaints are set forth in article VI, section 94-121 of this chapter.

(2) Upon its own motion, testing, investigating, making and filing complaints alleging violations of the human relations code.

(3) Making studies, conducting research and preparing recommendations as to needed ordinances and resolutions.

(4) Developing human relations plans and policies for the city and assisting in their execution and making investigations and studies appropriate to effectuate this article and to issue such publications and such results of investigations and research as in its judgment will tend to inform persons of the rights assured and remedies provided under this article, to promote goodwill and minimize or eliminate discrimination because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, or disability.

(5) Inquiring into incidents of the conditions which may lead to tension and conflict among racial, religious and nationality groups and to take such action within the authority granted by law to this office, as may be designed to alleviate such conditions, tension and conflict.

(6) Calling conferences of persons in the industries of housing, public accommodations, and employment to acquaint them with the requirements of articles I through VI of this chapter, and to endeavor with their advice to develop programs of voluntary compliance and enforcement.

(7) Furnishing any person with such technical assistance as the commission deems appropriate, and requiring the production for examination of any documents or items relating to any matter under investigation or in question before the commission.

(8) Receiving, investigating and ~~passing upon~~ making recommendations to the Mayor and to the appropriate City agencies for the resolution of complaints alleging instances of racial profiling and within thirty days to secure a response.

Section 5. That Section 94-67 which presently reads as follows:

Sec. 94-67. Policy.

(a) This article is an exercise of the police power of the city for the protection of the public welfare, health, peace and safety of the residents of the city. The council hereby finds and declares that the practice of discrimination against any person on the basis of race, color, creed, religion, sex, domestic relationship status, parental status, sexual orientation, national origin, gender identity, age, disability, or the use of a trained dog guide by a blind, deaf or otherwise physically disabled person in places of public accommodation

constitute matters of local concern and are contrary to the public welfare, health, peace and safety of the residents of the city. The human relations commission established in article II of this chapter is vested with authority to enforce the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

(b) No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibit and advertises or bills such contest or exhibition as a Georgia state championship contest or uses the words "Georgia state" in its announcements shall be deemed a private exhibition within the meaning of this section.

shall be amended to read:

Sec. 94-67. Policy.

(a) This article vesting authority in the Human Relations Commission to investigate and make recommendations to the Mayor and to the appropriate City agency is an exercise of the police power of the city for the protection of the public welfare, health, peace and safety of the residents of the city. The council hereby finds and declares that the practice of discrimination against any person on the basis of race, color, creed, religion, sex, domestic relationship status, parental status, sexual orientation, national origin, gender identity, age, disability, or the use of a trained dog guide by a blind, deaf or otherwise physically disabled person in places of public accommodation constitutes matters of local concern and are contrary to the public welfare, health, peace and safety of the residents of the city. The human relations commission established in article II of this chapter is vested with authority to ~~enforce~~ investigate and make recommendations to the Mayor and appropriate City agency and to secure a response within thirty days pursuant to the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

(b) No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibit and advertises or bills such contest or exhibition as a Georgia state championship contest or uses the words "Georgia state" in its announcements shall be deemed a private exhibition within the meaning of this section.

Section 6. That Section 94-92 which presently reads as follows:

Sec. 94-92. Policy.

The council declares that it is the policy of the city, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to provide, within constitutional limitations, for fair housing throughout the city, free from restrictions and prejudice based upon race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national

origin, gender identity, age, and disability. The human relations commission established in article II of this chapter is vested with authority to enforce the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

shall be amended to read:

Sec. 94-92. Policy.

The council declares that it is the policy of the city, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to provide, within constitutional limitations, for fair housing throughout the city, free from restrictions and prejudice based upon race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, and disability. The human relations commission established in article II of this chapter is vested with authority to ~~enforce~~ investigate allegations of discrimination in housing and to make recommendations to the Mayor and city's housing agencies and to secure a response within thirty days pursuant to the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

Section 7. That Section 94-98 which presently reads as follows:

Sec. 94-98. Educational, conciliatory activities.

The commissioner shall commence such educational and conciliatory activities as in the commissioner's judgment will further the purposes of this article. The commissioner shall call conferences of persons in the housing industry and other interested parties to acquaint them with this article and the commissioner suggested means of implementing this article, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. The commissioner shall consult with state and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in this city and whether and how enforcement programs might be utilized to combat such discrimination. In connection therewith, the commissioner shall issue reports on such conferences and consultations as the commissioner deems appropriate.

shall be amended to read:

The ~~commissioner~~ human relations commission shall commence such educational and conciliatory activities as in the ~~commissioner's~~ commission's judgment will further the purposes of this article. The ~~commissioner~~ human relations commission shall call conferences of persons in the housing industry and other interested parties to acquaint them with this article and the ~~commissioner~~ human relations commission's suggested means of implementing this article, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. The ~~commissioner~~ human relations commission shall consult with state and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in this city and whether and how enforcement programs might be utilized to combat such

discrimination. In connection therewith, the ~~commissioner~~ human relations commission shall issue reports on such conferences and consultations as the ~~commissioner~~ human relations commission deems appropriate.

Section 8. That Section 94-110 which presently reads as follows:

Sec. 94-110. Policy.

The council declares that it is the policy of the city, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal employment opportunity to all persons, free from restrictions and prejudice based upon race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, and disability. The human relations commission established in article II of this chapter is vested with authority to enforce the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

shall be amended to read:

Sec. 94-110. Policy.

The council declares that it is the policy of the city, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal employment opportunity to all persons, free from restrictions and prejudice based upon race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, and disability. The human relations commission established in article II of this chapter is vested with authority to ~~enforce~~ investigate alleged incidents of discrimination and make recommendations to the Mayor and appropriate City agency and to secure a response within thirty days pursuant to the provisions of this article in furtherance of this policy and in accordance with the procedures set forth in article VI of this chapter.

Section 9. That Section 94-120 which presently reads as follows:

Sec. 94-120. Civil actions by aggrieved persons.

(a) An aggrieved person may commence a civil action in any court of competent jurisdiction not later than two years after the occurrence of the alleged act of discrimination or unlawful practice. The Atlanta Municipal Court shall not be considered a court of competent jurisdiction.

(b) An aggrieved person filing a civil action in a court of competent jurisdiction shall have the right to seek injunctive relief, actual and compensatory damages, and punitive damages, as well as attorney's fees and costs. Punitive damages may be awarded under this article only when the evidence shows that the respondent's actions showed willful misconduct, malice, fraud, wantonness, oppression, or that

entire want of care which would raise the presumption of conscious indifference to consequences or to the rights of the aggrieved person.

(c) In an action brought under this section, the court having jurisdiction may, upon written findings by the judge that the action was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including attorneys fees, incurred in opposing such action.

(d) An action may be filed under this section whether or not a complaint has been filed with the human rights commission under section 92-121 of this article, and without regard to the status of such complaint, but if the commission has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of the aggrieved party, no action may be filed under this section with respect to the alleged unlawful or discriminatory practice which forms the basis for such complaint except for the purpose of enforcing the terms of the agreement.

(e) Nothing in this chapter shall be construed to invalidate or restrict or deny any right or remedy any person may have under state or federal law or preclude any cause of action in court otherwise provided for the violation of any person's civil rights.

(f) The period of limitations set forth in this section shall be tolled pending the resolution of any complaint filed with the commission under section 94-121.

shall be amended to read:

Sec. 94-120 Prosecution of ordinance violations in Atlanta Municipal Court.

(a) In addition to or in lieu of filing a complaint with the human relations commission, an aggrieved person may seek prosecution of alleged violations of the human relations ordinance in Atlanta Municipal Court as in other cases of alleged ordinance violations pursuant to Section 62-26 of the Code of Ordinances.

(b) In the event that the human relations commission has obtained a settlement or conciliation agreement with the consent of the aggrieved party, the basis for an ordinance violation is limited to the enforcement of the terms of the agreement or settlement.

(c) Nothing in this chapter shall be construed to invalidate or restrict or deny any right or remedy any person may have under state or federal law or preclude any cause of action in court otherwise provided for the violation of any person's civil rights.

Section 10. That Section 94-121 which presently reads as follows:

Sec. 94-121. Filing of complaints with the human relations commission.

(a) *Person aggrieved.* In lieu of or in addition to filing a civil action pursuant to section 94-120, any person claiming to be aggrieved by an unlawful discriminatory practice may, by such person or such person's attorney at law, make, sign and file with the municipal clerk a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

(b) *Who may file complaint.*

(1) Any person or organization claiming to be aggrieved by an alleged unlawful discriminatory practice may, in person or by an attorney, make, sign and file a complaint. If a complainant lacks mental capacity, the complaint may be filed on the complainant's behalf by a person with a substantial interest in the welfare of the complainant.

(2) Any employer whose employees or some of them refuse or threaten to refuse to cooperate with this article may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) *Form of complaint.* The complaint shall be in writing either on a form promulgated by the commission or on any paper suitable for a complaint. The original shall be signed and verified before a notary public or other person duly authorized by law to take acknowledgments. Nunc pro tunc verifications of a complaint or an answer thereto may be made at any time that the absence of a signed verification is noted.

(d) *Contents.* A complaint shall contain the following:

(1) The full name and address of the person making the complaint (referred to as the complainant).

(2) The full name and address of each respondent against whom the complaint is made.

(3) The alleged unlawful discriminatory practice and a statement of the particulars thereof. A respondent may reply in writing to the complainant, after the service of a notice of hearing, for a more definite or detailed statement, and such application shall state, with specificity, the instances in which the complaint is insufficiently definite and detailed. If the complainant or complainant's attorney believes that the complaint is not sufficiently definite or detailed, complainant or the complainant's attorney

shall provide such a statement. Otherwise the application shall be referred to the chair after the hearing has commenced, who shall issue such directions, if any, as may be appropriate.

(4) The date of the alleged unlawful discriminatory practice and, if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which the continuing acts of discrimination are alleged to have occurred.

(5) A statement as to any other action, civil or criminal, instituted in any other forum and as to any pending administrative proceeding based on the same grievance as is alleged in the complaint, together with a statement as to status or disposition of such other action.

(e) *Place of filing.* A complaint shall be filed with the municipal clerk or other place designated by the commission.

(f) *Time of filing.* A complaint must be filed within 180 days from the date of the occurrence of the alleged unlawful discriminatory practice. If the alleged unlawful discriminatory practice is of a continuing nature, the date of its occurrence shall be deemed to be any date subsequent to its inception, up to and including the date of its cessation.

(g) *Manner of filing.* The complaint may be filed by personal delivery, ordinary mail, registered mail or certified mail, addressed to the office of the municipal clerk.

(h) *Service.* A copy of the complaint shall be promptly served by the complainant on the respondents and all persons the commission deems to be necessary parties, on its own motion or on application of a respondent. A copy of all amendments to the complaint shall be served by the commission on all parties to the proceeding, except such amendments to the complaint as are made to more correctly identify a respondent or necessary party previously served. A copy of any complaint filed against any respondent who has previously entered into a conciliation agreement or as to whom findings of the commission have been rendered shall be delivered to the mayor, president and members of the council, the head of every department of city government and the license review board.

(i) *Investigation and recommendation.*

(1) Within 30 days after receiving a complaint, the municipal clerk, the clerk's designee, or other designee of the commission shall conduct an initial investigation and report the findings to the commission. Such investigation may be made by field visit, written or oral inquiry, conference, or any other method or combination thereof deemed suitable in the discretion of the municipal clerk or other designee. The commission shall receive the

report and attempt to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion.

(2) In conducting an investigation the municipal clerk or other designee as well as the commission shall have access at all reasonable times to records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation.

(j) *Conciliation.*

(1) The terms of a conciliation agreement shall include provisions requiring the respondent to refrain from the commission of unlawful discriminatory practices in the future and may be agreed upon by the members of the commission and the respondent.

(2) The commission shall not disclose what has transpired in the course of its endeavors at conciliation and persuasion, except to the parties and their representatives. However, when executed, the final terms of a conciliation agreement may be disclosed.

(k) *Successful conciliation.*

(1) If the respondent agrees to the terms of conciliation, the chair shall prepare a proposed conciliation agreement and serve it upon the complainant.

(2) If the complainant agrees to the terms of the agreement or fails to object to such terms within 15 days after its service, the commission may formally enter into the proposed conciliation agreement by issuing its findings embodying such conciliation agreement. The commission shall serve a copy of such findings order upon all parties to the proceeding.

(l) *Consideration of complainant's objections.*

(1) An objection by a complainant to a proposed conciliation agreement must be written and shall be delivered or mailed within 15 days of the service of the proposed agreement. If the agreement is served by mail, service shall be accomplished by registered mail or certified mail. The objections shall be specific and in detail.

(2) Unless such objections are met or withdrawn within ten days after service thereof, the commission shall notice the complaint for hearing.

(3) However, the commission, when it finds the terms of a conciliation agreement to be in the public interest, may execute such agreement if the respondent is

still willing to execute it by issuing its findings. The commission may either dismiss the objections as being without substance or may hold a hearing limited to the objections of the complainant, unless the respondent demands a hearing on the merits of the charges of unlawful discriminatory practice by serving an answer including such a demand.

(m) *Notice of hearing and answer.* A notice of hearing with the complaint shall be served upon the respondent and the procedures for filing an answer shall be as follows:

(1) Time of filing answer. At least three business days prior to the hearing, the respondent shall file a written answer to the complaint, sworn to and subject to the penalties of perjury.

(2) Place and manner of filing answer. The answer must be filed with the commission in triplicate in the office of the chair of the commission and a copy served upon each attorney of record and upon each party not represented by an attorney.

(3) Form of answer. The answer shall be in writing, the original being signed and sworn to subject to the penalties of perjury. The answer shall contain the party's address, telephone number and, if made by an attorney, the name, address and telephone number of the attorney. The answer shall contain a separate and specific response to each and every particular of the complaint or a denial of any knowledge or information thereof sufficient to form a belief. Any allegation in the complaint which is not denied shall be deemed admitted.

(4) Failure to answer. If the respondent fails to answer the complaint, the hearing shall proceed on the evidence in support of the complaint.

(n) *Procedure of hearings.*

(1) The chair shall not be bound by the strict rules of evidence prevailing in courts of law or equity. All relevant evidence shall be admitted, unless privileged or excessively cumulative.

(2) The chair shall have full authority to control the procedure of the hearing, subject to this article, and to rule upon motions and objections.

(i) In conducting an investigation under this article, the chair shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation, provided that the chair first complies with the

provisions of the fourth amendment to the Constitution of the United States relating to unreasonable searches and seizures. The chair may issue subpoenas to compel access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the superior court. The chair or the chair's designee may administer oaths.

(ii) Upon written application to the chair, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chair to the same extent and subject to the same limitations as subpoenas issued by the chair. Any subpoenas issued at the request of a respondent shall show on its face the name and address of such respondent and shall state that it was issued at the respondent's request.

(iii) Witnesses summoned by subpoena of the commissioner shall be entitled to the same witness and mileage fees as are witnesses in proceedings in superior courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

(iv) Within five days after service of a subpoena upon any person, such person may petition the chair to revoke or modify the subpoena. The chair shall grant the petition if the chair finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not related to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(v) In the event that a person refuses to obey a subpoena, the chair or other person at whose request it was issued may petition for its enforcement in the Atlanta Municipal Court.

(vi) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if it is in such person's power to do so, in obedience to the subpoena or lawful order of the chair shall be guilty of a violation which is punishable as provided in section 1-8. Any person who, with intent thereby to mislead the chair or the chair's designee, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chair pursuant to the chair's subpoena or other order, or who shall willfully neglect or fail to make or cause to be made fill, true, and correct entries in any such report, account, record or other document or who shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be guilty of a violation

which is punishable as provided in section 1-8, except that any fine assessed thereunder shall not exceed $500.00. Any person or entity who willfully resists, prevents, impedes or interferes with the chair, the commission, or its designee in the performance of their duties under this chapter shall be guilty of a violation which is punishable as provided in section 1-8.

(3) All oral testimony shall be given under oath or affirmation, and a record of the proceeding shall be made and kept.

(4) Attempts at conciliation shall not be received in evidence.

(5) Evidence shall not be received in camera. However, where desirable, the chair, in consultation with counsel, may provide for the use of devices such as deletion of names and coding in order to protect personal privacy or information, including trade secrets.

(6) No person shall communicate with the chair subsequent to the commencement of a hearing on any matter relating to the case, other than a status inquiry, unless a copy of such communication is sent to all parties to the proceeding.

(o) *Findings after hearing.*

(1) Form and content. Findings shall be issued after hearing and shall set forth the findings of fact of the commission, the determination and, in the discretion of the chair, an opinion containing the reasons for the decision.

(2) Service. Copies of findings signed by the chair shall be sent to the complainant, to the respondent by certified mail and all other parties, with copies also sent to the mayor, municipal clerk, president and members of the council and the head of every department of city government. A copy of the findings shall be delivered to the department of police in order for the department to obtain compliance with sections 10-57(6) and 10-109(a)(13) of this Code.

(3) Conduct after findings. After making findings of discrimination in violation of articles III, IV, V or VI of this chapter, it shall be unlawful for any city employee or official to expend city funds with the violating person or entity, except as necessary to satisfy obligations inherent under existing contracts. In addition, the commission may take one or more of the following remedial actions:

(a) Issuing an order of enforcement as appropriate and necessary;

(b) Ordering payment of expenses, including reasonable attorneys fees, associated with the bringing of a complaint under this section;

(c) Ordering revocation, suspension or denial of the respondent's municipal licenses, including but not limited to any license to sell alcoholic beverages, professional license, or other business license. If such remedy is ordered, the commission shall forward prompt notice of the order to the appropriate municipal licensing authority or authorities, which shall immediately revoke the license(s). The violating party shall have the right to periodically petition the commission for a review, and upon clear and convincing evidence that the discriminatory conduct has been halted, the commission shall order the previously revoked license(s) reinstated, and provide prompt notice of such reinstatement order to the appropriate licensing authority or authorities, which shall promptly reinstate the license.

(p) *Compliance investigation.*

(1) Investigation. Not later than one year from the date of a conciliation agreement, findings after hearing or after stipulation and at any other times in its discretion, the commission shall investigate whether the respondent is complying with the terms of such agreement or recommendations.

(2) Action. Upon a finding of noncompliance, the commission shall take appropriate action to ensure compliance. The commission shall notify the license review board of the respondents' noncompliance.

(q) Appeal. Any party to a proceeding of the commission may file an appeal by writ of certiorari as provided by law.

shall be amended to read:

Sec. 94-121. Filing of complaints with the human relations commission.

(a) *Person aggrieved.* ~~In lieu of or in addition to filing a civil action pursuant to section 94-120~~. Any person claiming to be aggrieved by an unlawful discriminatory practice may, by such person or such person's attorney at law, make, sign and file with ~~the municipal clerk~~ the Director of the Mayor's Office of Constituent Services a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

(b) *Who may file complaint.*

~~(1)~~ Any person or organization claiming to be aggrieved by an alleged unlawful discriminatory practice which allegedly occurred in the City of Atlanta may, or by an attorney, make, sign and file a complaint. If a complainant lacks mental

capacity, the complaint may be filed on the complainant's behalf by a person with a substantial interest in the welfare of the complainant.

~~(2) Any employer whose employees or some of them refuse or threaten to refuse to cooperate with this article may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.~~

(c) *Form of complaint.* The complaint shall be in writing either on a form promulgated by the commission or on any paper suitable for a complaint. The original shall be signed and verified before a notary public or other person duly authorized by law to take acknowledgments. Nunc pro tunc verifications of a complaint or an answer thereto may be made at any time that the absence of a signed verification is noted.

(d) *Contents.* A complaint shall contain the following:

(1) The full name and address of the person making the complaint (referred to as the complainant).

(2) The full name and address of each respondent against whom the complaint is made.

(3) The alleged unlawful discriminatory practice and a statement of the particulars thereof. A respondent may reply in writing to the complainant, after the service of a notice of hearing, for a more definite or detailed statement, and such application shall state, with specificity, the instances in which the complaint is insufficiently definite and detailed. If the complainant or complainant's attorney believes that the complaint is not sufficiently definite or detailed, complainant or the complainant's attorney shall provide such a statement. Otherwise the application shall be referred to the chair after the hearing has commenced, who shall issue such directions, if any, as may be appropriate.

(4) The date of the alleged unlawful discriminatory practice and, if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which the continuing acts of discrimination are alleged to have occurred.

(5) A statement as to any other action, civil or criminal, instituted in any other forum and as to any pending administrative proceeding based on the same grievance as is alleged in the complaint, together with a statement as to status or disposition of such other action.

(e) *Time of filing.* A complaint must be filed within 180 days from the date of the occurrence of the alleged unlawful discriminatory practice. If the alleged unlawful discriminatory practice is of a continuing nature, the date

of its occurrence shall be deemed to be any date subsequent to its inception, up to and including the date of its cessation.

(f) *Manner of filing.* The complaint may be filed by personal delivery, ordinary mail, registered mail or certified mail, addressed to the office of the ~~municipal clerk~~. Director of the Mayor's Office of Constituent Service

(g) *Service.* A copy of the complaint shall be promptly served by the complainant on the respondents and all persons the commission deems to be necessary parties, on its own motion or on application of a respondent. A copy of all amendments to the complaint shall be served by the commission on all parties to the proceeding, except such amendments to the complaint as are made to more correctly identify a respondent or necessary party previously served. A copy of any complaint filed against any respondent who has previously entered into a conciliation agreement or as to whom findings of the commission have been rendered shall be delivered to the mayor, president ~~and members of the council, the head of every department of city government and the license review board~~ and the head of the City department having jurisdiction over the subject matter of the controversy.

(h) *Investigation and* recommendation.

(1) Within 30 days after receiving a complaint, ~~the municipal clerk, the clerk's designee~~, the Director of the Mayor's Office of Constituent Services shall conduct an initial investigation and report the findings to the commission. Such investigation may be made by field visit, written or oral inquiry, conference, or any other method or combination thereof deemed suitable in the discretion of the ~~municipal clerk~~ Director of the Mayor's Office of Constituent Services or other designee. The commission shall receive the report and attempt to eliminate any unlawful discriminatory practice complained of by further investigation, conference, conciliation and/or persuasion. In the event that the Director of the Mayor's Office of Constituent Services finds no basis for continuing an investigation, he or she shall report this finding to the commission which may either dismiss or continue the investigation.

(2) In conducting an investigation the ~~municipal clerk~~ director of the Mayor's Office of Constituent Services or other designee as well as the commission shall have access at all reasonable times to records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation.

(i) *Conciliation.*

~~(1)~~ The terms of a conciliation agreement ~~shall~~ may include provisions requiring the respondent to refrain from the commission of unlawful discriminatory practices in the future and may be agreed upon by the members of the commission and the respondent.

~~(2) The commission shall not disclose what has transpired in the course of its endeavors at conciliation and persuasion, except to the parties and their representatives. However, when executed, the final terms of a conciliation agreement may be disclosed.~~

(k) Successful conciliation.

(1) If the respondent agrees to the terms of conciliation, the chair shall prepare a proposed conciliation agreement and serve it upon the complainant.

(2) If the complainant agrees to the terms of the agreement or fails to object to such terms within 15 days after its service, the commission may formally enter into the proposed conciliation agreement by issuing its findings embodying such conciliation agreement. The commission shall serve a copy of such findings order upon all parties to the proceeding.

(l) Consideration of complainant's objections.

(1) An objection by a complainant to a proposed conciliation agreement must be written and shall be delivered or mailed within 15 days of the service of the proposed agreement. If the agreement is served by mail, service shall be accomplished by registered mail or certified mail. The objections shall be specific and in detail.

(2) Unless such objections are met or withdrawn within ten days after service thereof, the commission shall notice the complaint for hearing.

(3) However, the commission, when it finds the terms of a conciliation agreement to be in the public interest, may execute such agreement if the respondent is still willing to execute it by issuing its findings. The commission may either dismiss the objections as being without substance or may hold a hearing limited to the objections of the complainant, unless the respondent demands a hearing on the merits of the charges of unlawful discriminatory practice by serving an answer including such a demand.

(m) *Notice of hearing and answer.* A notice of hearing with the complaint shall be served upon the respondent and the procedures for filing an answer shall be as follows:

(1) Time of filing answer. At least three business days prior to the hearing, the respondent ~~shall~~ may file a written answer to the complaint, sworn to and subject to the penalties of perjury.

(2) Place and manner of filing answer. The answer must be filed with the commission ~~in triplicate~~ in the office of the ~~chair of the commission~~ Director of the Mayor's Office of Constituent Services and a copy served upon each attorney of record and upon each party not represented by an attorney.

(3) Form of answer. The answer shall be in writing, the original being signed and sworn to subject to the penalties of perjury. The answer shall contain the party's address, telephone number and, if made by an attorney, the name, address and telephone number of the attorney. The answer shall contain a separate and specific response to each and every particular of the complaint or a denial of any knowledge or information thereof sufficient to form a belief. Any allegation in the complaint which is not denied shall be deemed admitted.

(4) Failure to answer. If the respondent fails to answer the complaint, the hearing shall proceed on the evidence in support of the complaint.

(n) *Procedure of hearings.*

(1) The chair shall not be bound by the strict rules of evidence prevailing in courts of law or equity. All relevant evidence shall be admitted, unless privileged or excessively cumulative.

(2) The chair shall have full authority to control the procedure of the hearing, subject to this article, and to rule upon motions and objections.

(i) In conducting an investigation under this article, the chair shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation, provided that the chair first complies with the provisions of the fourth amendment to the Constitution of the United States relating to unreasonable searches and seizures. The chair may ~~issue subpoenas~~ request that the committee on council exercise its subpoena power on behalf of the commission to compel access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent ~~to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the superior court~~. The chair or the chair's designee may administer oaths.

(ii) Upon written application to the chair, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chair to the same extent and subject to the same limitations as subpoenas issued by the chair. Any subpoenas issued at the request of a respondent shall show on its face the name and address of such respondent and shall state that it was issued at the respondent's request.

(iii) ~~Witnesses summoned by subpoena of the commissioner shall be entitled to the same witness and mileage fees as are witnesses in proceedings in superior courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.~~

(iv) Within five days after service of a subpoena upon any person, such person may petition the chair to revoke or modify the subpoena. The chair shall grant the petition if the chair finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not related to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(v) In the event that a person refuses to obey a subpoena, the chair or other person at whose request it was issued may request that the committee on council petition for its enforcement in the Atlanta Municipal Court.

~~(vi)~~ ~~Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if it is in such person's power to do so, in obedience to the subpoena or lawful order of the chair shall be guilty of a violation which is punishable as provided in section 1-8. Any person who, with intent thereby to mislead the chair or the chair's designee, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chair pursuant to the chair's subpoena or other order, or who shall willfully neglect or fail to make or cause to be made fill, true, and correct entries in any such report, account, record or other document or who shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be guilty of a violation which is punishable as provided in section 1-8, except that any fine assessed thereunder shall not exceed $500.00. Any person or entity who willfully resists, prevents, impedes or interferes with the chair, the commission, or its designee in the performance of their duties under this chapter shall be guilty of a violation which is punishable as provided in section 1-8.~~

(3) All oral testimony shall be given under oath or affirmation, and a record of the proceeding shall be made and kept.

(4) Attempts at conciliation shall not be received in evidence.

(5) Evidence shall not be received in camera. However, where desirable, the chair, in consultation with counsel, may provide for the use of devices such as deletion of names and coding in order to protect personal privacy or information, including trade secrets.

(6) No person shall communicate with the chair subsequent to the commencement of a hearing on any matter relating to the case, other than a status inquiry, unless a copy of such communication is sent to all parties to the proceeding.

(o) *Findings after hearing.*

(1) Form and content. Findings shall be issued after hearing and shall set forth the findings of fact of the commission, the determination and, in the discretion of the chair, an opinion containing the reasons for the decision.

(2) Service. Copies of findings signed by the chair shall be sent to the complainant, to the respondent by certified mail and all other parties, with copies also sent to the mayor, ~~municipal clerk~~, president and ~~members of the council~~ and the head of ~~every~~ the appropriate department of city government. ~~A copy of the findings shall be delivered to the department of police in order for the department to obtain compliance with sections 10-57(6) and 10-109(a)(13) of this Code~~.

~~(3) Conduct after findings. After making findings of discrimination in violation of articles III, IV, V or VI of this chapter, it shall be unlawful for any city employee or official to expend city funds with the violating person or entity, except as necessary to satisfy obligations inherent under existing contracts. In addition, the commission may take one or more of the following remedial actions:~~

(3) The Mayor and the appropriate department of City government shall have thirty days in which to respond to the Commission's findings. The Mayor may respond to a finding of discrimination by taking any of the following actions or a combination thereof, or other actions as deemed appropriate:

~~(a) Issuing an order of enforcement as appropriate and necessary;~~

~~(b) Ordering payment of expenses, including reasonable attorneys fees, associated with the bringing of a complaint under this section;~~

~~(c) Ordering revocation, suspension or denial of the respondent's municipal licenses, including but not limited to any license to sell alcoholic beverages, professional license, or other business license. If such remedy is ordered, the commission shall~~

~~forward prompt notice of the order to the appropriate municipal licensing authority or authorities, which shall immediately revoke the license(s). The violating party shall have the right to periodically petition the commission for a review, and upon clear and convincing evidence that the discriminatory conduct has been halted, the commission shall order the previously revoked license(s) reinstated, and provide prompt notice of such reinstatement order to the appropriate licensing authority or authorities, which shall promptly reinstate the license.~~

(a) In the event of a finding of discrimination in either public accommodations, housing or employment, a letter may be sent asking the alleged offender desist from the actions complained of.

(b) In the event of a finding of discrimination in public accommodations where the alleged offender holds a license to sell alcoholic beverages, the Mayor may ask the Police Licenses and Permits Unit to conduct an investigation to determine whether due cause exists to recommend revocation of such license pursuant to Code of Ordinances Section 10-109.

(c) In the event of a finding of discrimination in either public accommodations, housing or employment where the alleged offender holds a professional or business license issued by the City or is doing business with the City pursuant to a contract, the Mayor may inquire whether due cause exists to revoke such license or contract.

(d) In the event of a finding of discrimination in either public accommodations, housing or employment, the Mayor may request that any City agency conduct an investigation into whether the alleged offender has complied with any other City ordinance which applies to the alleged discriminatory conduct.

(e) In the event of a finding of discrimination in either public accommodations, housing or employment, the Mayor may request that any appropriate community agency conduct an investigation into whether the alleged offender has complied with any state or federal law which applies to the alleged discriminatory conduct. The Director of the Mayor's Office of Constituent Services shall maintain current information pertaining to public accommodation, housing and employment resources in the metropolitan Atlanta area so that a timely response may be made by the Mayor to the Commission's finding of discrimination.

(p) *Compliance investigation.*

(1) Investigation. Not later than one year from the date of a conciliation agreement, findings after hearing or after stipulation and at any other times in its discretion, the commission shall investigate whether the respondent is complying with the terms of such agreement or recommendations.

~~(2)~~ ~~Action. Upon a finding of noncompliance, the commission shall take appropriate action to ensure compliance. The commission shall notify the license review board of the respondents' noncompliance.~~

~~(q) Appeal. Any party to a proceeding of the commission may file an appeal by writ of certiorari as provided by law.~~