

Freedom From Discrimination

4C-1 Employment Discrimination

4C-2 Housing Discrimination

4C-1 ~~4-16~~ Employment Discrimination

- 4C-1-1 ~~4-16-1~~ Purpose
- 4C-1-2 ~~4-16-2~~ Administration
- 4C-1-3 ~~4-16-3~~ No Private Rights Of Action; No Special Rights
- 4C-1-4 ~~4-16-4~~ Severability
- 4C-1-5 ~~4-16-5~~ Definitions
- 4C-1-6 ~~4-16-6~~ Exemptions
- 4C-1-7 ~~4-16-7~~ Unlawful Employment Practices
- 4C-1-8 ~~4-16-8~~ Unlawful Intimidation, Retaliation, And Coercion
- 4C-1-9 ~~4-16-9~~ Procedures For Filing Complaints
- 4C-1-10 ~~4-16-10~~ Investigation
- 4C-1-11 ~~4-16-11~~ Conciliation
- 4C-1-12 ~~4-16-12~~ Disposition Of A Complaint
- 4C-1-13 ~~4-16-13~~ Offenses And Penalties

4C-1-1 ~~4-16-1~~ Purpose

Every individual in the City has the right to work and earn wages through gainful employment. Discriminatory employment practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social, and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses. ~~The Utah Antidiscrimination Act, Utah Code Section 34A-5-101 et seq., addresses employment related discrimination based on race; color; sex; pregnancy; childbirth, or pregnancy-related conditions; religion; national origin; age (if 40 years of age or older); and disability, but does not address discrimination based on sexual orientation or gender identity.~~

The City has found that discrimination in employment on the basis of sexual orientation and gender identity must be addressed. The denial or deprivation of employment rights because of an individual's sexual orientation or gender identity is detrimental to the health, safety and welfare of the City's citizens and damages the City's economic well-being. The purpose of this chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in employment in the City against individuals based upon sexual orientation or gender identity and this chapter shall be liberally construed to achieve that purpose.

Adopted by Ord. 10-13 on 4/15/2010

4C-1-2 ~~4-16-2~~ Administration

The City Manager is responsible for administering and implementing this Chapter.

Adopted by Ord. 10-13 on 4/15/2010

4C-1-3 ~~4-16-3~~ No Private Rights Of Action; No Special Rights

This ~~e~~Chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This ~~e~~Chapter does not create any special rights or privileges which would not be available to all of the City's citizens because every Person has a Sexual Orientation and a Gender Identify.

Comment [SK1]: Lynda:

Move to title Title 2, (or make it a policy since it is superseded and completely covered by Utah State Law.

Utah Code §34A-5-102.5. Supremacy over local regulations — No special class created for other purposes.

(1) Consistent with the requirements of Subsection 34A-5-107(15), this chapter supersedes and preempts any ordinance, regulation, standard, or other legal action by a local government entity, a state entity, or the governing body of a political subdivision that relates to the prohibition of discrimination in employment.

(2) This chapter shall not be construed to create a special or protected class for any purpose other than employment.

Comment [SK2]: Lynda:

1. . The Utah Code anti-discrimination section was amended in 2016 and addresses sexual orientation and gender identity.

34A-5-106. Discriminatory or prohibited employment practices — Permitted practices.

(1) It is a discriminatory or prohibited employment practice to take an action described in Subsections (1)(a) through (g).(a)(i) An employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of:

- (A) race;
- (B) color;
- (C) sex;
- (D) pregnancy, childbirth, or pregnancy-related conditions;
- (E) age, if the individual is 40 years of age or older;
- (F) religion;
- (G) national origin;
- (H) disability;
- (I) sexual orientation; or
- (J) gender identity.

Comment [SK3]: Lynda deleted

Comment [RW4]: This language was un-deleted and included in the Code. 9/27/17

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-4 ~~4-16-4~~ **Severability**

If any Section, sentence, paragraph, term, definition, or provision of this eChapter is for any reason determined to be illegal, invalid, superseded by other authority, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, definition, or provision of this eChapter, all of which will remain in full force and effect.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-5 ~~4-16-5~~ **Definitions**

In this eChapter:

- A. **ADMINISTRATOR** means the Person designated by the City Manager to receive, investigate, and conciliate complaints under this eChapter and includes the Administrator's designated representatives.
- B. **CITY** means the city of Park City, Utah.
- C. **CITY ATTORNEY** means the City's duly appointed City Attorney.
- D. **COMPLAINANT** means a Person, including the Administrator, who files a complaint under this eChapter.
- E. **CONCILIATION** means the attempted resolution of issues raised in a complaint filed under this eChapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.
- F. **CONCILIATION AGREEMENT** means a written agreement setting forth the resolution of issues by Conciliation under this eChapter.
- G. **DISCRIMINATION** means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a Person because of a person's actual or perceived Sexual Orientation or Gender Identity or because of a person's association with any such Person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any Person because of that person's Sexual Orientation or Gender Identity.
- H. **EMPLOYEE** means any individual applying with or employed by an Employer. The term does not include an elected official.
- I. **EMPLOYER** means any Person employing fifteen (15) or more employees in the City for each working day in each of the twenty (20) or more calendar weeks in the current or preceding calendar year, and includes any agent of such a Person.
- J. **EMPLOYMENT AGENCY** means any Person, and any agent of a Person, undertaking to procure employees or opportunities to work for any other Person in the City or holding itself out to be equipped to procure employees or opportunities to work for any other Person in the City.

- K. **GENDER IDENTITY** means a person's actual or perceived **G**ender **I**dentify, appearance, mannerisms, or other characteristics of an individual with or without regard to the person's sex at birth.
- L. **LABOR ORGANIZATION** means any organization that exists for the purpose in whole or in part of collective dealing with Employers concerning grievances, terms or conditions of employment; or other mutual aid or protection in connection with employment.
- M. **CITY MANAGER** means the duly appointed and qualified City Manager of Park City.
- N. **OTHERWISE QUALIFIED** means a **P**erson who possesses the following required by an **E**mployer for any particular job, job classification, or position:
1. **E**ducation;
 2. **T**rainning;
 3. **A**bility;
 4. **M**oral character;
 5. **I**ntegrity;
 6. **D**isposition to work;
 7. **A**dherence to reasonable rules and regulations; and
 8. **O**ther job related qualifications required by an **E**mployer.
- O. **PERSON** means one or more individuals, partnerships, associations, corporations, legal representatives, trust or trustees, receivers and the City.
- P. **RELIGIOUS ORGANIZATION** means a religious corporation, association, educational institution, society, trust or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association, society, trust or corporation sole.
- Q. **RESPONDENT** means a **P**erson identified in a complaint as having committed an **U**nlawful **P**ractice under this **e**Chapter.
- R. **SEXUAL ORIENTATION** means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.
- S. **UNLAWFUL PRACTICE** means a discriminatory act or practice relating to employment that is prohibited under this **e**Chapter.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-6 [4-16-6 Exemptions](#)

This **e**Chapter does not apply to:

- A. **A** religious organization;

- B. An expressive association whose employment of a Person protected by this eChapter would significantly burden the association's rights of expressive association under *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000);
- C. The United States government, any of its departments or agencies, or any corporation wholly owned by it; or the State of Utah or any of its departments, agencies, or political subdivisions except for the City.

Adopted by Ord. 10-13 on 4/15/2010

4C-1-7 4-16-7Unlawful Employment Practices

- A. EMPLOYERS. An Employer may not refuse to hire, promote, discharge, demote, or terminate any persons, and may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any Person otherwise qualified because of a person's Sexual Orientation or Gender Identify.
- B. EMPLOYMENT AGENCIES. An Employment Agency may not refuse to list and properly classify for employment, or refuse to refer a Person for employment, in a known available job for which the Person is Otherwise Qualified because of a person's Sexual Orientation or Gender Identify.
- C. LABOR ORGANIZATIONS. A Labor Organization may not exclude any Person Otherwise Qualified from full membership rights in the Labor Organization, expel the Person from membership in the Labor Organization, or otherwise discriminate against or harass any of the Labor Organization's members in full employment of work opportunity, or representation, because of a person's Sexual Orientation or gender identity.
- D. TRAINING PROGRAMS. An Employer, Labor Organization, joint apprenticeship committee, or vocational school, providing, coordinating, or controlling apprenticeship programs, or providing, coordinating, or controlling on-the-job-training programs, instruction, training, or retraining programs may not deny to, or withhold from, any qualified person, the right to be admitted to, or participate in any apprenticeship training program, on-the-job-training program, or other occupational instruction, training or retraining program because of a person's Sexual Orientation or Gender Identify.
- E. NOTICES AND ADVERTISEMENTS. Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for security reasons, an Employer, Employment Agency, or Labor Organization may not print, or circulate, or cause to be printed or circulated, any statement, advertisement, or publication, use any form of application for employment or membership, or make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly any limitation, specification, or Discrimination because of a person's Sexual Orientation or Gender Identify.

It is unlawful for a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or Discrimination based on Sexual Orientation or Gender Identify.

Nothing in this eChapter prohibits a notice or advertisement from indicating a preference, limitation, specification, or Discrimination based on Sexual Orientation or Gender Identity when Sexual Orientation or Gender Identity is a bona fide occupational qualification for employment.

- F. **NO PREFERENTIAL TREATMENT**. Nothing in this eChapter shall be interpreted to require any Employer, Employment Agency, Labor Organization, vocational school, joint labor-management committee, or apprenticeship program subject to this eChapter to grant preferential treatment to any person because of the person's Sexual Orientation or Gender Identity on account of an imbalance which may exist with respect to the total number or percentage of persons of any Sexual Orientation or Gender Identity employed by any Employer, referred or classified for employment by an Employment Agency or Labor Organization, admitted to membership or classified by any Labor Organization, or admitted to or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that Sexual Orientation or Gender Identity available in the City's available work force.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-8 4-16-8 Unlawful Intimidation, Retaliation, And Coercion

It is unlawful for any Person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another Person for opposing an Unlawful Practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this eChapter.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-9 4-16-9 Procedures For Filing Complaints

- A. Any Person who claims to have been injured by an unlawful employment practice subject to the City's jurisdiction under this Chapter may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a Person has committed an unlawful employment practice. A complaint must be filed within 180 calendar days after an alleged unlawful employment practice has occurred.
- B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:
1. The Complainant's name, address, and signature
 2. The date the alleged unlawful employment practice occurred;
 3. A statement of the facts upon which the allegation of an unlawful employment practice are based; and
 4. The respondent's name and address.
- C. Promptly after the filing of a complaint, the Administrator shall:
1. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful employment practice has been filed against the Respondent;
 2. Furnish a copy of the complaint to the Respondent; and

3. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice of the complaint.
- D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:
1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney if any; and
 2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-10 [4-16-10 Investigation](#)

- A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe the Respondent committed an unlawful employment practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this eChapter. Upon determining that a particular complaint does not come within the scope of this eChapter, the Administrator shall dismiss the complaint, notify the Complainant and Respondent and take no further action.
- B. In connection with any investigation of a complaint filed under this eChapter, the Administrator shall seek the voluntary cooperation of any Person to:
1. Obtain access to premises, records, documents, individuals, and any other possible source of information.
 2. Examine, record, and copy necessary materials; and
 3. Take and record testimony or statements of any Person reasonably necessary for the furtherance of the investigation.
- C. The Administrator may request the City Attorney to issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.
- D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:
1. The complaint was not filed within the required time period;
 2. The location of the alleged unlawful employment practice is not within the City's jurisdiction;
 3. The Employer does not employ a sufficient number of employees in the City to meet this eChapter's jurisdictional requirements;

4. The alleged unlawful employment practice is not a violation of this eChapter;
5. The Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed Conciliation Agreement;
6. The Complainant cannot be located after the Administrator has performed a reasonable search; or
7. A Conciliation Agreement has been executed by the Complainant and Respondent.

Adopted by Ord. 10-13 on 4/15/2010

4C-1-11 ~~4-16-11~~ Conciliation

- A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if the Respondent appears to have committed an unlawful employment practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful employment practices. A Conciliation Agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in employment practices; and the Respondent's agreement to not engage in discriminatory practices in the future.
- B. A Conciliation Agreement executed under this Section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant, subject to approval of the Administrator who shall indicate approval by signing the agreement.
- C. If a Respondent voluntarily enters into a Conciliation Agreement, the Administrator shall immediately dismiss the complaint.

Comment [SK5]: All conciliation agreements are voluntary

Adopted by Ord. 10-13 on 4/15/2010

4C-1-12 ~~4-16-12~~ Disposition Of A Complaint

- A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful employment practice has occurred and is unable to secure an acceptable Conciliation Agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.
- B. If the City Attorney determines that cause exists to find that an unlawful employment practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce this eChapter may be initiated in justice court. If the City Attorney determines that there is no cause that an unlawful employment practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-13 ~~4-16-13~~ **Offenses And Penalties**

A Person violates this eChapter if the Person engages in any action made unlawful by this eChapter. An offense committed under this eChapter by an Employer employing fifty (50) or fewer employees is punishable by a civil fine of not more than five hundred dollars (\$500.00). An offense committed under this eChapter by an individual employing fifty-one (51) or more employees or by an Employment Agency or Labor Organization is punishable by a civil fine of not more than one thousand dollars (\$1,000.00).

Adopted by Ord. [10-13](#) on 4/15/2010

4C-2 ~~4-17~~ **Housing Discrimination**

- 4C-2-1 ~~4-17-1~~ [Purpose](#)
- 4C-2-2 ~~4-17-2~~ [Administration](#)
- 4C-2-3 ~~4-17-3~~ [No Private Rights Of Action; No Special Rights](#)
- 4C-2-4 ~~4-17-4~~ [Severability](#)
- 4C-2-5 ~~4-17-5~~ [Definitions](#)
- 4C-2-6 ~~4-17-6~~ [Exemptions](#)
- 4C-2-7 ~~4-17-7~~ [Unlawful Housing Practices](#)
- 4C-2-8 ~~4-17-8~~ [Unlawful Intimidation, Retaliation, And Coercion](#)
- 4C-2-9 ~~4-17-9~~ [Procedures For Filing Complaints](#)
- 4C-2-10 ~~4-17-10~~ [Investigation](#)
- 4C-2-11 ~~4-17-11~~ [Conciliation](#)
- 4C-2-12 ~~4-17-12~~ [Disposition Of A Complaint](#)
- 4C-2-13 ~~4-17-13~~ [Offenses And Penalties](#)

4C-2-1 ~~4-17-1~~ **Purpose**

Every individual in the City has the right to seek housing. Discriminatory housing practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses.

~~The Utah Fair Housing Act, Utah Code Section, 57-21-1 et seq., addresses housing related discrimination based on race; color; religion; sex; national origin; familial status; source of income; and disability, but does not address discrimination based on sexual orientation or gender identity.~~

The City has found that discrimination in housing on the basis of sexual orientation and gender identity must be addressed. The denial or deprivation of access to housing because of an individual's sexual orientation or gender identity is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well-being. The purpose of this chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in housing in the City against individuals based upon sexual orientation or gender identity and this chapter shall be liberally construed to achieve that purpose.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-2 ~~4-17-2~~ **Administration**

The City Manager is responsible for administering and implementing this eChapter.

Adopted by Ord. [10-12](#) on 4/15/2010

Comment [SK6]: Lynda:
The Code was amended in 2016.
Utah Code §57-21-5. Discriminatory practices enumerated — Protected persons, classes enumerated.

(1) It is a discriminatory housing practice to do any of the following because of a person's race, color, religion, sex, national origin, familial status, source of income, disability, sexual orientation, or gender identity.

Comment [RW7]: This language was un-deleted and included in the Code. 9/27/17

4C-2-3 ~~4-17-3~~ **No Private Rights Of Action; No Special Rights**

This eChapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This eChapter does not create any special rights of privileges which would not be available to all of the City's citizens because every person has a **S**exual **O**rientation and a **G**ender **I**dentify.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-4 ~~4-17-4~~ **Severability**

If any **S**ection, sentence, paragraph, term, definition or provision of this eChapter is for any reason determined to be illegal, invalid, superseded by other authority, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other **S**ection, sentence, paragraph, term, definition or provision of this eChapter, all of which will remain in full force and effect.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-5 ~~4-17-5~~ **Definitions**

In this eChapter:

- A. **ADMINISTRATOR** means the **P**erson designated by the City Manager to receive, investigate, and conciliate complaints under this eChapter and includes the Administrator's designated representatives.
- B. **CITY** means the city of Park City, Utah
- C. **CITY ATTORNEY** means the City's duly appointed City Attorney
- D. **COMPLAINANT** means a **P**erson, including the Administrator, who files a complaint under this eChapter.
- E. **CONCILIATION** means the attempted resolution of issues raised in a complaint filed under this eChapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.
- F. **CONCILIATION AGREEMENT** means a written agreement setting forth the resolution of issues by **C**onciliation under this eChapter.
- G. **DISCRIMINATION** means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a **P**erson or persons because of a person's actual or perceived **S**exual **O**rientation or **G**ender **I**dentify or because of a person's association with any such person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any **P**erson because of that person's **S**exual **O**rientation or **G**ender **I**dentify.
- H. **DWELLING** means any building or structure, or a portion of a building or structure, occupied as, or designated or intended for occupancy as, a residence of one or more families inside the City and vacant land that is offered for sale or lease for the construction or location of a dwelling inside the City.

- I. **GENDER IDENTITY** means a person's actual or perceived Gender Identity, appearance, mannerisms, or other characteristics of a Person with or without regard to the person's sex at birth.
- J. **CITY MANAGER** means the duly appointed and qualified City Manager of Park City.
- K. **PERSON** includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under the United State Bankruptcy Code, receivers, and fiduciaries.
- L. **REAL ESTATE BROKER or SALESPERSON** means a principal real estate broker, an associate real estate broker, or a real estate sales agent as those terms are defined in Utah Code [Section §61-2f-102](#) or any successor provision.
- M. **RELIGIOUS ORGANIZATION** means a religious corporation, association, educational institution, society, trust, or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association society, trust or corporation sole.
- N. **RENT** means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.
- O. **RESIDENTIAL REAL ESTATE RELATED TRANSACTION** means the making or purchasing loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate; or selling, brokering, or appraising residential real property inside the City.
- P. **RESPONDENT** means a Person identified in a complaint as having committed an unlawful housing practice under this [eChapter](#).
- Q. **SEXUAL ORIENTATION** means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.
- R. **UNLAWFUL PRACTICE** means a discriminatory act or practice relating to housing that is prohibited under this [eChapter](#).

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-6 [4-17-6 Exemptions](#)

This [eChapter](#) does not apply to a temporary or permanent residence facility operated by a nonprofit organization; a charitable organization; or a Person in conjunction with a Religious Organization, association, or society, including any dormitory operated by a public or private educational institution, if the Discrimination is based on Sexual Orientation or Gender Identity for reasons of personal modesty or privacy or in the furtherance of a Religious Organizations' sincerely held religious beliefs.

This [eChapter](#) does not prohibit or restrict a Religious Organization or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a Religious Organization from limiting the sale, rental, or occupancy of dwellings it owns or operates for primarily noncommercial purposes to persons of the same religion~~us~~, or from giving preference to such persons.

This [eChapter](#) does not prohibit distinctions based on a person's inability or failure to fulfill the terms and

conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

This Chapter does not apply to: 1) the United States government, any of its departments or agencies, or any corporation wholly owned by it; ~~or~~ 2) the government of the State of Utah or any of its departments, agencies, or political subdivisions, except for the City; and 3) [Land Use Applications under the Land Management Code](#).

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-7 ~~4-17-7~~ [Unlawful Housing Practices](#)

A. It is discriminatory housing practice to do any of the following:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any Person because of the person's Sexual Orientation or Gender Identity;
2. Discriminate against any Person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling because of the person's Sexual Orientation or Gender Identity;
3. Represent to any Person that any dwelling is not available for inspection, sale, or rental when in fact the dwelling is available.
4. to make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or Discrimination based on Sexual Orientation or Gender Identity, or expresses any intent to make any such preference, limitation, or Discrimination.
5. To induce or attempt to induce, for profit, any Person to buy, sell, or rent any dwelling by making representations about the entry or prospective entry into the neighborhood of persons of a particular Sexual Orientation or Gender Identity;
6. Engage in any discriminatory housing practices because of Sexual Orientation or Gender Identity based upon a person's association with another Person;

B. It is a discriminatory housing practice for a real estate broker or salesperson to do any of the following because of a person's Sexual Orientation or Gender Identity:

1. To discriminate against any Person in making available a residential real estate transaction, or in the terms or conditions of the transaction, inside the City, because of a person's Sexual Orientation or Gender Identity;
2. To deny any Person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings inside the City or to discriminate against any Person in the terms or conditions of access, membership, or participation in the organization, service, or facility inside the City because of a person's Sexual Orientation or Gender Identity; or

3. Engage in any discriminatory housing practices inside the City because of Sexual Orientation or Gender Identity based upon a person's association with another Person.

C. **Exceptions.** This eChapter does not apply to the following:

1. The sale or rental of any single-family dwelling, if the owner:
 - a. Does not own an interest in or title to four or more single-family dwellings held for lease or sale at one time located inside the city;
 - b. Has not sold two or more single-family dwellings inside the City in which the owner did not reside in the dwelling within the 24-month period preceding the sale or rental of the dwelling; and
 - c. Does not use the services or facilities of any real estate broker, agent, or salesperson, or of any other person in the business of selling or renting dwellings, in connection with the sale or rental of the dwelling inside the City.
2. The rental of a dwelling that is occupied or intended to be occupied by no more than four families living independently of each other, when the owner actually maintains and occupies part of the dwelling as a residence.
3. Nothing in this Section prohibits conduct against a person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance under state or federal law.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-8 **4-17-8 Unlawful Intimidation, Retaliation, And Coercion**

It is unlawful for any Person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another Person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this eChapter.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-9 **4-17-9 Procedures For Filing Complaints**

- A. Any Person who claims to have been injured by an unlawful housing practice may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a person has committed an unlawful housing practice. A complaint must be filed within 180 calendar days after an alleged unlawful housing practice has occurred.
- B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:
 1. The Complainant's name, address, and signature;
 2. The date the alleged unlawful housing practice occurred;
 3. A statement of the facts upon which the allegation of an unlawful practice are based; and

4. The Respondent's name and address.
- C. Promptly after the filing of a complaint, the Administrator shall:
1. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful housing practice has been filed against the Respondent.
 2. Furnish a copy of the complaint to the Respondent; and
 3. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice on the complaint.
- D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:
1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney, if any; and
 2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-10 ~~4-17-10~~ **Investigation**

- A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe that Respondent committed an unlawful housing practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this ~~e~~Chapter. Upon determining that a particular complaint does not come within the scope of this ~~e~~Chapter, the Administrator shall dismiss the complaint, notify the Complainant and the Respondent and take no further action.
- B. In connection with any investigation of a complaint filed under this ~~e~~Chapter, the Administrator shall seek the voluntary cooperation of any person to:
1. ~~O~~btain access to premises, records, documents, individuals, and any other possible source of information;
 2. ~~E~~xamine, record, and copy necessary materials; and
 3. ~~T~~ake and record testimony or statements of any ~~P~~erson reasonably necessary for the furtherance of the investigation.
- C. The Administrator may request ~~that~~ the City Attorney ~~to~~ issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.

- D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:
1. The complaint was not filed within the required time period;
 2. The location of the alleged unlawful housing practice is not within the City's jurisdiction;
 3. The alleged unlawful housing practice is not a violation of this ~~e~~Chapter;
 4. The Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed Conciliation Agreement;
 5. The Complainant cannot be located after the Administrator has performed a reasonable search; or
 6. A Conciliation Agreement has been executed by the Complainant and Respondent.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-11 ~~4-17-11~~ Conciliation

- A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if it appears that the Respondent has committed an unlawful housing practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful housing practices. A Conciliation Agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in its practices; and the Respondent's agreement to not engage in discriminatory practices in the future.
- B. A Conciliation Agreement executed under this Section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant subject to approval of the Administrator who shall indicate approval by signing the agreement.
- C. If a Respondent voluntarily enters into a Conciliation Agreement, the Administrator shall immediately dismiss the complaint.

Adopted by Ord. 10-12 on 4/15/2010

4C-2-12 ~~4-17-12~~ Disposition Of A Complaint

- A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful housing practice has occurred and is unable to secure an acceptable Conciliation Agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.
- B. If the City Attorney determines that cause exists that an unlawful housing practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce

Comment [SK8]: Lynda Comments:
Per note, all conciliations are voluntary as described in 2-8-11(A): "signed by both parties and "subject to the approval of the administrator"

this eChapter may be initiated in justice court. If the City Attorney determines that there is no cause that an unlawful housing practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City Attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

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4C-2-13 ~~4-17-13~~ Offenses And Penalties

A person violates this eChapter if the person intentionally or knowingly violates a provision of this eChapter or if the person intentionally or knowingly obstructs or prevents compliance with this eChapter. An offense committed under this eChapter by a Respondent owning or operating twenty (20) or fewer dwellings is punishable by a fine of not more than five hundred dollars (\$500.00). An offense committed under this eChapter by a Respondent owning or operating twenty-one (21) or more dwellings or by a Real Estate Broker or Salesperson is punishable by a fine of not more than one thousand dollars (\$1,000.00).

Adopted by Ord. [10-12](#) on 4/15/2010