

**ORDINANCE NO. \_\_\_\_\_**

An ordinance adding Chapter 32 to Division 22 of the Los Angeles Administrative Code establishing a Civil and Human Rights Commission and Executive Director, and adding Article 16 to Chapter IV of the Los Angeles Municipal Code establishing the Los Angeles Civil and Human Rights Ordinance.

**WHEREAS**, the City of Los Angeles, with its diverse population, wishes to establish public policy that promotes understanding between and among communities and to discourage discrimination that denies equal treatment to any individual because of an immutable characteristic or real or perceived status.

**NOW, THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A new Chapter 32 entitled "**Civil and Human Rights Commission**" is added to Division 22 of the Los Angeles Administrative Code to read as follows:

**CHAPTER 32, ARTICLE 1**

**CIVIL AND HUMAN RIGHTS COMMISSION CREATION AND ORGANIZATION**

**Sec. 22.1200. Civil and Human Rights Commission.**

(a) **Establishment.** A Civil and Human Rights Commission is hereby created, which shall have the powers, duties and responsibilities set forth in this chapter and elsewhere in the City Charter, Los Angeles Municipal Code and Los Angeles Administrative Code. The Commission shall have five members.

(b) **Appointment.** Members shall be appointed and may be removed in accordance with Charter Section 502.

(c) **Terms of Office.** The members of the Commission shall have four-year, staggered terms beginning with the first day of July of the respective years. The original five members shall be appointed for such terms as shall cause one term to expire on the date of June 30 in two years, two terms to expire on the date of June 30 in three years, and two terms to expire on the date of June 30 in four years.

(d) **Qualifications.** Members shall meet the qualifications set forth in Charter Section 501(d).

## **CHAPTER 32, ARTICLE 2**

### **CIVIL AND HUMAN RIGHTS COMMISSION DUTIES AND RESPONSIBILITIES**

#### **Sec. 22.1210. General.**

(a) The Commission shall manage and advise upon the City's anti-discrimination efforts and provide remedies to such discrimination, promulgate policies and regulations, and make recommendations to the Mayor and City Council for the adoption of City laws pertaining to discrimination in the City.

(b) The Commission shall have the power and duty to enforce the non-discrimination provisions in Chapter IV, Article 16 of the Los Angeles Municipal Code.

(c) The Commission shall implement anti-discrimination laws adopted by the City Council, consistent with the duties set forth herein.

(d) The Commission shall have the power to adopt rules and regulations, subject to the approval of the City Attorney as to form and legality, to implement the provisions of this Chapter and of Chapter IV, Article 16 of the Los Angeles Municipal Code.

(e) In connection with investigations and enforcement actions, the Commission shall have the power to issue subpoenas for the attendance and testimony of witnesses or the production of books, accounts, documents and electronic data in any relevant inquiry, investigation, hearing, or proceeding.

## **CHAPTER 32, ARTICLE 3**

### **CIVIL AND HUMAN RIGHTS COMMISSION EXECUTIVE DIRECTOR**

#### **Sec. 22.1220. Executive Director.**

The Civil and Human Rights Commission shall be supported and advised by an Executive Director, in accordance with Charter Section 507. The Executive Director shall be appointed and removed in accordance with Charter Section 508 and shall be a civil service exempt position. In addition to the powers conferred in Charter Section 509, the Executive Director shall have the power and duty to:

(a) Investigate complaints of violations of Chapter IV, Article 16 of the Los Angeles Municipal Code, or initiate investigations of violations of Chapter IV, Article 16 of the Los Angeles Municipal Code on his or her own authority, and to make recommendations for enforcement of such violations, including administrative penalties and corrective actions, to the Commission;

(b) Administer oaths and affirmations on behalf of the Commission and to delegate his or her investigative and enforcement authority to subordinate officers; and

(c) Exercise further powers in the administration of the Civil and Human Rights Commission conferred upon the Executive Director by the Commission.

## **CHAPTER 32, ARTICLE 4**

### **COOPERATION AND COORDINATION**

#### **Sec. 22.1230. Cooperation of Other City Departments.**

All Boards, Offices, Departments, Agencies and Bureaus of the City shall cooperate with the Civil and Human Rights Commission to the fullest extent practicable and in a manner that would not conflict with the lawful and necessary conduct of their duties as provided by law.

#### **Sec. 22.1231. Coordination with Other Agencies.**

The Civil and Human Rights Commission shall, whenever practical, coordinate its programs with any other similar agency, so as to avoid duplication of effort and assure an effective working relationship between the City and other public agencies charged with investigating discrimination.

Sec. 2. A new Article 16 entitled "**Civil and Human Rights Law**" is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

#### **SEC. 51.00. TITLE AND PURPOSE.**

This article shall be known as the "Los Angeles Civil and Human Rights Ordinance." The City of Los Angeles has benefited, and will continue to benefit, from the economic, cultural and educational contributions of a wide range of groups and communities who all too are often targets of abuse and discrimination.

The City of Los Angeles has a duty to protect and promote public welfare within its boundaries and to protect residents and visitors against discrimination, threats and retaliation based on a real or perceived status. Such discriminatory and prejudicial practices pose a substantial threat to the health, safety and welfare of our community. This ordinance tasks the Civil and Human Rights Commission and its Executive Director to investigate complaints of discrimination in Los Angeles and enforce against violations. By investigating complaints and holding businesses and individuals accountable for discriminatory behavior, the City will make clear that discrimination will not be tolerated in Los Angeles. Holding businesses and individuals accountable under this ordinance will also serve as a deterrent to future violations of the City's anti-discrimination laws.

The importance of discouraging discrimination that denies equal treatment to any individual in private employment, housing, education or commerce because of that individual's actual or perceived race, color, ethnicity, creed, age, national origin, religion, citizenship status, gender, gender identity or expression, sexual orientation, disability, medical condition, genetic information, marital status, partnership status, employment status or income status is one of the highest mandates for the welfare of those living in, working in and visiting the City.

#### **SEC. 51.01. AUTHORITY.**

This article is adopted pursuant to the powers vested in the City of Los Angeles under the laws and Constitution of the State of California and the City Charter, including, but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution.

#### **SEC. 51.02. DEFINITIONS.**

As used in this article, the following terms shall have the following meanings:

**"Appellant"** shall mean a person who exercises his or her right to an administrative appeal under this article.

**"Appellee"** shall mean a person against whom an administrative appeal is filed under this article.

**"City"** shall mean the City of Los Angeles.

**"Commission"** shall mean the Civil and Human Rights Commission.

**"Complainant"** shall mean a person who files a complaint with the Director that his or her right, granted or protected by this article, has been violated by another person.

**"Director"** shall mean the Executive Director of the Civil and Human Rights Commission.

**"Respondent"** shall mean a person against whom a complaint is filed under this article.

#### **SEC. 51.03. DISCRIMINATION PROHIBITED.**

A. It shall be unlawful for any person to discriminate against another person in private employment, housing, education or commerce, because of that person's actual or perceived race, color, ethnicity, creed, age, national origin, religion, citizenship status, gender, gender identity or expression, sexual orientation, disability, medical



condition, genetic information, marital status, partnership status, employment status or income status.

B. For purposes of this section, a violation by an agent or employee is imputed to that person's principal or employer when the agent or employee acts within the scope of the agency or employment relationship.

C. Exceptions.

a. Nothing in this section shall be construed to require anyone to refer for employment, hire or continue to employ an individual when such action would be in violation of federal law.

b. Nothing in this section shall be construed to prohibit any person from complying with any legal obligation under federal or state law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

c. Nothing in this section shall be construed to prohibit a person from:

i. Prohibiting the illegal use of drugs or the use of alcohol at the workplace;

ii. Prohibiting on duty impairment from the use of drugs or the use of alcohol; or

iii. Conducting employee drug testing, when such testing is otherwise lawful.

d. Nothing in this section shall be construed to prohibit an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantial job-related qualifications, including but not limited to: 1) a current and valid professional or occupational license; 2) a certificate, registration, permit, or other credential; 3) a minimum level of education or training; or 4) a minimum level of professional, occupational, or field experience.

D. Defenses.

a. It shall be an affirmative defense that the Complainant could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

#### **SEC. 51.04. RETALIATION PROHIBITED.**

It shall be unlawful for any person to discriminate in any manner or take adverse action against any other person in retaliation for exercising rights protected under this article. Rights protected under this article include, but are not limited to: 1) the right to inform any person of his or her potential rights under this article and to assist him or her in asserting such rights; and 2) the right to file a complaint or inform any person about any other person's alleged noncompliance with this article. Protections of this section shall apply to any Complainant who mistakenly, but in good faith, alleges a violation by a Respondent. Taking adverse action against a person within 90 calendar days of that person's exercise of rights protected under this article shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

#### **SEC. 51.05. ENFORCEMENT.**

A. **Reporting Violations.** Any person whose rights, granted or protected by this article, have been violated, even if that person's only injury is the deprivation of that right granted or protected without physical or monetary damages, may report a complaint to the Director. The Director shall encourage reporting pursuant to this article by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Complainant. With the authorization of the Complainant, the Director may disclose the Complainant's name and identifying information as necessary to conduct investigations under this article or for other appropriate purposes. The Director shall disclose the name and identifying information of the Complainant at the time the Director issues a notice of violation to the Respondent.

B. **Investigation.** The Director shall be responsible for investigating violations of this article. A Respondent shall cooperate fully in any investigation by the Director. The Director shall have access to the Respondent's business sites, housing locations and places of labor subject to this ordinance during business hours to inspect books and records, and to interview any relevant witnesses. The Director may request the Commission to issue a subpoena for books, papers, records, or other items relevant to the enforcement of this article. Respondents shall provide the Director with their legal name, address, and telephone number in writing.

C. **Settlement.** The Director shall have the authority, at any time, to enter into a settlement agreement with a Respondent. The Director shall present any such settlement agreement to the Commission for approval, which shall have the authority only to approve or disapprove of the agreement.

D. **Determination.** Whenever the Director finds that a violation of Section 51.03 or Section 51.04 has occurred, the Director shall publicly issue a notice of violation, which shall, in addition to describing the violation, impose administrative penalties and corrective actions, if any, consistent with Section 51.07. The Director

shall serve the notice of violation, by First Class mail, on the respective Complainant and Respondent. The date of service shall be the date of the postmark on the mailing.

#### **SEC. 51.06. INDIVIDUAL REMEDIES FOR VIOLATIONS.**

A. **Civil Enforcement.** Any Complainant may bring a civil action in a court of competent jurisdiction against any person violating this article. The Complainant, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, the payment of any damages and restitution, injunctive relief, and reasonable attorneys' fees and costs. Nothing in this section shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent action by the City, or a separate or concurrent prosecution under the Municipal Code or state law by the City Attorney. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this article. The right of a Complainant to bring a civil action under this section shall not be waived by private agreement.

#### **SEC. 51.07. PENALTIES AND CORRECTIVE ACTIONS FOR VIOLATIONS.**

A. **Administrative Penalties and Corrective Actions.** In addition to any of the remedies and penalties set forth in this article or any other law, where the Director determines that a Respondent has violated Section 51.03 or Section 51.04, the Director shall impose an administrative penalty. The penalty imposed shall be not more than \$\_\_\_\_\_. Where the Director finds that a violation was the result of a Respondent's harassing or violent act, the administrative penalty shall be not more than \$\_\_\_\_\_. The Director may also order the Respondent to undertake corrective actions to remedy the violation or prevent future violations. Such administrative penalties and corrective actions shall be set forth in the notice of violation.

B. **Criminal Penalties.** In addition to any remedies and penalties set forth in this article or any other law, any person who shall willfully resist, obstruct or interfere with the Commission, the Director or administrative law judge in the performance of any duty under this article, shall be guilty of a misdemeanor and be punishable by a fine of not more than \$1,000 and by imprisonment in the County Jail for a period of not more than six months. Pursuing an administrative hearing or administrative appeal shall not be willful resistance, obstruction or interference.

C. **Payments to City; Due Date; Late Payment Penalty.** Administrative penalties shall be payable by the Respondent to the City and due within 30 calendar days from the date of the Director's notice of violation. The failure of any Respondent to pay an administrative penalty within 30 calendar days will result in the assessment of a late fee. The amount of the late fee shall be assessed daily at a rate of 7% per annum of the total amount of the administrative penalty. The City may use any civil legal remedy available to collect any unpaid administrative penalty, including, but not limited to, civil action, injunctive relief, specific performance and the recordation of a lien against real property pursuant to the procedures set forth in this Code and in

accordance with applicable law. Any administrative penalties recovered pursuant to this section shall be paid as follows: \_\_\_\_\_% to the Complainant and \_\_\_\_\_% to the City's General Fund.

D. **Severity of Penalties.** The Director shall impose administrative penalties for violations of this article only after considering factors, including but not limited to: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the history of past violations; 5) any action taken to mitigate the violation; and 6) the financial burden to the person.

#### **SEC. 51.08. ADMINISTRATIVE HEARING.**

A. **Deadline for Hearing.** A Respondent may file with the Commission a request for hearing within 15 calendar days from the date of service of the notice of violation. In order to be considered timely, the request for hearing must be postmarked on or actually received by the Commission within the 15 calendar days. The request for hearing must 1) be in writing, 2) specify in detail the objections to the notice of violation, and 3) indicate the Respondent's preferred return mailing address.

B. **Hearing Date.** As soon as practicable after receiving the request for a hearing, the Commission or its designee shall select an administrative law judge from the State of California's Office of Administrative Hearings to hear and decide on the notice of violation. The administrative law judge shall fix a date, time and place for the hearing. Written notice of the time and place for the hearing shall be served, by First Class mail, on the Director and on the Respondent at the return address indicated on the request for a hearing. Service of the notice of hearing must be made at least 20 calendar days prior to the date of the hearing. The hearing shall be held no later than 45 calendar days after service of the notice of hearing, unless that time is extended by mutual agreement.

C. **Notice of Hearing.** Except as otherwise provided by law, the failure of the Respondent to receive a properly addressed and mailed notice of the hearing shall not affect the validity of any proceedings under this article. Service by First Class mail, postage prepaid, shall be effective on the date of mailing.

D. **Stay of Enforcement.** If administrative penalties payable to the City are the subject of a hearing under this section, then accrual of such penalties shall be stayed until the determination of such hearing is final.

E. **Failure to Request Hearing.** Failure of a Respondent to file a request for hearing in accordance with the provisions of this section or to appear at the hearing shall constitute a failure to exhaust administrative remedies. In such instance, the Director's notice of violation shall immediately become final and enforceable.

F. **Submittals for the Hearing.** No fewer than seven calendar days prior to the hearing, the Director and the Respondent shall submit to the administrative law judge, with simultaneous service by First Class mail one another, written information, including, but not limited to, the following: the statement of issues to be determined by the administrative law judge and a statement of the evidence to be offered and the witnesses to be presented at the hearing.

G. **Conduct of Hearing.** The administrative law judge shall conduct all hearings under this section. The Director shall have the burden of proof by a preponderance of the evidence in each hearing. The administrative law judge may accept evidence on which persons would commonly rely in the conduct of their business affairs, including, but not limited to, the following:

1. A notice of the Director shall be prima facie evidence of the violation(s) specified therein; and
2. The administrative law judge may accept evidence and oral and written testimony under penalty of perjury relating to the violation(s) and the appropriate means of correcting the violation(s).

The hearing shall be open to the public and shall be audio recorded. Any party to the hearing may, at his or her own expense, cause the hearing to be video recorded or transcribed by a certified court reporter. The administrative law judge may continue the hearing and order the production of additional information from the Director or Respondent prior to issuing a written decision. The Commission shall have the authority to develop written regulations for the conduct of hearings under this article, including, but not limited to, the use of witnesses and evidence.

H. **Administrative Law Judge's Findings and Determinations.** Within 30 calendar days after the conclusion of the hearing, the administrative law judge shall make findings based on the record of the hearing. The findings shall be made in the form of an administrative ruling. The administrative law judge may uphold or reject the violation(s) referenced in the Director's notice of violation in whole or in part. The administrative law judge also may uphold the notice of violation but increase, reduce, waive or conditionally reduce or waive the administrative penalties stated therein if aggravating or mitigating circumstances are shown and the administrative law judge finds specific grounds for increase, reduction or waiver in the evidence presented at the hearing. The administrative law judge may impose penalties for any additional violations occurring during the pendency of the hearing. The administrative law judge may impose, reduce, waive or conditionally reduce or waive conditions imposed by the Director and may alter deadlines for the correction of violations or the payment of outstanding administrative penalties. The administrative law judge shall serve the administrative ruling, by First Class mail, on the respective Director and Respondent. The date of service shall be the date of the postmark on the mailing.



I. **Payment of Penalties.** Whenever the administrative law judge finds in favor of the Director and orders administrative penalties to be paid pursuant to article, those penalties shall be set, due and payable in accordance with Section 51.07.

## **SEC. 51.09. ADMINISTRATIVE APPEAL.**

A. **Deadline for Appeal.** Either the Director or Respondent may file with the Commission a notice of appeal within 15 calendar days from the date of service of the administrative ruling. In order to be considered timely, the notice of appeal must be postmarked on or actually received by the Commission within the 15 calendar days. The notice of appeal must 1) be in writing, 2) specify in detail the basis for the appeal, and 3) indicate the Appellant's preferred return mailing address.

B. **Appeal Process.** As soon as practicable after receiving the written notice of appeal, the Commission shall determine whether to issue a final ruling based upon the administrative record or to set a hearing to decide on the administrative appeal.

1. If the Commission elects to issue a final ruling based upon the administrative record, the Commission shall issue such ruling within 30 calendar days of receipt of the notice of appeal.

2. If the Commission elects to conduct a hearing to decide on the administrative appeal, the hearing shall be noticed, scheduled and conducted in accordance with rights and requirements in Section 51.08, except that the Commission shall act in place of the administrative law judge. Within 30 calendar days after the conclusion of the hearing, the Commission shall rule on the appeal.

C. **Standard of Review.** The Commission shall review the administrative law judge's ruling under an abuse of discretion standard.

D. **Failure to Appeal.** Failure of the Appellant to file a notice of appeal in accordance with the provisions of this section or to appear at the Commission appeal hearing shall constitute a failure to exhaust administrative remedies. In such instance, the administrative law judge's ruling shall immediately become final and enforceable.

E. **Submittals for the Hearing.** No fewer than seven calendar days prior to the appeal, the Appellant and Appellee shall submit to the administrative law judge, with simultaneous service by First Class mail one another, written information, including, but not limited to, the following: the statement of issues to be determined by the administrative law judge and a statement of the evidence to be offered and the witnesses to be presented at the hearing.

F. **Commission Ruling.** If the Commission finds that the administrative law judge abused his or her discretion in making the administrative ruling, the Commission may reject the ruling of the administrative law judge in whole or in part. In so doing, the

Commission may: 1) increase, reduce, waive or conditionally reduce or waive the administrative penalties, 2) impose, reduce, waive or conditionally reduce or waive conditions imposed in the ruling, and 3) alter deadlines for the correction of violations or the payment of outstanding administrative penalties.

G. **Final Order.** The ruling of the Commission pursuant to this section shall constitute a final order, which shall be served on the Director and the Respondent by First Class mail. Pursuant to California Code of Civil Procedure Section 1094.5, the Commission's final order shall be subject to judicial review in the appropriate superior court.

#### **SEC. 51.10. OTHER REMEDIES NOT AFFECTED.**

The administrative enforcement procedures established in this article shall be in addition to any other criminal, civil or other remedy established by law, which may be pursued to address violations of this article. A ruling by the administrative law judge or the Commission issued pursuant to this article shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to prosecute or abate a violation or to seek compensation for damages suffered.

#### **SEC. 51.11. REGULATIONS.**

The Commission, under authority granted in Sec. 22.1210 of the Los Angeles Administrative Code, shall promulgate and enforce rules, regulations and administrative procedures, including but not limited to evidentiary rules created for the fair and efficient conduct of hearings and appeals, in order to better carry out this article.

#### **SEC. 51.12. REPORTS.**

The Director shall provide annual reports to the City Council on the implementation of the Los Angeles Civil and Human Rights Ordinance.

#### **SEC. 51.13. PRIVATE PURPOSE.**

The City Council finds that this article is intended to promote the investigation of and enforcement against discrimination between and against private parties. Nothing in this article is intended to create a private right of action against, or authorize the Commission or the Director to investigate allegations of discrimination by, public officials, employees or agencies in federal, state or local government.

#### **SEC. 51.14. NO CONFLICT WITH STATE LAW.**

This article is not intended to conflict with state law. This article shall be interpreted to be compatible with state enactments and in furtherance of the public purposes that those enactments encompass. To the extent that the Fair Employment and Housing Act (FEHA), Cal. Gov. Code, § 12900 et seq., has occupied the field of



regulation of discrimination in employment and housing encompassed by the provisions of that act, this article shall provide no separate regulation. Notwithstanding the foregoing, this article is intended to regulate those discriminatory actions in housing and employment and provide remedies to those protected classes that are not encompassed by the provisions of FEHA.

**SEC. 51.15. NO CONFLICT WITH FEDERAL LAW.**

This article is not intended to conflict with federal law or stand as an obstacle or conflict with any efforts by the federal government to enforce Federal laws.

Sec. 3. **SEVERABILITY.** If any section, subsection, subdivision, clause, sentence, phrase or portion of this ordinance is held unconstitutional or invalid or unenforceable by any court or tribunal of competent jurisdiction, the remaining sections, subsections, subdivisions, clauses, sentences, phrases or portions of this measure shall remain in full force and effect, and to this end the provisions of this article are severable.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By \_\_\_\_\_  
MICHAEL DUNDAS  
Deputy City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

\_\_\_\_\_

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_