

Chapter 18 HUMAN RELATIONS

Article III. Fair Housing

- 18-11. Declaration of policy.
- 18-11.01. Definitions.
- 18-11.02. Discrimination due to familial status.
- 18-11.03. Exempt sales and rentals.
- 18-11.04. Religious organization and private club exemption.
- 18-11.05. Housing for older persons exempted; definition; rules.
- 18-11.06. Appraisal exemption.
- 18-11.07. Effect on other law.
- 18-11.08. Administration by Director.
- 18-11.09. Rules.
- 18-11.10. Complaints.
- 18-11.11. Reports; studies.
- 18-11.12. Cooperation with other entities.
- 18-11.13. Subpoenas; discovery.
- 18-11.14. Right to examine and copy evidence; summoning witnesses and documents and taking testimony; right to counsel, court aid; process; service and return; fees of witnesses.
- 18-11.15. Cooperation with other agencies.
- 18-11.16. Discrimination in sale or rental.
- 18-11.17. Publication of sales or rentals.
- 18-11.18. Inspection of dwelling.
- 18-11.19. Entry into neighborhood.
- 18-11.20. Prohibition of intimidation.
- 18-11.21. Discrimination due to handicap; definition.
- 18-11.22. Residential real estate related transaction; definition.
- 18-11.23. Brokerage services.
- 18-11.24. Complaints.
- 18-11.25. Answer to complaint.
- 18-11.26. Investigation.
- 18-11.27. Additional or substitute respondent.
- 18-11.28. Conciliation.
- 18-11.29. Temporary or preliminary relief.
- 18-11.30. Investigative reports.
- 18-11.31. Reasonable cause determination.
- 18-11.32. Dismissal of complaint.
- 18-11.33. Civil action.
- 18-11.34. Court-appointed attorney.
- 18-11.35. Relief granted.
- 18-11.36. Civil action by City Attorney.
- 18-11.37. Pattern or practice cases.
- 18-11.38. Prevailing party; fees and costs.
- 18-11.39. Effective date.

ARTICLE III. FAIR HOUSING

18-11 Declaration of policy.

It is the intent of the City of Phoenix to undertake vigorous steps to provide equal opportunity in housing; resolve housing discrimination disputes at the local level in a timely, cost efficient and effective manner, extend housing discrimination protection to ~~the handicapped~~ BASED UPON DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, and TO families with children; exempt housing for the elderly from the provisions prohibiting discrimination against families with children provided that owners, managers and communities meet stated requirements; obtain substantial equivalency with the federal government's housing and discrimination enforcement efforts and enter into intergovernmental agreements with the State of Arizona Attorney General.

18-11.01 Definitions.

In ADDITION TO THE DEFINITIONS SET FORTH IN 18-3, IN this article, unless the context otherwise requires:

4. *Aggrieved person* includes any person who either:
 - (a) Claims to have been injured by a discriminatory housing practice.
 - (b) Believes that he will be injured by a discriminatory housing practice that is about to occur.
2. *Attorney General* means the State of Arizona Attorney General.
3. *Complainant* means a person, including the City of Phoenix who files a complaint under section 18-11.24
4. *Conciliation* means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the respondent and the City of Phoenix.
5. *Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.
6. *Director* means the Director of the City of Phoenix Equal Opportunity Department.
7. *Discriminatory housing practice* means an act prohibited by sections 18-11.16 through 18-11.23
8. *Dwelling* means either:

(a) Any building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one or more families.

(b) Any vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described by subdivision (a) of this paragraph.

9. *Family* includes a single individual.

~~10. *Handicap* means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Handicap does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. Handicap shall be defined as the term is defined by the Americans with Disabilities Act of 1990 (P.L. 101-336).~~

~~11. *Person* means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, receivers, fiduciaries, banks, credit unions and financial institutions.~~

~~12. *Respondent* means either:~~

~~(a) The person accused of a violation of this article in a complaint of a discriminatory housing practice.~~

~~(b) Any person identified as an additional or substitute respondent under section 18-11.27 or an agent of an additional or substitute respondent.~~

~~13. *To rent* includes to lease, to sublease, to let or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.~~

18-11.02 Discrimination due to familial status.

In this article, a discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

1. Pregnant.

2. Domiciled with an individual younger than eighteen years of age in regard to whom the person either:

(a) Is the parent or legal custodian.

(b) Has the written permission of the parent or legal custodian for domicile with that person.

3. In the process of obtaining legal custody of an individual younger than eighteen years of age.

18-11.03 Exempt sales and rentals.

A. Except as provided in subsection B of this section, sections 18-11.16 through 18-11.23 do not apply to:

- (1) The sale or rental of a single-family house sold or rented by an owner if:
 - (a) The owner does not:
 - (i) Own more than three single-family houses at any one time.
 - (ii) Own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time.
 - (b) The house was sold or rented without either:
 - (i) The use of the sales or rental facilities or services of a real estate broker, agent or salesman licensed pursuant to A.R.S. § 32-2101 et seq. or the use of an employee or agent of a licensed broker, agent or salesman or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families.
 - (ii) The publication, posting or mailing of a notice, statement or advertisement prohibited by section 18-11.17

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

B. The exemption in subsection A, paragraph 1 of this section applies to only one sale or rental in a twenty-four-month period if the owner was not the most recent resident of the house at the time of the sale or rental.

18-11.04 Religious organization and private club exemption.

A. This article does not prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from:

1. Limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion.

2. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color or national origin.

B. This article does not prohibit a private club that is not open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

18-11.05 Housing for older persons exempted; definition; rules.

A. The provisions of this article relating to familial status do not apply to housing for older persons.

B. In this section, "housing for older persons" means housing that:

1. Is specifically designated by the U.S. Department of Housing and Urban Development as housing for older persons; or

2. Is intended for, and solely occupied by, persons sixty-two years of age or older; or

3. Is intended for and operated for occupancy by at least one person fifty-five years of age or older per unit.

C. The Director may adopt rules setting forth criteria for housing older persons. The rules adopted for subsection B, paragraph 3 shall require the following factors:

1. That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit.

2. The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older. Rules adopted establishing compliance with this paragraph shall be consistent with federal fair housing regulations.

D. A person shall not be held personally liable for monetary damages under chapter 18, article III, if the person relied in good faith that the housing was exempt from this article because it was housing for older persons as defined under subsection B, paragraph 3 of this section. For the purposes of this subsection, a person may only demonstrate good faith reliance on the exemption from the provisions of this article if both:

1. The person has no actual knowledge that the facility or community does not, or will not qualify as housing for older persons as defined under subsection b, paragraph 3 of this section.

2. The facility or community has formally stated in writing that the facility or community is housing for older persons as defined under subsection b, paragraph 3 of this section.

18-11.06 Appraisal exemption.

This article does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, handicap, DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

18-11.07 Effect on other law.

A. This article does not affect a reasonable local or State restriction on the maximum number of occupants permitted to occupy a dwelling or a restriction relating to health or safety standards.

B. This article does not affect a requirement of nondiscrimination in any other State or federal law.

18-11.08 Administration by Director.

The Director shall administer this article in consultation with the City Attorney's office.

18-11.09 Rules.

The Director may adopt interpretive and procedural rules necessary to implement this article.

18-11.10 Complaints.

The Director shall receive, investigate, seek to conciliate and act on complaints alleging violations of this article.

18-11.11 Reports; studies.

A. The Director shall publish annually a written report which shall contain, for the preceding fiscal year, the following information:

1. The number of complaints initiated by the Director.

2. The number of complaints filed with the Directory by aggrieved persons.
3. The number of complaints dismissed by the Director.
4. The number of complaints that resulted in conciliation agreements.
5. The number of complaints for which the Director and the City Attorney found reasonable cause that a discriminatory housing practice occurred or was about to occur.
6. The number of civil actions filed by the City Attorney pursuant to section 18-11.36

B. The report shall include a description of the relief awarded in civil actions and, without attribution, benefits to complainants agreed to in conciliation agreements. The report shall also include the number of instances in the preceding fiscal year, and the reasons therefor, but without attribution to parties, the number of investigations that were not completed within the time periods provided by section 18-11.26, subsection B or a determination made pursuant to section 18-11.31, subsection B.

C. The Director may make studies relating to the nature and extent of discriminatory housing practices in the City of Phoenix.

18-11.12 Cooperation with other entities.

The City of Phoenix shall cooperate with federal and State fair housing agencies and, as appropriate, may provide technical and other assistance to federal, State, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.

18-11.13 Subpoenas; discovery.

The Director may issue subpoenas and compel the production of documents and giving of testimony, as provided by section 18-11.14.

18-11.14 Right to examine and copy evidence; summoning witnesses and documents and taking testimony; right to counsel, court aid; process; service and return; fees of witnesses.

A. In connection with the investigation of a charge filed under this article, the Director, or a duly authorized employee, shall at all reasonable times have access to, for the purpose of examination, and have the right to copy any evidence of any person being investigated, provided such evidence relates to unlawful practices covered by this article and is relevant to the charge under investigation.

B. For the purpose of all hearings and investigations conducted by the City of Phoenix:

1. The Director, on his/her own initiative, or upon application of any party to the proceeding, may issue subpoenas compelling the attendance and testimony of witnesses or requiring the production for examination or copying of documents provided such evidence relates to unlawful practices as covered by this article and is relevant to the charge which is the subject matter of the hearing or investigation. Within five days after the service of a subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Director to revoke, limit or modify the subpoena. The Director shall revoke, limit or modify such subpoena if in his/her opinion the evidence required does not relate to unlawful practices covered by this article, is not relevant to the charge which is the subject matter of the hearing or investigation, does not describe with sufficient particularity the evidence whose production is required, or is unduly burdensome or oppressive. The Director, or his/her duly authorized employee, may administer oaths or affirmations, examine witnesses and receive such evidence.

2. Any person appearing before the Director, or his/her duly authorized employee, shall have the right to be represented by counsel.

3. The Superior Court, upon application by the City Attorney or by the person subpoenaed, shall have jurisdiction to issue an order (a) requiring such person to appear before the Director, or his/her duly authorized employee, to produce evidence relating to the matter under investigation if so ordered, or (b) revoking, limiting or modifying the subpoena or conditioning issuance of the subpoena upon payment of costs or expenses incurred to comply with the subpoena if in the court's opinion the evidence required does not relate to unlawful practices covered by this article, is not relevant to the charge which is the subject matter of the hearing or investigation, does not describe with sufficient particularity the evidence whose production is required or is unduly burdensome or oppressive. Any failure to obey such order of the court may be punished by such court as a contempt.

4. Charges, orders and other process and papers of the Director, or his/her duly authorized employee, may be served either personally or by registered mail. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of service. The return post office receipt, when registered and mailed as provided in this paragraph shall be proof of service. Witnesses subpoenaed shall be paid the same fees and mileage that are paid witnesses in the Superior Court and witnesses whose depositions are taken and the persons taking the same shall be entitled to the same fees as are paid for like service in the Superior Court.

18-11.15 Cooperation with other agencies.

The City of Phoenix may apply for recognition by the United States Department of Housing and Urban Development as having adopted an ordinance providing fair housing rights and remedies that are substantially equivalent to those granted under federal law and enter into an intergovernmental agreement with the Attorney General.

18-11.16 Discrimination in sale or rental.

A. A person may not refuse to sell or rent after a bona fide offer has been made or refuse to negotiate for the sale of or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental, because of race, color, religion, sex, DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

C. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

18-11.17 Publication of sales or rentals.

A person may not make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION or an intention to make such a preference, limitation or discrimination.

18-11.18 Inspection of dwelling.

A person may not represent to any person because of race, color, religion, sex, handicap DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION that a dwelling is not available for inspection for sale or rental if the dwelling is available for inspection.

18-11.19 Entry into neighborhood.

A person, for profit, may not induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, handicap DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

18-11.20 Prohibition of intimidation.

A person may not coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or having exercised or enjoyed, or on account of his having

aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section and sections 18-11.16, 18-11.17, 18-11.18, 18-11.19, 18-11.21, 18-11.22 and 18-11.23.

18-11.21 Discrimination due to handicap DISABILITY; definition.

A. A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap DISABILITY of:

1. That buyer or renter.
2. A person residing in or intending to reside in that dwelling after it is sold, rented or made available.
3. A person associated with that buyer or renter.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap DISABILITY of:

1. That person.
2. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available.
3. A person associated with that person.

C. Compliance with the appropriate requirements of the fair housing accessibility guidelines established by the United States Department of Housing and Urban Development satisfies the requirements of subsection E, paragraph 3, subdivision (c).

D. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

E. For purposes of this section, "discrimination" includes:

1. A refusal to permit, at the expense of the handicapped DISABLED person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that, in the case of a renter, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing, to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

2. A refusal to make reasonable accommodations in rules, policies, practices or services if the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the federal Fair Housing Amendments Act of 1988 (P.L. 100-430), a failure to design and construct those dwellings in a manner that includes all of the following:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by ~~handicapped~~ DISABLED persons.

(b) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by ~~handicapped~~ DISABLED persons in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

F. As used in this section, "covered multifamily dwellings" means buildings consisting of four or more units if the buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

18-11.22 Residential real estate related transaction; definition.

A. A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

B. In this section, "residential real estate related transaction" means:

1. Making or purchasing loans or providing other financial assistance either:
 - (a) To purchase, construct, improve, repair or maintain a dwelling.
 - (b) To secure residential real estate.
2. Selling, brokering or appraising residential real property.

18-11.23 Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or may not discriminate against a person in the terms or conditions of access, membership or participation in such an organization, service or facility because of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, or national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

18-11.24 Complaints.

- A. The Director shall investigate alleged discriminatory housing practices. The Director, on his/her own initiative, may file such a complaint.
- B. A complaint shall be in writing, under oath and in the form prescribed by the Director.
- C. An aggrieved person may file, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, a complaint with the Director alleging the discriminatory housing practice.
- D. Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the Director may file his own complaint.
- E. A complaint may be amended at any time.
- F. On the filing of a complaint the Director shall:
 1. Give the aggrieved person notice that the complaint has been received.
 2. Advise the aggrieved person of the time limits and choice of forums under this article.
 3. Not later than twenty days after the filing of the complaint or the identification of an additional respondent under section 18-11.27 serve on each respondent:

(a) A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this article.

(b) A copy of the original complaint.

G. Notices and other documents required to be served under this article may be served as provided by section 18-11.14, subsection B, paragraph 4.

18-11.25 Answer to complaint.

A. Not later than ten days after receipt of the notice and copy under section 18-11.24, subsection F, paragraph 3, a respondent may file an answer to the complaint.

B. The answer shall be in writing, under oath and in the form prescribed by the Director.

C. An answer may be amended at any time.

D. An answer does not inhibit the investigation of a complaint.

18-11.26 Investigation.

A. If the federal and/or State government has referred a complaint to the Director or has deferred jurisdiction over the subject matter of the complaint to the Director, and if the Director has accepted the referral or deferral, the Director shall promptly investigate the allegations set forth in the complaint.

B. The Director shall investigate all complaints and, except as provided by subsection C, shall complete an investigation not later than one hundred days after the date the complaint is filed, or if it is unable to complete the investigation within this period, shall dispose of all proceedings related to the investigation not later than one year after the complaint is filed.

C. If the Director is unable to complete an investigation within the time periods prescribed by subsection B, the Director shall notify the complainant and the respondent in writing of the reasons for the delay.

18-11.27 Additional or substitute respondent.

A. The Director may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the Director determines that the person should be accused of a discriminatory housing practice.

B. In addition to the information required in the notice under section 18-11.24, subsection F, paragraph 3, the Director shall include in a notice to a respondent joined

under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

18-11.28 Conciliation.

A. The Director shall engage, to the extent feasible, in conciliation, including, if appropriate, mediation, with respect to the complaint.

B. A conciliation agreement is an agreement between a respondent and the complainant and is subject to approval by the Director.

C. A conciliation agreement may provide for binding arbitration or another method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

D. A conciliation agreement shall not be made public unless all parties agree to the disclosure or the City of Phoenix determines that disclosure is necessary to further the purposes of this article.

E. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.

F. Materials in the investigative file may be disclosed to the parties to the extent reasonably necessary to further the investigation or conciliation discussions. Materials in the investigative file may be disclosed to the complainant for the purpose of deciding whether to file a complaint in court and may be disclosed to the respondent for the purpose of formulating its answer. After a court action has been filed, information derived from the investigation and the final investigation report relating to the investigation shall be subject to discovery.

18-11.29 Temporary or preliminary relief.

If the Director and the City Attorney conclude at any time after the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the City Attorney shall file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

18-11.30 Investigative reports.

A. The Director shall prepare a final investigative report showing:

1. The names and dates of contacts with witnesses.

2. A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts.

3. A summary description of other pertinent records.
4. A summary of witness statements.
5. Answers to interrogatories.

B. A final report under this section may be amended if additional evidence is discovered.

18-11.31 Reasonable cause determination.

A. The Director shall consult with the City Attorney regarding any case in which there is evidence that a discriminatory housing practice has occurred or is about to occur. The Director and the City Attorney shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

B. The Director and the City Attorney shall make the determination under subsection A of this section not later than one hundred days after the date a complaint is filed unless either:

1. It is impracticable to make the determination.
2. The Director has approved a conciliation agreement relating to the complaint.

C. If it is impracticable to make the determination within the time period provided by subsection B of this section, the Director shall notify the complainant and respondent in writing of the reasons for the delay.

D. If the Director and the City Attorney determine that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director shall attempt for a period of not more than thirty days to effectuate a conciliation agreement. If no conciliation agreement has been reached after thirty days, the Director shall refer the case to the City Attorney. The City Attorney shall file a civil action in Superior Court, as provided in section 18-11.36

18-11.32 Dismissal of complaint.

If the Director determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director shall promptly dismiss the complaint and give written notice of the dismissal to the complainant and respondent.

18-11.33 Civil action.

A. An aggrieved person may file a civil action in Superior Court not later than two years after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

B. The two-year period does not include any time elapsed between the filing of any court procedure to enforce an administrative subpoena and is not jurisdictional but is a statute of limitations subject to principles of estoppel, tolling and waiver.

C. An aggrieved person may file an action under this section whether or not a complaint has been filed under section 18-11.24 and without regard to the status of any complaint filed under section 18-11.24. The filing of an action under this section does not affect the Director's power and duty to investigate and make determinations based on the aggrieved person's administrative complaint.

D. If the Director has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section with respect to the alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement.

E. An aggrieved person may intervene in a civil action filed by the City Attorney and based on that person's administrative complaint.

F. Any party aggrieved by any final order of the Director pursuant to the enforcement of this article shall have the right to petition the Superior Court for any such temporary relief, restraining order, or other order as the court determines is just and proper, or to affirm, modify, or set aside, in whole or in part, the order for further proceedings; or to enforce the order to the extent that the order is affirmed or modified.

G. The rights granted by 42 United States Code sections 3603, 3604, 3605 and 3606 may be enforced in any civil action brought pursuant to this section.

18-11.34 Court-appointed attorney.

On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory housing practice is alleged, the Superior Court may appoint an attorney for the person.

18-11.35 Relief granted.

In an action under section 18-11.33, if the Superior Court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff:

1. Actual and punitive damages.
2. Reasonable attorney fees.
3. Court costs.
4. A permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

18-11.36 Civil action by City Attorney.

A. If the Director and the City Attorney find cause to believe that a discriminatory housing practice has occurred or is about to occur, and there is no conciliation agreement within thirty days, the City Attorney shall immediately file a civil action on behalf of the complainant in Superior Court against the respondent.

B. If the Director and the City Attorney find reasonable cause to believe that a party has breached a conciliation agreement, the City Attorney shall immediately file a civil action for enforcement of the agreement.

C. In an action under this section, the court may award on behalf of the complainant actual and punitive damages and may issue a permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering affirmative action, and may award court costs to the City Attorney.

D. A person aggrieved by the alleged discriminatory housing practice or damaged by the alleged breach of the conciliation agreement may intervene in a civil action brought under this section.

18-11.37 Pattern or practice cases.

A. The City Attorney shall file a civil action in Superior Court for appropriate relief if the City Attorney has reasonable cause to believe that either:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article.
2. A person has been denied any right granted by this article and that denial raises an issue of general public importance.

B. In an action under this section the court may:

1. Award preventive relief, including a permanent or temporary injunction, restraining order or other order against the person responsible for a violation of this article as necessary to assure the full enjoyment of the rights granted by this article.

2. Award other appropriate relief, including monetary damages, reasonable attorney fees and court costs.

3. To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed:

(a) Fifty thousand dollars for a first violation.

(b) One hundred thousand dollars for a second or subsequent violation.

18-11.38 Prevailing party; fees and costs.

A court in a civil action brought under this article shall award reasonable attorney fees and costs to a prevailing plaintiff, except to the City Attorney in an action brought under section 18-11.35. The court shall not award attorney fees to a prevailing defendant unless plaintiffs complaint was frivolous, unreasonable or without foundation.

~~18-11.39 Effective date.~~

~~This article is effective upon the passage of State enabling legislation that will make this ordinance valid.~~