

**Chapter 12.20
OPEN HOUSING***

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*For statutory provisions regarding the Law Against Discrimination, see chapter 49.60 RCW.

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12.20.010 Statement of purpose - findings. This chapter is an exercise of the police power of King County for the protection of the public welfare, health, peace and safety of the residents of King County and in fulfillment of the state Constitution. The King County council finds and declares that practices of housing discrimination against any persons on the basis of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability constitute matters of local concern and are contrary to the public welfare, health, peace and safety of the residents of King County. (Ord. 15399 § 35, 2006; Ord. 10469 § 1, 1992; Ord. 5280 § 1, 1981).

12.20.013 Application of chapter. This chapter applies to actions occurring in and to property located in unincorporated King County. (Ord. 15399 § 36, 2006).

12.20.014 Liberal construction of chapter. This chapter shall be liberally construed for accomplishment of its policies and purposes. This chapter shall not be construed to endorse any specific belief, practice, behavior or orientation. Nothing in this chapter relating to gender-based discrimination affects the ability of an employer to require an employee to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of state or federal law, though an employer shall allow an employee to appear or dress consistently with the employee's gender identity. (Ord. 15399 § 37, 2006).

12.20.015 Effect of chapter on right to actions or pursuit of remedies. Nothing in this chapter shall be deemed to deny any persons the right to institute any action or to pursue any other available civil or criminal remedy for the violation of the person's civil rights. (Ord. 15399 § 38, 2006).

12.20.016 Effect of chapter on liability. Nothing in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, or its officers or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this chapter on the part of King County by its officers, employees or agents. (Ord. 15399 § 39, 2006).

12.20.017 Effect of chapter on statutes of limitation. Nothing in this chapter shall be construed to toll the statute of limitations for any claims under federal or state statute. (Ord. 15399 § 40, 2006).

12.20.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Aggrieved person" includes a person who:

1. Claims to have been injured by an unfair housing practice; or
2. Believes that he or she will be injured by an unfair housing practice that is about to occur.

B. "Charging party" means any person alleging an unfair housing practice under this chapter by filing a complaint with the office of civil rights.

C.1. "Disability" means:

- a. a physical or mental impairment that substantially limits one or more of a person's major life activities, either temporarily or permanently;
- b. a person has a record of having such an impairment;
- c. a person is regarded as having such an impairment; or
- d. a person has any other condition that is a disability under the Washington state Law Against Discrimination, chapter 49.60 RCW, as it pertains to real estate and housing.

2. "Disability" does not include current, illegal use of a controlled substance, as defined in section 102 of 21 U.S.C. Sec. 802 as it exists on April 16, 2006.

D. "Discriminate" means any action or failure to act, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability, or use of a service or assistive animal by an individual with a disability.

E. "Dwelling" or "dwelling unit" mean any building, structure or portion of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families or individuals, and any vacant land that is offered for sale or lease for the construction or location thereon of any such a building, structure or portion of a building or structure.

F. "Housing accommodations" means any dwelling or dwelling unit, rooming unit, rooming house, lot or parcel of land in unincorporated King County that is used, intended to be used or arranged or designed to be used as, or improved with, a residential structure for one or more human beings.

G. "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabiting.

H.1. "Parental status" means one or more individuals, who have not attained the age of eighteen years, being domiciled with:

- a. a parent or another person having legal custody of the individual or individuals; or
- b. the designee of such a parent or other person having the custody, with the written permission of the parent or other person.

2. The protections afforded against discrimination on the basis of familial status apply to a person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of eighteen years.

I. "Participation in the Section 8 program" means participating in a federal, state or local government program in which a tenant's rent is paid partially by the government, through a direct contract between the government program and the owner or lessor of the real property, and partially by the tenant.

J. "Party" includes the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair practice, the person alleged or found to have committed an unfair practice and the office of civil rights.

K. "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers or any group of persons; including any owner, lessee, proprietor, housing manager, agent or employee whether one or more natural persons. "Person" also includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision [of the state].

L. "Real estate transaction" includes, but is not limited to, the sale, conveyance, exchange, purchase, rental, lease or sublease of real property.

M. "Real estate-related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. for purchasing, constructing, improving, repairing or maintaining real property; or
 - b. secured by real property; or
2. The selling, brokering or appraising of real property.

N. "Real property" includes, but is not limited to, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

O. "Respondent" means any person who is alleged or found to have committed an unfair practice prohibited by this chapter.

P. "Senior citizens" means persons who are sixty-two years of age or older.

Q. "Service or assistive animal" means a dog guide, signal or hearing dog, seizure response dog, therapeutic companion animal or other animal that does work, performs tasks or provides medically necessary support for the benefit of an individual with a disability.

R. "Settlement discussions" and "conference, conciliation and persuasion" mean the attempted resolution of issues raised by a complaint, or by the investigation of a complaint, through informal negotiations involving the charging party, the respondent and the office of civil rights.

S. "Sexual orientation" means heterosexuality, homosexuality, bisexuality and gender identity. As used in this definition, "gender identity" means having or being perceived as having a gender identity different from that traditionally associated with the sex assigned to that person at birth. Protection associated with "gender identity" includes self-image, appearance, behavior or expression. (Ord. 15399 § 41, 2006: Ord. 14199 § 148, 2001: Ord. 10469 § 2, 1992: Ord. 7816 § 1, 1986: Ord. 5732 § 1, 1981: Ord. 5280 § 2, 1981).

12.20.030 Unfair housing practices - generally. It is unlawful for any person to engage in, or cause or allow another to engage in, any of the following acts described in Sections 12.20.040 through 12.20.060, which are designated as unfair housing practices prohibited by this chapter. (Ord. 5280 § 3 (part), 1981).

12.20.040 Unfair housing practices - designated.

A. It is a discriminatory practice and unlawful for any person, whether acting for himself or herself or another, because of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability:

1. To refuse to engage in a real estate transaction with a person or to otherwise make unavailable or deny a dwelling to any person;

2. To discriminate against a person in the terms, conditions or privileges of a real estate transaction, including financial terms and conditions such as the setting of rents or damage deposits, or in the furnishing of facilities or services in connection with any real estate transaction; however, rents and damage deposits may be adjusted to recognize the number of persons utilizing the property except insofar as such adjustment might discriminate based on race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability;

3. To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

4. To refuse to negotiate for a real estate transaction with a person;

5. To represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is so available, to fail to bring a property listing to the person's attention or to refuse to permit the person to inspect real property;

6. To make, print, circulate, publish, post or mail or cause to be made, printed, circulated, published, posted or mailed a statement, notice, advertisement or sign, pertaining to a real estate transaction or a real estate related transaction that indicates, directly or indirectly, an intent to make a limitation, preference or discrimination with respect to the transaction;

7. To use a form of application or to make a record of inquiry regarding a real estate transaction or a real estate related transaction that indicates, directly or indirectly, an intent to make a limitation, preference or discrimination with respect to the transaction;

8. To offer, solicit, accept, use or retain a listing of real property with the understanding that a person might be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with the transaction;

9. To expel a person from occupancy of real property;

10. To discriminate against in the course of negotiating or executing a real estate transaction whether by mortgage, deed of trust, contract or other instrument imposing a lien or other security in real property or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee or other aspect of the transaction; or

11. 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, or to discriminate against any person in the terms or conditions of such access, membership or participation.

B. It is a discriminatory practice and unlawful for any person, whether acting for himself or herself or for another, to coerce, intimidate, threaten or interfere with any other person in the exercise or enjoyment of, on account of the other person having exercised or enjoyed, or on account of the other person having aided or encouraged any person in the exercise or enjoyment of, any right granted or protected by this chapter.

C. It is a discriminatory practice and unlawful for any person, whether acting for himself or herself or for another, to discriminate against in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of any one or more of:

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

D. It is a discriminatory practice and unlawful for any person, whether acting for himself or herself or another, to 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 a dwelling, because of a disability of any one or more 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; or
3. Any person associated with that person.

E. For the purposes of this chapter, discriminatory practices based either on disability or use of a service or assistive animal by an individual with a disability are unlawful and include:

1. Refusal to permit, at the expense of an individual with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications might be necessary to afford the person full enjoyment of the premises. However, for a rental, the landlord may, if 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. Refusal to make reasonable accommodations in rules, policies, practices or services, if the accommodations might be necessary to afford an individual or individuals with disabilities equal opportunity to use and enjoy a dwelling; or

3. Failure to design, construct and alter dwellings in conformance with 42 U.S.C. 3604 as it exists on the effective date of this section, the Washington State Barrier Free Regulations (chapter 51-50WAC, pursuant to chapters 19.27 and 70.92 RCW), other regulations adopted under 42 U.S.C. 3604 and chapters 19.27 and 70.92 RCW, and all other applicable laws pertaining to access to individuals with disabilities. If the requirements of applicable laws differ, the requirements that require greater accessibility to individuals with disabilities govern.

F. It is discriminatory practice and unlawful for any person, whether acting on his or her own behalf or for another, to retaliate by taking action against another person because the other person:

1. Opposed any practice forbidden by this chapter;
2. Complied or proposed to comply with this chapter or any order issued under this chapter; or
3. Filed a complaint, testified or assisted in any manner in any investigation, proceeding or hearing initiated under this chapter. (Ord. 16149 § 1, 2008: Ord. 15399 § 42, 2006: Ord. 10469 § 3, 1992: Ord. 5280 § 3(A), 1981).

12.20.050 Unfair housing practices - real estate-related transactions. It is a discriminatory practice and unlawful for any person acting for monetary gain, whether acting for himself or herself or another in connection with any real estate-related transaction, whose business includes engaging in real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability. (Ord. 15399 § 43, 2006: Ord. 10469 § 4, 1992: Ord. 5280 § 3 (B), 1981).

12.20.060 Unfair housing practices - blockbusting and steering. It is a discriminatory practice and unlawful for any person acting for monetary gain, whether acting for himself or herself or others, directly or indirectly, to engage in the practices of blockbusting or steering, including the commission of any one or more of the following acts:

A. Inducing or attempting to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood or area of a person or persons of a particular race, color, religion, national origin, ancestry, age, gender, marital status, participation in the Section 8 program, sexual orientation, parental status, disability or use of a service or assistive animal by an individual with a disability; or

B. Showing or otherwise taking any action, the intention or effect of which is to steer a person or persons to any section of the county or to particular real property in a manner tending to segregate or maintain segregation on the basis of race, color, religion, national origin, ancestry, age, gender, marital status, sexual orientation, parental status, participation in Section 8 program, disability or use of a service or assistive animal by a an individual with a disability. (Ord. 15399 § 44, 2006: Ord. 10469 § 5, 1992: Ord. 5280 § 3 (C), 1981).

12.20.070 Filing of a complaint.

A. A complaint alleging an unfair housing practice may be filed by:

1. Any aggrieved person; or

2. Any state, local or federal agency concerned with discrimination in housing, including the office of civil rights has reason to believe that an unfair housing practice has been or is being committed.

B. A complaint alleging an unfair housing practice shall be in writing and signed by the charging party. The complaint must be filed by the charging party with the office of civil rights within three hundred sixty-five days after the occurrence or termination of the alleged unfair housing practice. The complaint must describe with particularity the practice complained of and the location of the practice and must identify the person being charged with committing an unfair housing practice. However, the office of civil rights shall not reject a complaint as insufficient because of failure to include all required information, if the office of civil rights determines that the complaint substantially meets the informational requirements necessary for processing.

C. Upon the receipt of a complaint alleging an unfair housing practice, the office of civil rights shall serve notice upon the charging party acknowledging the filing and advising the charging party of the time limits provided under this chapter and of the choice of forums provided by this chapter.

D. The charging party or the office of civil rights may amend a complaint: to cure technical defects or omissions; to clarify and amplify allegations made in the complaint; or to add allegations related to or arising out of the subject matter set forth, or attempted to be set for, in the original complaint. For jurisdictional purposes, the amendments relate back to the date the original complaint was first filed. Either the charging party or the office of civil rights, or both, may amend a complaint for these reasons as a matter of right before service of notice of hearing on the matter, as provided under K.C.C. 12.20.100, and thereafter may amend a complaint only with permission of the hearing examiner, which permission shall be granted if justice will be served by the permission, and all parties shall be allowed time to prepare their case with respect to additional or expanded allegations they did not and could not have reasonably foreseen would be an issue at the hearing.

E. The charging party may also amend a complaint to include allegations of additional unrelated discriminatory practices that arose after the filing of the original complaint. The charging party must file any amendments adding the allegations within three hundred sixty-five days after the occurrence or termination of the additional discriminatory practices and before the issuance of findings of fact and a determination with respect to the original complaint by the office of civil rights. The amendments may be made at any time during the investigation of the original complaint if the office of civil rights will have adequate time to investigate the additional allegations and the parties will have adequate time to present the office of civil rights with evidence concerning the allegations before the issuance of findings of fact and a determination. (Ord. 10469 § 6, 1992: Ord. 7816 § 2, 1986: Ord. 5732 § 2, 1981: Ord. 5280 § 4, 1981).

12.20.080 Investigation of complaint.

A. After the filing of a complaint, the office of civil rights shall cause to be served on or mailed to the respondent, by certified mail, return receipt requested, a copy of the complaint, along with a notice advising of procedural rights and obligations of respondents under this chapter promptly and in no case longer than twenty days after the filing the complaint. Each respondent may file an answer to the complaint, not later than ten days after receipt of notice from the office of civil rights. If the respondent is unable to file a response within ten days, he or she may request an extension of time from the office of civil rights, not to exceed five days. The office of civil rights may grant the extension if good cause is shown.

B. The investigation shall be commenced promptly and in no event later than thirty days after receipt of the complaint. It shall be directed to ascertain the facts concerning the unfair practice alleged in the complaint and shall be conducted in an objective and impartial manner. The investigation shall be completed within one hundred days after the filing of the complaint, unless it is impracticable to do so. If the office of civil rights is unable to complete the investigation within the one hundred days, the office of civil rights shall notify the charging party and respondent, in writing, of the reasons for not doing so. The office of civil rights shall make final administrative disposition of a complaint within one year of the date of receipt of the complaint, unless it is impracticable to do so. If the office of civil rights is unable to do so, the office of civil rights shall notify the charging party and respondent, in writing, of the reasons for not doing so.

C. During the investigation, the office of civil rights shall consider any statement of position or evidence with respect to the allegations of the complaint that the charging party or the respondent wishes to submit.

D. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsection A. of this section, to the person from the office of civil rights. The notice, in addition to meeting the requirements of subsection A. of this section, shall explain the basis for the belief of the office of civil rights that the person to whom the notice is addressed is properly joined as a respondent.

E. During the period beginning with the filing of the complaint and ending with the issuance of the findings of fact, the office of civil rights shall, to the extent feasible, engage in settlement discussions with respect to the complaint. Nothing said or done in the course of the settlement discussions may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. A prefinding settlement agreement arising out of the settlement discussions shall be an agreement between the respondent and the charging party, and is subject to approval by the office of civil rights. Each prefinding settlement agreement is a public record. Failure to comply with the prefinding settlement agreement may be enforced under K.C.C. 12.20.120.

F. The office of civil rights shall seek the voluntary cooperation of all persons to: obtain access to premises, records, documents, individuals and other possible sources of information; examine, record and copy necessary materials; and take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation. The office of civil rights may conduct discovery in aid of the investigation by the following methods or others: deposition upon oral examination or written questions; written interrogatories; requests for the production of documents or evidence, for inspection and other purposes; physical and mental examinations; and requests for admissions. The office of civil rights may sign and issue subpoenas requiring the attendance and testimony of witnesses, the production of evidence including books, records, correspondence, e-mail or documents in the possession or under the control of the person subpoenaed and access to evidence for the purpose of examination and copying as are necessary for the investigation. The office of civil rights shall consult with the prosecuting attorney before issuing any subpoena under this section.

G. If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under investigation, the office of civil rights may invoke the aid of the prosecuting attorney, who shall petition to the superior court for an order or other appropriate action necessary to secure enforcement of the subpoena. The petition shall:

1. Be accompanied by a copy of the subpoena and proof of service;
2. Set forth in what specific manner the subpoena has not been complied with; and
3. Ask for an order of the court to compel the witness to appear and testify or cooperate in the investigation of the unfair housing practice.

H. If the office of civil rights concludes at any time after the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the office of civil rights may invoke the aid of the prosecuting attorney, who shall file a civil action for appropriate temporary, injunctive or preliminary relief pending final disposition of the case.

I. The office of civil rights shall reduce the results of the investigation to written findings of fact and make a finding that there either is or is not reasonable cause for believing that an unfair housing practice has been or is being committed.

J. If a finding is made that there is no reasonable cause, the finding shall be served on the charging party and respondent. Within thirty days after service of such a negative finding, the charging party may file a written request with the office of civil rights asking for reconsideration of the finding. The office of civil rights shall furnish the charging party with information regarding how to request reconsideration. The office of civil rights shall respond in writing within a reasonable time by granting or denying the request. (Ord. 15399 § 46, 2006; Ord. 10469 § 7, 1992; Ord. 7816 § 3, 1986; Ord. 5280 § 5, 1981).

12.20.090 Conference, conciliation and persuasion - orders.

A.1. If the office of civil right makes the finding initially or on request for reconsideration that reasonable cause exists to believe that an unfair housing practice occurred or is about to occur, the office of civil rights shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion, which may include as a condition of settlement the:

- a. elimination of the unfair housing practice;
- b. payment of actual damages, including damages caused by emotional distress, humiliation and embarrassment;
- c. reinstatement to tenancy;
- d. payment of attorneys' fees and costs;
- e. payment of a civil penalty to vindicate the public interest up to the limits in 42 U.S.C. Sec. 3612(g)(3) and 24 C.F.R. 180.671(2003), as they exist on April 16, 2006, which penalty shall be paid to King County for deposit in the county general fund;
- f. participation in training on fair housing laws; and
- g. such other requirements as may lawfully be agreed upon by the parties and the office of civil rights.

2. Any postfinding settlement agreement shall be reduced to writing and signed by all parties, with the approval of the office of civil rights. The office of civil rights shall then enter an order setting forth the agreement and furnish copies of the order to all affected parties. Failure to comply with the postfinding agreement or order may be enforced under K.C.C. 12.20.120. Each postfinding settlement agreement is a public record.

B.1. If the parties cannot reach agreement, the office of civil rights shall make a finding to that effect, incorporate the finding in an order, and furnish a copy of the order to all affected parties. The order shall also include:

- a. a finding that an unfair housing practice is about to occur or has occurred;
- b. the basis for the finding; and
- c. an order requiring the respondent to cease and desist from such unfair practice and to take appropriate affirmative action, including:
 - (1) payment of actual damages, including damages caused by emotional distress, humiliation and embarrassment;
 - (2) reinstatement to tenancy;
 - (3) payment of attorneys' fees and costs;
 - (4) participation in training on fair housing laws; and
 - (5) such other action as in the judgment of the office of civil rights will effectuate the purposes of this chapter, which may include the requirement for report on the matter of compliance, injunctive relief and the payment of a civil penalty to vindicate the public interest up to the limits set out in 42 U.S.C. Sec. 3612(g)(3) as it exists on April 16, 2006. (Ord. 15399 § 47, 2006: Ord. 10469 § 8, 1992: Ord. 5280 § 6, 1981).

12.20.095 Notification of governmental agencies. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the office of civil rights shall, not later than thirty days after the date of the issuance of the order or, if the order is appealed pursuant to K.C.C. 12.20.100, thirty days after the order is in substance affirmed upon the review:

- A. Send copies of the findings of fact, conclusions of law and the order, to that governmental agency; and
- B. Recommend to that governmental agency appropriate disciplinary action including, if appropriate, the suspension or revocation of the license of the respondent. (Ord. 15399 § 48, 2006: Ord. 10469 § 11, 1992).

12.20.100 Hearing - appeal.

A.1. Any charging party, respondent or aggrieved person on whose behalf the finding was made, after an order of the office of civil rights is made in accordance with K.C.C. 12.20.090.B, may appeal the order by electing to have the claims on which reasonable cause was found decided in a civil action under K.C.C. 12.20.124 or in a hearing before the hearing examiner. The office of civil rights shall provide the charging party, respondent and aggrieved person on whose behalf the finding was made with information regarding how to make the election. This election must be made not later than thirty days after the receipt by the electing person of service of the order. The person making the election shall give notice of the election stating which forum is elected to the office of civil rights and to all other charging parties and respondents to whom the complaint relates. The notice of election should identify clearly and specifically:

- a. the errors that the appellant believes were made in the action or decision that is being appealed, or the procedural irregularities associated with that action or decision;
- b. specific reasons by the county's action should be reversed or modified; and
- c. the desired outcome of the appeal.

2. Any order issued by the office of civil rights under K.C.C. 12.20.090.B becomes final thirty days after service of the order unless a written notice of election is filed with the office of civil rights within the thirty-day period. If the order becomes final, parties violating the order are subject to the enforcement provisions of K.C.C. 12.20.120.

B. If no election of civil action is made, and an election for hearing is made, the complaint, any and all findings made and either affirmative action measures or civil penalties, or both, required shall be certified by the office of civil rights to the office of the hearing examiner for hearing.

C. A hearing shall be conducted by the office of the hearing examiner for the purpose of affirming, denying or modifying the order. There shall be a verbatim record kept of the hearing. The hearing examiner shall have such rule-making and other powers necessary for conduct of the hearing as are specified by K.C.C. 20.24.170. The office of civil rights shall maintain the action and the order of the office of civil rights shall not be presumed correct. The hearing examiner's decision shall be based upon a preponderance of the evidence. The hearing shall be conducted within a reasonable time after receipt of the certification. Written notice of the time and place of the hearing shall be given at least ten days before the date of the hearing to each affected party and to the office of civil rights.

D. Each party may, among exercising other rights:

1. Call and examine witnesses on any matter relevant to the issues of the complaint;
2. Introduce documentary and physical evidence;
3. Cross-examine opposing witnesses on any matter relevant to the issues of the complaint;
4. Impeach any witness regardless of which party first called him or her to testify;
5. Rebut evidence against him or her; and
6. Represent himself or herself or to be represented by anyone of his or her choice who is lawfully

permitted to do so.

E. Following review of the evidence submitted, the hearing examiner presiding at the hearing shall enter written findings and conclusions and shall affirm or modify the order previously issued if the hearing examiner finds that a violation is about to occur or occurred. The hearing examiner shall reverse the order if the hearing examiner finds that a violation is not about to occur or did not occur. The hearing examiner may grant as relief any relief that the office of civil rights could grant under K.C.C. 12.20.090.B. A copy of the hearing examiner's findings, conclusions and decision shall be served on all affected parties. The order of the hearing examiner is final unless reviewed by a court under K.C.C. 20.24.240.B. (Ord. 15399 § 49, 2006; Ord. 10469 § 9, 1992; Ord. 5280 § 7, 1981).

12.20.120 Enforcement by office of civil rights.

A. If the office of civil rights has reasonable cause to believe that a respondent breached a prefinding or postfinding settlement agreement executed under K.C.C. 12.20.080 or 12.20.090 or violated an order of the office of civil rights issued under K.C.C. 12.20.090 or an order of the hearing examiner issued under K.C.C. 12.20.100, the office of civil rights shall refer the matter to the prosecuting attorney for the filing of a civil action under subsection B. of this section for the enforcement of the agreement.

B. The prosecuting attorney may commence a civil action in superior court for appropriate relief with respect to breach of a prefinding or postfinding settlement agreement executed under K.C.C. 12.20.080 or 12.20.090, or violation of an order of the office of civil rights issued under K.C.C. 12.20.090 or an order of the hearing examiner issued under K.C.C. 12.20.100. This action may be commenced no later than ninety days after the referral of the alleged breach under subsection A. of this section. (Ord. 15399 § 50, 2006; Ord. 10469 § 12, 1992; Ord. 5280 § 9, 1981).

12.20.122 Enforcement by private persons.

A. An aggrieved person may commence a civil action in superior court not later than one year after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice.

B. The computation of the one-year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon the discriminatory housing practices.

C. An aggrieved person may commence a civil action under this section whether or not a complaint has been filed under K.C.C. 12.20.070 and without regard to the status of any such complaint. However, if the office of civil rights or the United States Department of Housing and Urban Development has obtained a prefinding or postfinding settlement or conciliation agreement with the consent of an aggrieved person, an action may not be filed under this section by the aggrieved person with respect to the alleged discriminatory housing practice that forms the basis for the complaint except for the purpose of enforcing the agreement. To preclude such a filing, the prefinding or postfinding settlement or conciliation agreement must include language that the charging party knowingly waives any right to file a civil action based on the same alleged unfair housing practice.

D. Subject to subsection E. of this section, after the filing of a civil action involving the same claim or arising from the same facts and circumstances, whether under this chapter or similar law, the office of civil rights may administratively close a complaint of an unfair housing practice.

E. If a court dismisses a private cause of action without reaching the merits and on grounds that would not preclude pursuit of a complaint under this chapter, the charging party may request, within ninety days of the entry of the court's order of dismissal, that the office of civil rights reopen a previously filed case. Upon such a request, the office of civil rights may reopen a case that was administratively closed upon the filing of a civil action. If the office of civil rights closes a case based on a "no reasonable cause" finding, the case shall not be reopened except as provided through reconsideration under K.C.C. 12.20.080. A charging party or aggrieved person may not secure relief from more than one governmental agency, instrumentality or tribunal for the same harm or injury.

F. An aggrieved person may not commence a civil action under this section with respect to an alleged discriminatory housing practice that forms the basis of a complaint if a hearing on the complaint has been convened by the office of the hearing examiner.

G. In a civil action under subsection A., of this section, if the court finds that a discriminatory practice occurred or is about to occur, the court may order remedies as allowed by 42 U.S.C. 3613 (c) as it exists on April 16, 2006, including punitive damages as provided in 42 U.S.C. 3613(c), and, subject to the restrictions of subsection H. of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering such affirmative action as might be appropriate. The court may also allow reasonable attorneys' fees and costs to the prevailing party.

H. Relief granted under this section shall not affect any contract, sale, encumbrance or lease consummated before the granting of the relief and involving a bona fide purchaser, encumbrances or tenant, without actual notice of the filing of a complaint with the office of civil rights or civil action under this chapter.

I. Upon timely application, the prosecuting attorney may intervene in the civil action if the prosecuting attorney determines that the case is of general public importance.

J. This section is intended to provide private judicial remedies for violations of this chapter that are as expansive as the powers granted by the Constitution of laws of the state of Washington. (Ord. 15399 § 51, 2006; Ord. 10469 § 13, 1992).

12.20.124 Civil enforcement when election is made for a civil action.

A. If an election is made under K.C.C. 12.20.100 for the claims to be decided in a civil action, the office of civil rights shall authorize and, not later than thirty days after the election is made, shall commence, on behalf of the charging party, a civil action in superior court to affirm or modify the order of the office of civil rights issued under K.C.C. 12.20.090.

B. Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

C. In a civil action under this section, if the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under K.C.C. 12.20.122. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under K.C.C. 12.20.122 also accrues to that aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in that civil action, the court shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court. (Ord. 15399 § 52, 2006; Ord. 10469 § 14, 1992).

12.20.130 Exceptions.

A. Nothing in this chapter:

1. Prohibits treating any person or persons meeting the definition of parental status or any individual with a disability or individuals with disabilities more favorably than others if the favorable treatment does not discriminate against persons on the basis of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability;

2. Prohibits a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from 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, or from giving preference to persons of the same religion, but only if:

a. membership in the religion is not restricted on account of race, color, ancestry or national origin; and

b. the limitation or preference is reasonably in the furtherance of a religious purpose or activity;

3. Prohibits any person from limiting the rental or occupancy of housing accommodations in any sorority, fraternity, school dormitory or similar residential facility to persons of one gender if considerations of personal privacy exist;

4. Prohibits any person from limiting, on the basis of age or parental status, the sale, rental or occupancy of housing accommodations that fully qualify as housing for older persons age fifty-five and over under 42 U.S.C. Sec. 3607 as it exists on April 16, 2006;

5. Prohibits any person from limiting the sale, rental or occupancy of housing accommodations to:

a. individuals with disabilities in any housing facility operated for individuals with disabilities;

b. senior citizens in any housing facility operated exclusively for senior citizens; or

c. elderly persons in any housing provided under any state or federal program that meets the requirements of 42 U.S.C. Sec. 3607(b)(2)(A) as it exists on April 16, 2006;

6. Requires any person to rent or lease a housing accommodation to a minor;

7. Requires or permit any sale, rental or occupancy otherwise prohibited by law;

8. May be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than race, color, religion, ancestry, national origin, age, gender, marital status, parental status, sexual orientation, participation in the Section 8 program, disability or use of a service or assistive animal by an individual with a disability; or

9. Prohibits any person from placing limitations on the maximum number of tenants permitted per unit on account of reasonable space limitations or requirements of law.

B. Nothing in this chapter, except K.C.C. 12.20.040.A.6, 12.20.040.A.7, 12.20.040.A.8, 12.20.040.B and 12.20.050, applies to the renting, subrenting, leasing or subleasing of a single-family or duplex dwelling unit in which the owner normally maintains a permanent residence, home or abode.

C. Nothing in this chapter prohibits any party to a real estate transaction or real estate-related transaction from considering the capacity to pay and credit history of any individual applicant.

D. Nothing in this chapter prohibits any party to a real estate transaction or real estate related transaction from considering or taking reasonable action based on the application of the community property law to the individual case. (Ord. 16149 § 2, 2008: Ord. 15399 § 53, 2006: Ord. 10469 § 15, 1992: Ord. 10153 § 5, 1991: Ord. 5732 § 3, 1981: Ord. 5280 § 10, 1981).

12.20.133 Authorization to implement procedures. The office of civil rights may implement such forms, administrative processes and operational procedures as are necessary to comply with this chapter. The forms, processes and procedures shall be adopted in compliance with K.C.C. chapter 2.98. (Ord. 15399 § 54, 2006: Ord. 10469 § 16, 1992).

12.20.140 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. (Ord. 15399 § 56, 2006: Ord. 10469 § 17, 1992: Ord. 7816 § 5, 1986: Ord. 5280 § 11, 1981).

12.20.150 Fair housing code compliance.

A. If a complaint has been filed under this chapter, the office of civil rights shall initiate an investigation under this chapter.

B. If the office of civil rights determines that a violation of this chapter or any rules and regulations adopted under this chapter is about to occur or has occurred the office of civil rights shall issue an order in accordance with this chapter. For enforcement of this chapter, if a conflict exists between this chapter and K.C.C. Title 23, this chapter controls over K.C.C. Title 23. (Ord. 15399 § 58, 2006: Ord. 14199 § 149, 2001: Ord. 13263 § 53, 1998).