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Ordinance No. 104095

AN ORDINANCE amending Section 5 of Ordinance 102562 (Seattle Fair Employment Practices Ordinance) to clarify certain procedures for the enforcement of said ordinance.

180

REPEALED - ORD.

107116

COMPTROLLER
FILE NUMBER

Council Bill No. 95853

INTRODUCED DEC 9 1974	BY: WILLIAMS
REFERRED DEC 9 1974	TO: HUMAN RESOURCES & JUD.
REFERRED:	
REFERRED:	
REPORTED DEC 16 1974	SECOND READING: DEC 16 1974
THIRD READING: DEC 18 1974	SIGNED: DEC 16 1974
PRESENTED TO MAYOR: DEC 17 1974	APPROVED: DEC 20 1974
VETOED BY CITY CLERK: DEC 20 1974	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

1 REPEALED - ORD.

2 109116

ORDINANCE 104095

3 AN ORDINANCE amending Section 5 of Ordinance 102562 (Seattle
4 Fair Employment Practices Ordinance) to clarify certain
5 procedures for the enforcement of said ordinance.

6 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

7 Section 1. That Section 5 of Ordinance 102562, as
8 last amended by Ordinance 103422, is further amended to read
9 as follows:

10 AMENDED - ORD.
11 105423

Section 5. ENFORCEMENT.

12 (A) A complaint alleging an unfair employment practice
13 shall be in writing and signed by the charging party, describing
14 the unfair employment practice complained of and must be filed
15 within six months of the occurrence of the alleged unfair
16 employment practice by:

17 (1) Any person, or the person's attorney, when the
18 person claims to be aggrieved by an unfair employment practice.

19 (2) Any Commission or Director as defined in Section
20 3 of this ordinance whenever any such Commission or Director
21 has reason to believe that any person has been engaged or
22 is engaging in an unfair employment practice.

23 (3) A State or Federal agency concerned with discrimination
24 in employment whenever any such agency has reason to believe
25 that an unfair employment practice has been or is being committed.

26 (4) Any labor organization which has reason to believe
27 that an unfair employment practice has been or is being
28 committed.

Complaints pertaining solely to race, color, creed,
religion, ancestry, national origin, or political ideology
shall be filed with the Department of Human Rights which shall

1 have primary enforcement responsibility with respect thereto;
2 complaints pertaining solely to sex, marital status or
3 sexual orientation shall be filed with the Office of Women's
4 Rights which shall have primary enforcement responsibility
5 with respect thereto; and complaints pertaining solely to
6 age or sensory, mental or physical handicaps shall be filed
7 with the Department of Human Resources, which shall have
8 primary enforcement responsibility with respect thereto;
9 provided that a complaint alleging more than one or a combination
10 of such factors may be filed with the Office, Department or
11 Division having jurisdiction over any one of such factors.
12 In such case the receiving Office, Division or Department
13 shall, promptly and before investigation, notify any other
14 Office, Division or Department wherein the complaint could
15 have been filed that the complaint has been received and
16 provide a copy thereof upon request.

17 (B) A complaint shall not be rejected as insufficient
18 because of failure to include all required information so
19 long as it substantially satisfies the informational requirements
20 necessary for processing. The charging party may amend a
21 complaint in any respect before notice of hearing on the
22 matter and thereafter may amend the complaint only with permission
23 of the Hearing Examiner which permission shall be granted
24 when justice will be served thereby and all parties are allowed
25 time to prepare their case with respect to additional or
26 expanded charges which they did not and could not have
27 reasonably foreseen would be in issue at the hearing.

28 (C) After the filing of a complaint, the Director
or in case of joint enforcement responsibility, the Director
of Human Rights, jointly with the Director of the Office of

1 Women's Rights and/or Director of the Department of Human
2 Resources, as the complaint requires, shall promptly refer
3 such complaint to the appropriate staff personnel for investigation
4 and ascertainment of the facts. The results of the investigation
5 shall be reduced to written findings of fact, and a finding
6 shall be made that there is or is not reasonable cause
7 for believing that an unfair practice has been or is being
8 committed.

9 (D) If the finding is made that there is no reasonable
10 cause, said finding shall be furnished to the charging party
11 and to the respondent. Within thirty days after receipt of
12 the finding, the charging party shall have the right to
13 appeal such finding to the commission having hearing
14 responsibility by filing a written statement of appeal with
15 it. In the event that no appeal is taken or such appeal is
16 unsuccessful, the complaint shall be dismissed.

17 (E) If the finding is made initially or on appeal
18 that reasonable cause exists to believe that an unfair
19 employment practice has occurred, the Director shall endeavor
20 to eliminate the unfair practice by conference, conciliation
21 and persuasion which may include as a condition of settlement
22 the elimination of the unfair employment practice, hiring,
23 reinstatement or upgrading with or without back pay, admittance
24 or restoration to membership in a labor organization, admittance
25 to participation in a guidance apprentice-training or retraining
26 program, or such other requirements as may lawfully be agreed
27 upon by the parties, and the Director. Any settlement
28 agreement shall be reduced to writing and signed by the
respondent. An order shall then be entered by the Director
setting forth the terms of the agreement. Copies of such

1 order shall be delivered to all affected parties and the
2 original thereof filed with the City Clerk. If no agreement
3 can be reached, a finding to that effect shall be made and
4 reduced to writing with a copy thereof furnished to the
5 charging party and the respondent.

6 (F) In case of failure to reach an agreement for the
7 elimination of such unfair practice, and upon the entry of
8 a finding to that effect, the complaint and any and all
9 findings made, shall be certified by the Director to the
10 appropriate Commission(s) for hearing. The Director shall
11 then cause to be issued and served in the name of the Commission
12 or Commissions having hearing responsibility written notice
of hearing to all parties as provided by law.

13 The hearing shall be conducted by a Hearing Examiner
14 from the Office of Hearing Examiner, if available, or otherwise by
15 a Hearing Examiner appointed by the Presiding Judge of Seattle
16 Municipal Court, in consultation with the Director. In order
17 to promote uniformity of rules and procedures for hearings, the
18 Hearing Examiner shall, with the advice of the Director of
19 the Department of Human Rights, the Director of the Office of
20 Women's Rights, and the Director of the Department of Human
21 Resources, and with the approval of their respective commissions,
22 present to the City Council, written rules and procedures for
23 the conduct of hearings consistent with this ordinance and the
24 Seattle Administrative Code. Until such formal rules are adopted,
the Hearing Examiner may use such rules as may be approved by
the appropriate Director(s).

25 The President of the Commission, or where joint
26 enforcement responsibility is involved, the President of the
27 Human Rights Commission jointly with the President of the
28

1 Women's Commission, Chairman of the Mayor's Committee on
2 Opportunities for the Handicapped, and/or the President of the
3 Technical Advisory Committee on Aging as the case requires,
4 shall appoint a hearing panel of not more than three
5 Commissioners or persons acting in the name of the Commission
6 with the majority determined by the nature of the complaint,
7 who shall represent the Commission(s) at the hearing.

8 Within such period as may be fixed by rule, the
9 Hearing Examiner presiding at the hearing shall prepare a
10 written recommendation which shall be filed as a public
11 record and copies thereof mailed to each party and to other
12 interested persons. Such recommendations shall contain a
13 brief summary of the evidence considered and shall state
14 the Hearing Examiner's findings and conclusions upon which
15 such recommendation is based, together with a brief statement
16 of the Hearing Examiner's reasons therefor. The Hearing
17 Examiner's recommendation shall be in the form of a proposed
18 decision which may be adopted by the hearing panel as its
19 decision in the case.

20 The final decision after the hearing shall be made
21 by the hearing panel, within 30 days after receipt of and
22 upon full consideration of the proposed decision of the
23 Hearing Examiner, as provided in the Seattle Administrative
24 Code. The hearing panel shall set a date for consideration
25 of the proposed decision, and shall give notice thereof
26 to all parties not later than ten (10) days prior to such
27 date.

28 (G) In the event the hearing panel shall determine
that respondent has been engaged in or is engaged in any
unfair employment practice, the hearing panel shall issue,

1 in the name of the Commission, and cause to be served on the
2 respondent an order setting forth its decision and reasons
3 therefor and requiring the respondent to cease and desist
4 from such unfair practice or practices and to take such
5 affirmative action, including but not limited to, hiring,
6 reinstatement or upgrading with or without back pay, admit
7 or restore to membership in a labor organization, admit to
8 participation in a guidance, apprentice training or retraining
9 program, or to take such other action as, in the judgment of
10 the hearing panel, will effectuate the purposes of this
11 ordinance which may include a requirement for report on the
12 matter of compliance.

12 (H) In the event the respondent refuses or fails to
13 comply with any order of a Director or hearing panel, the
14 Director of the department having primary enforcement responsibility
15 shall certify the case and the entire record of its proceedings
16 to the Corporation Counsel, who shall invoke the aid of the
17 appropriate court to secure enforcement or compliance with the
18 order, or to impose a civil penalty as set forth in Section 6,
19 or both; provided, that in any case in which the order is
20 directed to the City, or to any department, division, board,
21 or agency thereof, a copy of such order shall be transmitted
22 to the Mayor who shall take appropriate action to secure
23 compliance therewith.

23 (I) The Department, the Office of Women's Rights,
24 and the Department of Human Resources, in the performance
25 of their functions, may enlist the aid of all departments
26 of the city government, and all said departments are hereby
27 directed to fully cooperate therewith.

27 (J) The Department of Human Rights, the Office of
28 Women's Rights and the Department of Human Resources, in

(To be used for all Ordinances except Emergency.)

carrying out the specific duties imposed by this ordinance, may request the aid of the City Council through its proper committee in the conduct of any further investigation and enforcement.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 16 day of December, 1974 and signed by me in open session in authentication of its passage this 16 day of December, 1974.

[Handwritten Signature]
President of the City Council.

Approved by me this 20 day of December, 1974.

[Handwritten Signature]
Mayor.

Filed by me this 20 day of December, 1974.

Attest: *[Handwritten Signature]*
City Comptroller and City Clerk.

(SEAL)

Published

By *[Handwritten Signature]*
Deputy Clerk.

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THE CITY OF SEATTLE

LAW DEPARTMENT

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CLAIMS MANAGER
 V. L. PORTER

December 4, 1974

Human Resources and Judiciary Committee
 City Council
 The City of Seattle

Honorable Members:

We have been informed of certain omissions from the enforcement provisions of the Seattle Fair Employment Practices Ordinance (Ordinance 102562, as amended by Ordinance 103422).

We have accordingly prepared and forward herewith proposed legislation amending Section 5 of Ordinance 102562, as last amended by Ordinance 103422, to correct such omissions.

Yours very truly,

JOHN P. HARRIS
 Corporation Counsel

Donald H. Stout

By
 DONALD H. STOUT
 Assistant

DHS:sg

Enc.

cc: Hearing Examiner
 Office of Women's Rights
 Department of Human Resources

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

_____ *Giuseppe Williams*

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: HR 2.5.

_____ *[Signature]*
_____ PRESIDENT'S SIGNATURE

Affidavit of Publication

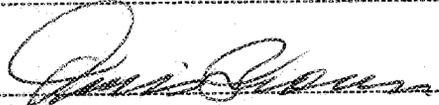
STATE OF WASHINGTON,
KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a.....

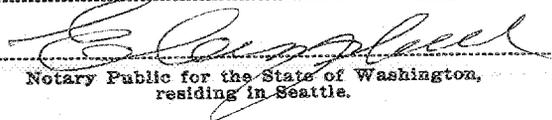
ORDINANCE NO 104095

was published on Dec 24, 1974



Subscribed and sworn to before me on

Dec 24, 1974


Notary Public for the State of Washington,
residing in Seattle.

ORDINANCE 104005

AN ORDINANCE amending Section 3 of Ordinance 103432, the Fair Employment Practices Ordinance, to clarify certain procedures for the enforcement of said ordinance.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That Section 3 of Ordinance 103432, as last amended by Ordinance 103432, is further amended to read as follows:

Section 3. ENFORCEMENT.

(A) A complaint alleging an unfair employment practice shall be in writing and signed by the charging party, describing the unfair employment practice complained of and must be filed within six months of the occurrence of the alleged unfair employment practice by:

(1) Any person, or the person's attorney, when the person claims to be aggrieved by an unfair employment practice.

(2) Any Commission or Director as defined in Section 3 of this ordinance whenever any such Commission or Director has reason to believe that any person has been engaged or is engaging in an unfair employment practice.

(3) A State or Federal agency concerned with discrimination in employment whenever any such agency has reason to believe that an unfair employment practice has been or is being committed.

(4) Any labor organization which has reason to believe that an unfair employment practice has been or is being committed.

Complaints pertaining solely to race, color, creed, religion, ancestry, national origin, or political ideology shall be filed with the Department of Human Rights which shall have primary enforcement responsibility with respect thereto; complaints pertaining solely to sex, marital status or sexual orientation shall be filed with the Office of Women's Rights which shall have primary enforcement responsibility with respect thereto; and complaints pertaining solely to age or sensory, mental or physical handicaps shall be filed with the Department of Human Resources, which shall have primary enforcement responsibility with respect thereto; provided that a complaint alleging more than one or a combination of such factors may be filed with the OFFICE, Department or Division having jurisdiction over any one of such factors. In such case the receiving Office, Division or Department shall promptly and before investigation notify any other Office, Division or Department wherein the complaint could have been filed that the complaint has been received and provide a copy thereof upon request.

(B) A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing. The charging party may amend a complaint in any respect before notice of hearing on the matter and thereafter may amend the complaint only with permission of the Hearing Examiner which permission shall be granted when justice will be served thereby and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing.

(C) After the filing of a complaint the Director or in case of joint enforcement responsibility, the Director of Human Rights, jointly with the Director of the Office of Women's Rights and/or Director of the Department of Human Resources, as the complainant requires, shall promptly refer such complaint to THE APPROPRIATE STAFF PERSONNEL for investigation and ascertainment of the facts. The results of the investigation shall be reduced to written findings of fact and a finding shall be made that there is or is not reasonable cause for believing that an unfair practice has been or is being committed.

(D) If the finding is made that there is no reasonable cause, said finding shall be furnished to the charging party and to the respondent. Within thirty days after receipt of the finding, the charging party shall have the right to appeal such finding to the commission having hearing responsibility by filing a written statement of appeal with it. In the event that no appeal is taken or such appeal is unsuccessful, the complaint shall be dismissed.

(E) If the finding is made initially or on appeal that reasonable cause exists to believe that an unfair employment practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion which may include as a condition of settlement the elimination of the unfair employment practice, hiring, reinstatement or upgrading with or without back pay, admission or restoration to membership in a labor organization, admission to participation in a guidance, apprentice training or retraining program, or such other requirements as may lawfully be agreed upon by the parties, and the Director's written agreement shall be reduced to writing and signed by the respondent. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties and the original thereof filed with the City Clerk. If no agreement can be reached, a finding to that effect shall be made and reduced to writing with a copy thereof furnished to the charging party and the respondent.

(F) In case of failure to reach an agreement for the elimination of such unfair practice and upon the entry of a finding to that effect, the complaint and any and all findings made, shall be certified by the Director to the appropriate Commission(s) for hearing. The Director shall then cause to be issued and served in the name of the Commission or Commissions having hearing responsibility written notice of hearing to all parties as provided by law.

The hearing shall be conducted by a Hearing Examiner from the Office of Hearing Examiner, if available, or otherwise by a Hearing Examiner appointed by the PRESIDING JUDGE OF SEATTLE MUNICIPAL COURT, IN CONSULTATION WITH THE DIRECTOR, IN ORDER TO PROMOTE UNIFORMITY OF RULES AND PROCEDURES FOR HEARINGS. THE HEARING EXAMINER SHALL, WITH THE ADVICE OF THE DIRECTOR OF THE DEPARTMENT OF HUMAN RIGHTS, THE DIRECTOR OF THE OFFICE OF WOMEN'S RIGHTS, AND THE DIRECTOR OF HUMAN RESOURCES, AND WITH THE APPROVAL OF THEIR RESPECTIVE COMMISSIONS, PRESENT TO THE CITY COUNCIL, WRITTEN RULES AND PROCEDURES FOR THE CONDUCT OF HEARINGS CONSISTENT WITH THIS ORDINANCE AND THE SEATTLE ADMINISTRATIVE CODE, UNTIL SUCH FORMAL RULES ARE ADOPTED. THE HEARING EXAMINER MAY USE SUCH RULES AS MAY BE APPROVED BY THE APPROPRIATE DIRECTOR(S).

The President of the Commission or where joint enforcement responsibility is involved, the President of the Human Rights Commission jointly with the President of the Women's Commission, Chairman of the Mayor's Committee on Opportunities for the Handicapped, and/or the President of the Technical Advisory Committee on Aging as the case requires, shall appoint a hearing panel of not more than three Commissioners or persons acting in the name of the Commission with the majority determined by the nature of the complaint, who shall represent the Commission(s) at the hearing.

WITHIN SUCH PERIOD AS MAY BE FIXED BY RULE THE HEARING EXAMINER PRESIDING AT THE HEARING SHALL PREPARE A WRITTEN RECOMMENDATION WHICH SHALL BE FILED AS A PUBLIC RECORD AND COPIES THEREOF MAILED TO EACH PARTY AND TO OTHER INTERESTED PERSONS. SUCH RECOMMENDATIONS SHALL CONTAIN A BRIEF SUMMARY OF THE EVIDENCE CONSIDERED AND SHALL STATE THE HEARING EXAMINER'S FINDINGS AND CONCLUSIONS UPON WHICH SUCH RECOMMENDATION IS BASED, TOGETHER WITH A BRIEF STATEMENT OF THE HEARING EXAMINER'S REASONS THEREFOR. THE HEARING EXAMINER'S RECOMMENDATION SHALL BE IN THE FORM OF A PROPOSED DECISION WHICH MAY BE ADOPTED BY THE HEARING PANEL AS ITS DECISION IN THE CASE.

The final decision after the hearing shall be made by the hearing panel within 30 days after receipt of and upon full consideration of the proposed decision of the Hearing Examiner, as provided in the Seattle Administrative Code. THE HEARING PANEL SHALL SET A DATE FOR CONSIDERATION OF THE PROPOSED DECISION AND SHALL GIVE NOTICE THEREOF TO ALL PARTIES NOT LATER THAN TEN (10) DAYS PRIOR TO SUCH DATE.

(G) In the event the hearing panel shall determine that respondent has been engaged in or is engaged in any unfair employment practice, the hearing panel shall issue, in the name of the Commission, and cause to be served on the respondent an order setting forth its decision and reasons therefor and requiring the respondent to cease and desist from such unfair practice or practices and to take such affirmative action, including but not limited to, hiring, reinstatement or upgrading with or without back pay, admit or restore to membership in a labor organization, admit to participation in a guidance, apprentice training or retraining program or to take such other action as in the judgment of the hearing panel will effectuate the purposes of this ordinance which may include a requirement for report on the matter of compliance.

(H) In the event the respondent refuses or fails to comply with any order of a Director or hearing panel, the Director of the Department having primary enforcement responsibility shall certify the case and the entire record of its proceedings to the Corporation Counsel, who shall invoke the aid of the appropriate court to secure enforcement of compliance with the order or to impose a civil penalty as set forth in Section 5, or both, provided, that in any case in which the order is directed to the City or to any department, division, board, or agency thereof, a copy of such order shall be transmitted to the Mayor who shall take appropriate action to secure compliance therewith.

(I) The Department, the Office of Women's Rights, and the Department of Human Resources in the performance of their functions may enlist the aid of all departments of the city government and all said departments are hereby directed to fully cooperate therewith.

(J) The Department of Human Rights, the Office of Women's Rights and the Department of Human Resources, in carrying out the specific duties imposed by this ordinance, may request the aid of the City Council through its proper committees in the conduct of any further investigation and enforcement.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 16th day of December, 1974 and signed by me in open session in authentication of its passage this 16th day of December, 1974.

SAM SMITH

President of the City Council

Approved by me this 20th day of December, 1974.

WES UELMAN,

Mayor.

Filed by me this 30th day of December, 1974.

Attest: C. G. ERLANDSON,
City Comptroller and
City Clerk.

(Seal) By J. E. FENTON,
Deputy Clerk.

Publication ordered by C. G. ERLANDSON, Comptroller and City Clerk.

Date of Official Publication in the Daily Journal of Commerce, Seattle, December 24, 1974.

(C-742)