

ORDINANCE NO. _____
0-07-88

An ordinance of the City of Gainesville, Florida, amending Chapter 8 of the Gainesville Code of Ordinances, relating to discrimination; defining gender identity and readily achievable; adding gender identity as a class protected against discrimination in Article I, In General, Article II, Human Rights Board, Article III, Equal Employment Opportunity, Article IV, Equal Access to Places of Public Accommodation; Article V, Fair Housing, and Article VI, Equal Credit Opportunity; amending sections 8-49 (Employment), 8-69 (Public accommodations), 8-94 (Fair housing) to provide exceptions regarding discrimination on the basis of gender identity, relating to access to, and use of, certain facilities such as shower rooms and dressing rooms, in covered facilities; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

1 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY**
2 **COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:**

3 **Section 1.** Section 8-1, Declaration of findings and policy, Code of
4 Ordinances of the City of Gainesville, is amended to read as follows:

5 **Sec. 8-1. Declaration of findings and policy.**

6 (a) The city commission hereby finds that:

7 (1) The right of access to and the full and equal enjoyment of places of
8 public accommodation as defined hereafter, without discrimination on the basis of
9 sexual orientation, race, color, gender, age, religion, national origin, marital
10 status, ~~or~~ disability or gender identity is a matter of concern to the citizens of the
11 city and more particularly of concern to the city in providing for the health,
12 welfare, safety and morals of the citizens of the municipality;

13 (2) The availability of adequate housing without discrimination on the
14 basis of sexual orientation, race, color, gender, age, religion, national origin,
15 marital status, ~~or~~ disability or gender identity is a matter of concern to the citizens
16 of the city and more particularly of concern to the city in providing for the health,
17 welfare, safety and morals of the citizens of the municipality;

18 (3) Employment practices without discrimination on the basis of
19 sexual orientation, race, color, gender, age, religion, national origin, marital
20 status, ~~or~~ disability or gender identity is a matter of concern to the citizens of the
21 city and more particularly of concern to the city in providing for the health,
22 welfare, safety and morals of the citizens of the municipality.

1 (4) The extension of credit without discrimination on the basis of
2 sexual orientation, race, color, gender, age, religion, national origin, marital
3 status, ~~or~~ disability or gender identity is a matter of concern to the citizens of the
4 city and more particularly of concern to the city in providing for the health,
5 welfare, safety and morals of the citizens of the municipality; and

6 (5) Employment discrimination against persons having physical or
7 mental disabilities that do not constitute bona fide occupational qualifications is a
8 matter of concern to the citizens of the city and more particularly of concern to
9 the city in providing for the health, welfare, safety and morals of the citizens of
10 the municipality.

11 (6) Religious institutions, organizations, corporations, associations or
12 societies (hereinafter "institutions") have long been important in this country's
13 constitutional framework, and exempting out the application of sexual orientation
14 and gender identity provisions in those institutions is rationally related to the
15 legitimate purpose of alleviating significant governmental interference with the
16 ability of religious institutions to define and carry out their religious missions.

17 (b) The above findings being made, the city commission hereby declares the
18 policy of the city to be, for the protection of the public health, safety and general
19 welfare, for the maintenance of business and good government, and for the
20 promotion of the city's trade, commerce and manufacturing, to prohibit
21 discrimination in the access to and equal enjoyment of places of public
22 accommodation, to ensure equal opportunity to all persons to live in decent
23 housing facilities, regardless of sexual orientation, race, color, gender, age,

1 religion, national origin, marital status, ~~or~~ disability or gender identity and to that
2 end to prohibit discrimination in the extension of credit without regard to sexual
3 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
4 disability or gender identity and to prohibit employment discrimination against
5 persons because of sexual orientation, race, color, gender, age, religion, national
6 origin, marital status, ~~or~~ disability or gender identity that do not constitute bona
7 fide occupational qualifications.

8 **Section 2.** Section 8-6, “‘Sexual orientation’ defined,” Code of
9 Ordinances of the City of Gainesville, is amended to read as follows:

10 **Sec. 8-6. “Sexual orientation,” Gender identity” and “Readily achievable”**
11 **defined.**

12 (a) As used in this chapter, "sexual orientation" means the condition of being
13 heterosexual, homosexual, or bisexual or having a history of such identification.
14 This definition is not intended to permit any practice prohibited by federal, state
15 or local law.

16 (b) As used in this chapter, “gender identity” means an inner sense of being a
17 specific gender, or the expression of a gender identity by verbal statement,
18 appearance, or mannerisms, or other gender-related characteristics of an
19 individual with or without regard to the individual’s designated sex at birth.

20 (c) As used in this chapter, “readily achievable” means easily accomplishable
21 and able to be carried out without much difficulty or expense, determined in
22 accordance with the following factors:

1 (1) the nature and cost of the action needed to provide the reasonable
2 access, in light of economic conditions;

3 (2) the overall financial resources of the facility or facilities involved
4 in the action; the number of persons employed at such facility; the effect on
5 expenses and resources, or the impact otherwise of such action upon the operation
6 of the facility;

7 (3) the overall financial resources of the covered entity; the overall
8 size of the business of a covered entity with respect to the number of its
9 employees; the number, type, and location of its facilities; and

10 (4) the type of operation or operations of the covered entity, including
11 the composition, structure, and functions of the workforce of such entity; the
12 geographic separateness, administrative or fiscal relationship of the facility or
13 facilities in question to the covered entity.

14 **Section 3.** Paragraphs (1), (5) and (6) of subsection (b), Section 8-21,
15 “Equal opportunity director,” Code of Ordinances of the City of Gainesville, are
16 amended to read as follows:

17 **Sec. 8-21. Equal opportunity director.**

18 (b) The duties, functions, powers, and responsibilities authorized by this
19 article are as follows:

20 (1) Implement the provisions of this chapter and the rules and
21 regulations promulgated hereunder and all City of Gainesville ordinances, codes,
22 rules and regulations pertaining to discrimination of the basis of sexual
23 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~

1 disability or gender identity in employment, fair housing, fair credit, and public
2 accommodations, and advise the city commissioners when changes in the federal
3 or state human rights laws require revisions to this chapter.

4 (5) Provide assistance in all matters relating to equal employment, fair
5 housing, equal credit opportunity and public accommodations opportunity
6 relating to sexual orientation, race, color, gender, age, religion, national origin,
7 marital status, ~~or~~ disability or gender identity within the City of Gainesville.

8 (6) Publish and disseminate public information and educational
9 materials relating to discrimination in employment, fair housing, equal credit
10 opportunity and public accommodations relating to sexual orientation, race, color,
11 gender, age, religion, national origin, marital status, ~~or~~ disability or gender
12 identity

13 **Section 4.** Section 8-48, "Prohibition of discrimination in employment
14 practices," Code of Ordinances of the City of Gainesville, is amended to read as
15 follows:

16 **Sec. 8-48. Prohibition of discrimination in employment practices.**

17 (a) It shall be an unlawful employment practice for an employer to:

18 (1) Fail or refuse to hire or to discharge any individual, or otherwise to
19 discriminate against any individual with respect to his/her compensation, terms,
20 conditions or privileges of employment because of the individual's sexual
21 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
22 disability or gender identity. Provided further that failure to provide reasonable
23 access to, and use of, facilities as described in subsection 8-49(d) shall not be

1 unlawful unless and until said provisions become effective as described therein
2 and as provided in section 8-49(d)(1).

3 (2) Limit, segregate or classify employees or applicants for
4 employment in any way which would deprive or tend to deprive any individual of
5 employment opportunities or otherwise adversely affect his/her status as an
6 employee, because of such individual's sexual orientation, race, color, gender,
7 age, religion, national origin, marital status, ~~or~~ disability or gender identity;

8 (3) Discriminate against any person because of his/her physical or
9 mental disability except in respect to a bona fide occupational qualification.

10 (b) It shall be an unlawful employment practice for an employment agency to
11 fail or refuse to refer for employment, or otherwise to discriminate against any
12 individual because of his/her sexual orientation, race, color, gender, age, religion,
13 national origin, marital status, ~~or~~ disability or gender identity or to classify or
14 refer for employment any individual on the basis of his/her sexual orientation,
15 race, color, gender, age, religion, national origin, marital status, ~~or~~ disability or
16 gender identity, except where sexual orientation, race, color, gender, age, religion,
17 national origin, marital status, ~~or~~ disability or gender identity is a bona fide
18 occupational qualification.

19 (c) It shall be an unlawful employment practice for a labor organization to:

20 (1) Exclude or expel from its membership or otherwise to discriminate
21 against any individual because of his/her sexual orientation, race, color, gender,
22 age, religion, national origin, marital status, ~~or~~ disability or gender identity;

1 (2) Limit, segregate or classify its membership, or applicants for
2 membership, or to classify or fail or refuse to refer for employment, any
3 individual in any way which would deprive or tend to deprive any individual of
4 employment opportunities, or would limit such employment opportunities or
5 otherwise adversely affect his/her status as an employee or as an applicant for
6 employment, because of the individual's sexual orientation, race, color, gender,
7 age, religion, national origin, marital status, ~~or disability~~ or gender identity;

8 (3) Discriminate against any person because of his/her disability
9 except in respect to a bona fide occupational qualification;

10 (4) Cause or attempt to cause an employer to discriminate against an
11 individual in violation of this section.

12 (d) It shall be an unlawful employment practice for any employer, labor
13 organization, or joint labor-management committee controlling apprenticeship or
14 other training or retraining, including on-the-job training programs to discriminate
15 against any individual because of his/her sexual orientation, race, color, gender,
16 age, religion, national origin, marital status, ~~or disability~~ or gender identity in
17 admission to, or employment in, any program established to provide
18 apprenticeship or other training.

19 (e) It shall be an unlawful employment practice for an employer, labor
20 organization, employment agency, or joint labor-management committee
21 controlling apprenticeship or other training or retraining, including on-the-job
22 training programs, to print or publish or cause to be printed or published any
23 notice or advertisement relating to employment by such an employer or

1 membership in or any classification or referral for employment by such a labor
2 organization, or relating to any classification or referral for employment by such
3 an employment agency, or relating to admission to, or employment in, any
4 program established to provide apprenticeship or other training by such a joint
5 labor-management committee indicating any preference, limitation, specification
6 or discrimination based on sexual orientation, race, color, gender, age, religion,
7 national origin, marital status, ~~or disability~~ or gender identity, except that such a
8 notice or advertisement may indicate a preference limitation, specification or
9 discrimination based on sexual orientation, race, color, gender, age, religion,
10 national origin, marital status, ~~or disability~~ or gender identity when sexual
11 orientation, race, color, gender, age, religion, national origin, marital status or
12 disability is a bona fide occupational qualification for employment.

13 (f) It shall be an unlawful employment practice for an employer to
14 discriminate against any of his/her employees or applicants for employment, for
15 an employment agency, or joint labor-management committee controlling
16 apprenticeship or other training or retraining, including on-the-job training
17 programs, to discriminate against any individual, or for a labor organization to
18 discriminate against any member thereof or applicant for membership, because
19 he/she has made a charge, testified, assisted or participated in any matter in an
20 investigation, proceeding or hearing under this article.

21 **Section 5.** Section 8-49, "Exceptions," Code of Ordinances of the City of
22 Gainesville, is amended to read as follows:

23 **Sec. 8-49. Exceptions.**

1 (a) Section 8-48 shall not apply to an employer with respect to a religious
2 corporation, association, educational institution or society with respect to the
3 employment of individuals of a particular religion to perform work connected
4 with the carrying on by the corporation, association, educational institution or
5 society of its activities in those certain instances where sexual orientation, race,
6 color, gender, age, religion, national origin, marital status, ~~or disability~~ or gender
7 identity is a bona fide occupational qualification reasonably necessary to the
8 normal operation of that particular business or enterprise, nor shall it be an
9 unlawful employment practice for an employer to give and to act upon the results
10 of any professionally developed ability test provided that the test, its
11 administration or action upon the results, is not designed, intended or used to
12 discriminate because of sexual orientation, race, color, gender, age, religion,
13 national origin, marital status, ~~or disability~~ or gender identity.

14 (b) Notwithstanding any other provisions of this article, it shall not be an
15 unlawful employment practice for an employer to hire and employ employees, for
16 an employment agency to classify, or refer for employment any individual, for a
17 labor organization to classify its membership or to classify or to refer for
18 employment any individual, or for an employer, labor organization or joint labor-
19 management committee controlling apprenticeship or other training or retraining
20 programs, to admit or employ any individual in any such program on the basis of
21 his/her sexual orientation, race, color, gender, age, religion, national origin,
22 marital status, ~~or disability~~ or gender identity in those certain instances where
23 sexual orientation, race, color, gender, age, religion, national origin, marital

1 status, ~~or disability~~ or gender identity is a bona fide occupational qualification
2 reasonably necessary to the normal operation of that particular business or
3 enterprise.

4 (c) Notwithstanding any other provisions of this article, it shall not be an
5 unlawful employment practice for an employer to apply different standards of
6 compensation, or different terms, conditions or privileges of employment
7 pursuant to a bona fide seniority or merit system, or a system which measures
8 earning by quantity or quality of production or to employees who work in
9 different locations, provided that such differences are not the result of an intention
10 to discriminate because of sexual orientation, race, color, gender, age, religion,
11 national origin, marital status, ~~or disability~~ or gender identity, nor shall it be an
12 unlawful employment practice for an employer to give and to act upon the results
13 of any professionally developed ability test provided that the test, its
14 administration or action upon the results, is not designed, intended or used to
15 discriminate because of sexual orientation, race, color, gender, age, religion,
16 national origin, marital status, ~~or disability~~ or gender identity. It shall not be an
17 unlawful employment practice for an employer to give and to act upon the results
18 of any professionally developed ability test provided that such test, or its
19 administration or action upon the results, is not designed, intended or used to
20 discriminate on the basis of physical or mental disability, except in respect to a
21 bona fide occupational qualification. It shall not be an unlawful employment
22 practice under this article for any employer to differentiate upon the basis of sex
23 in determining the amount of wages; or compensation paid or to be paid to

1 employees of such employer if such differentiation is authorized by the provisions
2 of Section 6(d) of the Fair Labor Standards Act of 1938, as amended (19 U.S.C.
3 206(d)).

4 (d) Where the employer provides shared facilities for its employees, which are
5 distinctly private in nature where being seen fully unclothed is unavoidable, such
6 as shower rooms and dressing rooms, prohibitions against discrimination on the
7 basis of gender identity in access to and use of such facilities shall be governed as
8 follows:

9 (1) Denial of access to and use of such facilities on the basis of gender
10 identity would be permitted if the employer provides reasonable access to and use
11 of adequate facilities that are not inconsistent with the employee's gender
12 identity, as established with the employer at the time of initial employment, or
13 upon notification to the employer that the employee has undergone or is
14 undergoing gender transition, whichever is later. If providing reasonable access
15 to and use of other adequate facilities is not readily achievable, then the denial of
16 access to and use of shared facilities on the basis of gender identity is not
17 prohibited until such time as providing reasonable access to and use of other
18 adequate facilities is readily achievable.

19 (2) Provision of standalone, "unisex," single-occupancy shower stalls,
20 dressing areas or other facilities distinctly private in nature, where if shared would
21 involve being seen fully unclothed, would be deemed providing reasonable access
22 to other adequate facilities; or such facilities that are shared could be partitioned
23 and divided so as to provide such, along with a reasonably accessible route not

1 visible from areas distinctly private in nature where being seen fully unclothed is
2 unavoidable.

3 (~~ed~~) The provisions in this article relating to sexual orientation shall not apply
4 to any religious institution, organization, corporation, association, society, or any
5 nonprofit charitable or educational institution, or organization operated,
6 supervised, or controlled by or in conjunction with a religious institution,
7 organization, corporation, association, or society.

8 **Section 6.** Subsection 8-67(a), “Prohibition of discrimination in places of
9 public accommodation; equal access,” Code of Ordinances of the City of
10 Gainesville, is amended to read as follows:

11 **Sec. 8-67. Prohibition of discrimination in places of public accommodation;**
12 **equal access.**

13
14 (a) All persons shall be entitled to the full and equal enjoyment, of the goods,
15 services, facilities, privileges, advantages and accommodations of any place of
16 public accommodation, as defined in this section, without discrimination or
17 segregation on the ground of sexual orientation, race, color, gender, age, religion,
18 national origin, marital status, ~~or~~ disability or gender identity.

19 **Section 7.** Section 8-68, “Prohibition against deprivation of, interfering
20 with and punishment for exercising rights under this article,” Code of Ordinances
21 of the City of Gainesville, is amended to read as follows:

22 **Sec. 8-68. Prohibition against deprivation of, interfering with and**
23 **punishment for exercising rights under this article.**

24
25 It shall be unlawful for any person to:

1 (1) Withhold, deny or attempt to withhold or deny, or deprive or
2 attempt to deprive, any other person of the right to full and equal enjoyment of
3 places of public accommodation because of sexual orientation, race, color,
4 gender, age, religion, national origin, marital status, ~~or~~ disability or gender
5 identity. Provided further that failure to provide reasonable access to, and use of,
6 facilities as described in subsection 8-69(c) shall not be unlawful unless and until
7 said provisions become effective as described therein and as provided in section
8 8-69(c)(1).

9 (2) Intimidate, threaten or coerce, or attempt to intimidate, threaten or
10 coerce any person with the purpose of interfering with the right to full and equal
11 enjoyment of places of public accommodation because of sexual orientation, race,
12 color, gender, age, religion, national origin, marital status, ~~or~~ disability or gender
13 identity. Provided further that failure to provide reasonable access to, and use of,
14 facilities as described in section 8-69(c) shall not be unlawful unless and until
15 said provisions become effective as described therein and as provided in section
16 20 of this ordinance.

17 (3) Punish or attempt to punish any person for exercising or
18 attempting to exercise any right to full and equal enjoyment of places of public
19 accommodation because of sexual orientation, race, color, gender, age, religion,
20 national origin, marital status, ~~or~~ disability or gender identity.

21 **Section 8.** Section 8-69, “Exceptions,” Code of Ordinances of the City of
22 Gainesville, is amended to read as follows:

23 **Sec. 8-69. Exceptions.**

1 (a) The provisions of sections 8-67 and 8-68 prohibiting discrimination on the
2 basis of sexual orientation, race, color, gender, age, religion, national origin,
3 marital status, ~~or disability~~ or gender identity shall not apply to a private club or
4 other establishment, not in fact open to the public, except to the extent that the
5 facilities of the club or establishment are made available to the customers or
6 patrons of an establishment within the scope of section 8-67(b).

7 (b) The provisions of sections 8-67 and 8-68 prohibiting discrimination on the
8 basis of sex or marital status shall not apply to:

9 (1) The refusal to rent any housing facility jointly to two or more
10 unmarried persons of different sex.

11 (2) The refusal to rent or continue to rent any housing facility on the
12 grounds that two or more unmarried persons of different sex are or would thereby
13 be in joint occupancy thereof. "Joint occupancy" is hereby defined as two or more
14 persons using a single housing facility or portion thereof which is used or
15 occupied or intended, arranged or designed to be used or occupied as the home,
16 residence or living quarters of such two or more persons.

17 (3) Bar any person from operating a housing facility for the exclusive
18 occupancy of a single sex if the housing facility provides only communal bath or
19 toilet facilities. "Communal bath or toilet facilities" is hereby defined as bath or
20 toilet facilities provided for regular and ordinary use for occupants of more than
21 one separate living unit.

22 (c) Where a public accommodation provides shared facilities, which are
23 distinctly private in nature where being seen fully unclothed is unavoidable, such

1 as shower rooms and dressing rooms, prohibitions against discrimination on the
2 basis of gender identity in access to and use of such facilities shall be governed as
3 follows:

4 (1) Denial of access to and use of such facilities on the basis of gender
5 identity would be permitted if the public accommodation provides reasonable
6 access to and use of adequate facilities that are not inconsistent with the member
7 of the public's gender identity, as established with the public accommodation at
8 the time of attempted initial access to, or upon notification to the public
9 accommodation that the member of the public desiring access has undergone or is
10 undergoing gender transition, whichever occurrence is later. If providing
11 reasonable access to and use of other adequate facilities is not readily achievable,
12 then the denial of access to and use of shared facilities on the basis of gender
13 identity is not prohibited until such time as providing reasonable access to and use
14 of other adequate facilities is readily achievable.

15 (2) Provision of standalone, "unisex," single-occupancy shower stalls,
16 dressing areas or other facilities distinctly private in nature, where if shared would
17 involve being seen fully unclothed, would be deemed providing reasonable access
18 to other adequate facilities; or such facilities that are shared could be partitioned
19 and divided so as to provide such, along with a reasonably accessible route not
20 visible from areas distinctly private in nature where being seen fully unclothed is
21 unavoidable, which would be deemed providing reasonable access to other
22 adequate facilities.

1 ~~(de)~~ The provisions in this article relating to sexual orientation and gender
2 identity shall not apply to any religious institution, organization, corporation,
3 association, society, or any nonprofit charitable or educational institution, or
4 organization operated, supervised, or controlled by or in conjunction with a
5 religious institution, organization, corporation, association, or society.

6 **Section 9.** Section 8-86, “Declaration of policy,” Code of Ordinances of
7 the City of Gainesville, is amended to read as follows:

8 **Sec. 8-86. Declaration of policy.**

9 It is hereby declared to be the policy of the city, in the exercise of its police power
10 for the public safety, public health and general welfare, to assure equal
11 opportunity for each person so desiring to obtain housing of the person's choice in
12 the city regardless of sexual orientation, race, color, gender, age, religion, national
13 origin, marital status or disability and, to that end, to prohibit discrimination in
14 housing on basis of sexual orientation, race, color, gender, age, religion, national
15 origin, marital status, ~~or~~ disability or gender identity by any person.

16 **Section 10.** Subsection (a) of section 8-88, “Prohibition of discrimination
17 in the sale or rental of housing,” Code of Ordinances of the City of Gainesville, is
18 amended to read as follows:

19 **Sec. 8-88. Prohibition of discrimination in the sale or rental of housing.**

20 (a) Except as provided in section 8-94, it shall be unlawful and a
21 discriminatory housing practice for an owner, or any other person engaging in a
22 real estate transaction, or for a real estate broker, as defined in this chapter:

1 (1) To refuse to sell, purchase, rent or lease, or otherwise deny or
2 withhold any housing accommodation from a person or to evict a person because
3 of such person's sexual orientation, race, color, gender, age, religion, national
4 origin, marital status, ~~or~~ disability or gender identity;

5 (2) To evict a person from or to refuse to negotiate with a person for
6 the sale, purchase, rental, assignment or other transfer of the title, leasehold or
7 other interest in any housing facility because of such person's sexual orientation,
8 race, color, gender, age, religion, national origin, marital status, ~~or~~ disability or
9 gender identity.

10 (3) To refuses to receive or transmit a bona fide offer to sell, purchase,
11 rent or lease any housing facility from or to a person because of such person's
12 sexual orientation, race, color, gender, age, religion, national origin, marital
13 status, ~~or~~ disability or gender identity;

14 (4) To discriminate against any person in the terms, conditions or
15 privileges of the sale, purchase, rental, assignment or other transfer of any
16 housing facility, or in the furnishing of facilities or services in connection
17 therewith, because of sexual orientation, race, color, gender, age, religion,
18 national origin, marital status, ~~or~~ disability or gender identity. Provided further
19 that failure to provide reasonable access to, and use of, facilities as described in
20 section 8-94(g) of this chapter shall not be unlawful unless and until said
21 provisions become effective as described therein and as provided in section 8-
22 94(g)(1).

1 (5) To represent to any person that any housing facility is not available
2 for inspection, sale, purchase, rental or lease, assignment or other transfer when in
3 fact it is so available, or to refuse to permit a person to inspect any housing
4 facility, because of such person's sexual orientation, race, color, gender, age,
5 religion, national origin, marital status, ~~or disability~~ or gender identity when such
6 a dwelling is in fact available to persons who are financially qualified;

7 (6) To make, as part of a process or pattern of discouraging the
8 purchase, sale, rental, occupancy or other use of any housing facility in a
9 particular block, area or neighborhood of the city, any representation to a person
10 known to be a prospective purchaser, seller or renter that such a block, area or
11 neighborhood may undergo, is undergoing or has undergone a change in
12 composition with respect to sexual orientation, race, color, gender, age, religion,
13 national origin, marital status, ~~or disability~~ or gender identity;

14 (7) To induce, or attempt to induce, a person to transfer any interest in
15 a housing facility by representations regarding the existing or potential proximity
16 of real property owned, used or occupied by a person of a particular sexual
17 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
18 ~~disability~~ or gender identity;

19 (8) To promote, induce or influence, or attempt to promote, induce or
20 influence, by the use of postal cards, letters, circulars, telephone calls, visitation
21 or any other means, directly or indirectly, a person to sell, list for sale, remove
22 from listing, rent, assign, transfer or otherwise, any housing facility by referring,
23 as a part of the pattern or process of inciting neighborhood unrest, community

1 tension or fear of change in composition in a block, street, neighborhood or area
2 of the city by creating or playing upon fear, by representing that the presence or
3 anticipated presence in that area of persons of any particular sexual orientation,
4 race, color, gender, age, religion, national origin, marital status, ~~or~~ disability or
5 gender identity will or may result in the lowering of property values in the area,
6 the increase in criminal or anti-social behavior in the area, or a decline in the
7 quality of the schools serving the area;

8 (9) To engage in, or hire or conspire with others to engage in, acts or
9 activities of any nature, the purpose of which is to harass, degrade, embarrass or
10 cause economic loss to a person who has provided or offered to provide housing
11 facilities or services to any person, regardless of sexual orientation, race, color,
12 gender, age, religion, national origin, marital status, ~~or~~ disability or gender
13 identity; or

14 (10) To engage in, or hire or conspire with others to engage in, acts or
15 activities of any nature, the purpose of which is to harass, degrade, embarrass or
16 cause economic loss to a person who has purchased or leased, or contracted to
17 purchase or lease, any housing facility or service because of such person's sexual
18 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
19 disability or gender identity.

20 **Section 11.** Section 8-89, "Prohibition of discrimination in advertising
21 practices," Code of Ordinances of the City of Gainesville, is amended to read as
22 follows:

23 **Sec. 8-89. Prohibition of discrimination in advertising practices.**

1 Except as provided in section 8-94, it shall be unlawful and a discriminatory and
2 advertising practice for an owner or any other person engaging in a real estate
3 transaction or for a real estate broker, as defined in this chapter:

4 (1) To make, print or publish, or cause to be made, printed or
5 published, any notice, statement or advertisement, with respect to the sale, rental,
6 assignment or other transfer of a housing facility, that indicates any preference,
7 limitation or discrimination based on sexual orientation, race, color, gender, age,
8 religion, national origin, marital status, ~~or~~ disability or gender identity, or any
9 intention to make any such preference, limitation or discrimination;

10 (2) To make or cause to be made an untrue or intentionally misleading
11 statement or advertisement, or in any other manner, attempt as part of a process or
12 pattern of inciting neighborhood unrest, community tension or fear of change in
13 composition of sexual orientation, race, color, gender, age, religion, national
14 origin, marital status, ~~or~~ disability or gender identity in any street, block,
15 neighborhood, or any other area, to obtain a listing of any housing facility for
16 sale, rental, assignment, transfer or other disposition, where such statement,
17 advertisement or other representation is false or materially misleading, or where
18 there is insufficient basis to judge its truth or falsity to warrant making the
19 statement, or to make any other material misrepresentations in order to obtain
20 such listing, sale, removal from listing, rental, lease, assignment, transfer or other
21 disposition of said housing facility;

22 (3) To place a sign or display any other device either purporting to
23 offer for sale, rental, assignment, transfer or other disposition or tending to lead to

1 the belief that a bona fide offer is being made to sell, rent, assign, transfer or
2 otherwise dispose of any housing facility that is not in fact available or offered for
3 sale, rental, assignment, transfer or other disposition because of sexual
4 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
5 disability or gender identity.

6 **Section 12.** Section 8-90, "Prohibition of discrimination in building practices,"
7 Code of Ordinances of the City of Gainesville, is amended to read as follows:

8 **Sec. 8-90. Prohibition of discrimination in building practices.**

9 It shall be an unfair and discriminatory building practice and shall be unlawful for
10 any building contractor:

11 (1) To refuse to design, redesign, construct, reconstruct, repair,
12 remodel or otherwise maintain any housing facility because of the sexual
13 orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
14 disability or gender identity of the owner, lessee, tenant, assignee or other
15 occupant of such housing facility, or of the prospective owner, lessee, tenant,
16 assignee or other occupant of such housing facility;

17 (2) To include in the terms, conditions or privileges of any design or
18 construction contract pertaining to a housing facility, any clause, condition or
19 restriction which discriminates against any person, directly or indirectly, because
20 of such person's sexual orientation, race, color, gender, age, religion, national
21 origin, marital status, ~~or~~ disability or gender identity;

22 (3) To discriminate in the provision of facilities or services related to a
23 design or construction contract pertaining to a housing facility because of sexual

orientation, race, color, gender, age, religion, national origin, marital status, ~~or~~
disability or gender identity.

Section 13. Section 8-91, "Prohibition of discrimination in financing of housing
or in residential real estate transactions," Code of Ordinances of the City of
Gainesville, is amended to read as follows:

**Sec. 8-91. Prohibition of discrimination in financing of housing or in
residential real estate transactions.**

(a) Discriminatory financing practices. It shall be unlawful and a
discriminatory financing practice for any bank, savings and loan association,
insurance company or other corporation, association, firm or enterprise whose
business consists in whole or part in the making of commercial real estate loans,
to which application is made for financial assistance for the purchase, acquisition,
construction, reconstruction, rehabilitation, repair or maintenance of any dwelling
or housing facility, or an officer, agent or employee thereof:

(1) To discriminate against any such applicant or applicants because
of sexual orientation, race, color, gender, age, religion, national origin, marital
status, ~~or~~ disability or gender identity of such applicant or applicants or any
member, stockholder, director, officer or employee of such applicant or applicants
or of the prospective occupants or tenants of such housing facility, in the granting,
withholding, extending or renewing, or in the fixing of the rates or other terms or
conditions of any such loans or other financial assistance.

(2) To use any form or application for such financial assistance or to
make any record or inquiry in connection with application for such financial
assistance which expresses, directly or indirectly, any limitation, specification or

1 discrimination as to sexual orientation, race, color, gender, age, religion, national
2 origin, marital status, ~~or~~ disability or gender identity.

3 (b) Residential real estate transactions.

4 (1) It is unlawful for any person or entity whose business includes
5 engaging in residential real estate transactions to discriminate against any person
6 in making available such a transaction, or in the terms or conditions of such a
7 transaction, because of sexual orientation, race, color, gender, age, religion,
8 national origin, marital status, ~~or~~ disability or gender identity.

9 (2) As used in this subsection, the term "residential real estate
10 transaction" means any of the following:

11 a. The making or purchasing of loans or providing other
12 financial assistance:

13 1. For purchasing, constructing, improving, repairing
14 or maintaining a dwelling; or

15 2. Secured by residential real estate.

16 b. The selling, brokering or appraising of residential real
17 property.

18 **Section 14.** Subsection (g) of section 8-94, "Exceptions," Code of Ordinances of
19 the City of Gainesville, is hereby created and added to read as follows:

20 **Sec. 8-94. Exceptions.**

21 (g) Where a housing facility covered by this article provides shared facilities,
22 which are distinctly private in nature where being seen fully unclothed is
23 unavoidable, such as shower rooms and dressing rooms, prohibitions against

1 discrimination on the basis of gender identity in access to and use of such

2 facilities shall be governed as follows:

3 (1) Denial of access to and use of such facilities on the basis of gender
4 identity would be permitted if the housing facility provides reasonable access to
5 and use of adequate facilities that are not inconsistent with the person's gender
6 identity, as established with the housing facility at the time of attempted initial
7 access to, or upon notification to the housing facility that the person desiring
8 access has undergone, or is undergoing gender transition, whichever occurrence is
9 later. If providing reasonable access to and use of other adequate facilities is not
10 readily achievable, denial of access to and use of shared facilities on the basis of
11 gender identity is not prohibited until such time as providing reasonable access to
12 and use of other adequate facilities is readily achievable.

13 (2) Provision of standalone, "unisex," single-occupancy shower stalls,
14 dressing areas or other facilities distinctly private in nature, where if shared would
15 involve being seen fully unclothed, would be deemed providing reasonable access
16 for use of other adequate facilities; or such facilities that are shared could be
17 partitioned and divided so as to provide such, along with a reasonably accessible
18 route not visible from areas distinctly private in nature where being seen fully
19 unclothed is unavoidable, which would be deemed providing reasonable access to
20 other adequate facilities.

21 **Section 15.** Section 8-113, "Prohibition of discrimination in credit extension
22 practices," Code of Ordinances of the City of Gainesville, are amended to read as
23 follows:

1 **Sec. 8-113. Prohibition of discrimination in credit extension practices.**

2 It shall be unlawful for any creditor to discriminate against any applicant on the
3 basis of sexual orientation, race, color, gender, age, religion, national origin,
4 marital status, ~~or~~ disability or gender identity with respect to any aspect of a credit
5 transaction.

6 **Section 16.** Subsection (4) of section 8-114, "Exceptions," Code of Ordinances
7 of the City of Gainesville, is amended to read as follows:

8 **Sec. 8-114. Exceptions.**

9 Section 8-113 shall not apply to:

10 (4) The provisions in this article relating to sexual orientation and gender
11 identity shall not apply to any religious institution, organization, corporation,
12 association, society or any nonprofit charitable or educational institution or
13 organization operated, supervised or controlled by or in conjunction with a
14 religious institution, organization, corporation, association or society.

15 **Section 17.** It is the intention of the City Commission that the provisions
16 of Sections 1 through 16 of this ordinance shall become and be made a part of the
17 Code of Ordinances of the City of Gainesville, Florida, and that the Sections and
18 Paragraphs of this Ordinance may be renumbered or relettered in order to
19 accomplish such intentions.

20 **Section 18.** If any word, phrase, clause, paragraph, section or provision
21 of this ordinance or the application hereof to any person or circumstance is held
22 invalid or unconstitutional, such finding shall not affect the other provisions or
23 applications of the ordinance which can be given effect without the invalid or

1 unconstitutional provisions or application, and to this end the provisions of this
2 ordinance are declared severable.

3 **Section 19.** All ordinances, or parts of ordinances, in conflict herewith
4 are to the extent of such conflict hereby repealed.

5 **Section 20.** This ordinance shall become effective immediately upon
6 adoption.

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8 **PASSED AND ADOPTED** this ____ day of _____, 2008.

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ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of _____, 2008.

This Ordinance passed on second reading this ____ day of _____, 2008.