

Chapter 8

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ARTICLE I. IN GENERAL

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

(a) The city commission hereby finds that:

- (1) The right of access to and the full and equal enjoyment of places of public accommodation as defined hereafter, without discrimination on the basis of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity is a matter of concern to the citizens of the city and more particularly of concern to the city in providing for the health, welfare, safety and morals of the citizens of the municipality;
- (2) The availability of adequate housing without discrimination on the basis of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity is a matter of concern to the citizens of the city and more particularly of concern to the city in providing for the health, welfare, safety and morals of the citizens of the municipality,
- (3) Employment practices without discrimination on the basis of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity is a matter of concern to the citizens of the city and more particularly of concern to the city in providing for the health, welfare, safety and morals of the citizens of the municipality.
- (4) The extension of credit without discrimination on the basis of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity is a matter of concern to the citizens of the city and more particularly of concern to the city in providing for the health, welfare, safety and morals of the citizens of the municipality; and
- (5) Employment discrimination against persons having physical or mental disabilities that do not constitute bona fide occupational qualifications is a matter of

concern to the citizens of the city and more particularly of concern to the city in providing for the health, welfare, safety and morals of the citizens of the municipality.

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

(b) The above findings being made, the city commission hereby declares the policy of the city to be, for the protection of the public health, safety and general welfare, for the maintenance of business and good government, and for the promotion of the city's trade, commerce and manufacturing, to prohibit discrimination in the access to and equal enjoyment of places of public accommodation, to ensure equal opportunity to all persons to live in decent housing facilities, regardless of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity and to that end to prohibit discrimination in the extension of credit without regard to sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity and to prohibit employment discrimination against persons because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity "that do not constitute bona fide occupational qualifications. (Code 1960, § 10B-2; Ord. No. 3421, § 1, 3-21-88; Ord. No. 3799, §§ 1, 2, 11-2-92; Ord. No. 970262, § 1, 6-1-98; Ord. No. 980524, § 1, 12-14-98; Ord. No. 030313, § 1, 11-24-03; Ord. No. 051225, § 1, 1-28-08)

Sec. 8-2. Objective.

The objective of the provisions of this chapter is to provide a means for implementation of the above-declared policy and to discourage and eliminate discriminatory practices. (Code 1960, § 10B-3)

Sec. 8-3. "Person" defined.

As used in this chapter, the term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 U.S.C., receivers, fiduciaries, and the Gainesville-Alachua County Regional Airport Authority. Except as otherwise noted above, the term shall not include any federal, state or local government or any agency thereof, but shall include all natural persons whether or not acting as agents for such governmental entities. (Code 1960, § 10B-4; Ord. No. 060058, § 1, 7-10-06)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 8-4. Violations; penalty.

(a) It shall be unlawful and punishable as provided in this section for any person to commit any act in violation of this chapter:

(b) It shall be unlawful and punishable as provided in this section for any person to aid, abet, compel, coerce or participate in the doing of any act declared to be unlawful by this chapter, or to obstruct or prevent enforcement of compliance with the provisions of this chapter.

(c) It shall be unlawful and punishable as provided in this section for any person to engage in any reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter.

(d) Any person convicted of violating any of the provisions of this chapter shall upon conviction be punished as provided in section 1-9. (Code 1960, § 10B-5)

Sec. 8-5. Cumulative effect of provisions.

Nothing in this chapter shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any applicable state or federal law or local ordinance. (Code 1960, § 10B-6)

Sec. 8-6. "Sexual orientation," "gender identity" and "readily achievable" defined.

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

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

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

- (1) The nature and cost of the action needed to provide the reasonable access, in light of economic conditions;
- (2) The overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;
- (3) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and
- (4) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separate-

ness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(Ord. No. 970262, § 2, 6-1-98; Ord. No. 051225, § 2, 1-28-08)

Sees. 8-7—8-20. **Reserved.**

ARTICLE D. HUMAN RIGHTS BOARD*

Sec. 8-21. Equal opportunity director.

(a) The director of the City of Gainesville Equal Opportunity Office is hereby designated to administer the provisions of this chapter.

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

- (1) Implement the provisions of this chapter and the rules and regulations promulgated hereunder and all City of Gainesville ordinances, codes, rules and regulations pertaining to discrimination of the basis of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity in employment, fair housing, fair credit, and public accommodations, and advise the city commissioners when changes in the federal or state human rights laws require revisions to this chapter.
- (2) Receive and investigate written complaints, as provided by this chapter, of unlawful practices in violation of this chapter when a complainant seeks to file a complaint. Refer any written complaints received by the director that allege unlaw-

*Editor's note—Ord. No. 980524, §§ 2—6, adopted Dec. 14, 1998, repealed the former Art. II, §§ 8-21—8-31, and enacted a new Art. n as set out herein. The former Art. II pertained to the human relations advisory board and derived from Code 1960, §§ 2-4.1, 10-C1—10-C6, 10-C6.1, 10-C7—10-C10; Ord. No. 3216, § 1, adopted Apr. 28, 1986; Ord. No. 3730, §§ 1—3, adopted July 15, 1991; Ord. No. 3799, § 6, adopted Nov. 2, 1992; and Ord. No. 970262, §§ 3, 4, adopted June 1, 1998.

Cross references—Administration, Ch. 2; boards, commissions and committees generally, § 2-245 et seq.; board to act as fair housing board, § 8-96.

State law reference—Florida Commission on Human Relations, F.S. § 23.163 et seq.

ful practices in employment, fair housing, fair credit, or public accommodations by the federal government or the State of Florida to the appropriate agency with authority to investigate such complaints.

- (3) Upon receiving a written complaint, make such investigations as the director deems appropriate to ascertain facts and issues.
- (4) Utilize methods of conciliation and mediation or informal adjustment of grievances.
- (5) Provide assistance in all matters relating to equal employment, fair housing, equal credit opportunity and public accommodations relating to sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity within the City of Gainesville.
- (6) Publish and disseminate public information and educational materials relating to discrimination in employment, fair housing, equal credit opportunity and public accommodations relating to sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity.
- (7) Implement recommendations received from the human rights board concerning this chapter and the carrying out of its purpose. When, in the opinion of the director, effectuating any such recommendation would be undesirable or unfeasible, the director shall promptly so report to the board, with his or her reasons. Any differences of judgment not able to be resolved between the board and the director may, if the board feels the matter warrants, be carried to the city commission for decision.
- (8) Make annual reports to the city commission of activities under the provisions of this chapter, and make recommendations concerning methods by which to reduce discrimination, and such other comments and recommendations as the director may choose to make.

- (9) Conduct educational and public information activities that are designed to promote the policy of this chapter.
- (10) Bring to the attention of the city commission, those items that may require the city commission's notice or action to resolve. (Ord. No. 980524, § 2, 12-14-98; Ord. No. 030313, § 2, 11-24-03; Ord. No. 051225, § 3, 1-28-08)

Sec. 8-22. Human rights board—Established; membership; meetings.

There is hereby created the City of Gainesville Human Rights Board.

- (a) The board shall be composed of seven members appointed by the city commission. Membership should be representative of the city's population and whenever possible, should reflect racial, ethnic and religious minorities as well as geographic economic and sexual considerations.
- (b) Members of the boards shall serve terms of three years each; provided, however, that three of the initial appointments shall be for a term of one year, two of the initial appointments shall be for a term of two years, and the remaining two initial appointments shall be for a term of three years. Thereafter, all appointments shall be for three-year terms.
- (c) The members of the board shall receive no compensation.
- (d) The board shall annually elect one of its members as chair and one as vice-chair. Elections shall be held at the first regularly scheduled meeting after appointment of the board. The chair shall preside and conduct meetings of the board. The vice-chair shall act in the absence of the chair. Unless otherwise stated in this article, all actions and decisions of the board may be by a simple majority vote of those members present at a lawful meeting of the board.
- (e) The board shall have the power and authority to promulgate such procedures and rules as necessary to conduct the business of the board, provided such rules

are not inconsistent with this chapter and provided that such rules are subject to approval by the city commission.

- (f) The board shall meet at least monthly, if there is business to come before the board, but may also meet as often as necessary. The director shall schedule each meeting and give notice of the time and place of the meetings to all board members, all parties to be heard, and the public. Special meeting of the board may be converted by the chair, with the concurrence of the director, upon giving notice thereof to the members of the board, or may be called by written notice signed by three members of the board. The notice of a special meeting shall be given at least 48 hours prior thereto. All meetings shall be public.
- (g) The city's equal opportunity director shall provide clerical and administrative support to the board as may be reasonably required by the board to discharge its duties and responsibilities. The city's equal opportunity director shall provide a regular meeting place for the board.

(Ord. No. 980524, § 3, 12-14-98; Ord. No. 030313, § 3, 11-24-03; Ord. No. 040874, § 1, 2-28-05)

Sec. 8-23. Same—Powers and duties.

The board shall have the following duties, powers, functions, and responsibilities:

- (a) Adopt rules and procedures necessary to conduct the business of the board.
- (b) Subpoena and compel the production of evidence necessary for investigation of complaints filed for any alleged violation of this chapter. Administer oaths and compel the attendance of witnesses and production of evidence by subpoenas issued
 - -by the chair of the board.
- (c) In coordination with the director, take other informational or educational actions to enforce the purpose of this chapter.
- (d) Apply to a court of competent jurisdiction, subject to the approval of the city commis-

sion, for enforcement of any subpoena upon the refusal to answer or produce the requested document or information, wherein the court shall determine the matter.

- (e) Recommend that the city, subject to approval of the city commission, seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the board determines that such action is necessary to carry out the purposes of this chapter.
 - (f) Any other powers and duties provided elsewhere in this chapter.
- (Ord. No. 980524, § 4, 12-14-98)

Sec. 8-24. Jurisdiction over governmental agencies.

Other than as set forth in section 8-3, the human rights board shall not have jurisdiction over the City of Gainesville or any other governmental entity, their officers, employees or agents when the complaint of discrimination arises from actions taken in their official capacity. (Ord. No. 980524, § 5, 12-14-98; Ord. No. 030313, § 4, 11-24-03; Ord. No. 060058, § 2, 7-10-06)

Sees. 8-25—8-45. Reserved.

ARTICLE m. EQUAL EMPLOYMENT OPPORTUNITY*

Sec. 8-46. Reserved.

Editor's note—Ori No. 980524, § 6, adopted Dec. 14, 1998, repealed § 8-46 which pertained to rules of construction and derived from Code I960, § 10B-7.

"Cross reference—Employee benefits, § 2-451 et seq.

State **law** references—Employment policies of the state, F.S. § 110.105; discrimination in county and municipal employment on basis of race, color, sex, religion, creed or natural origin, F.S. § 112.042; discrimination in state or county employment on the basis of age, F.S. § 112.043; discrimination in government employment on the basis of age, F.S. § 112.044; discrimination against deaf, blind, visually handicapped and other physically disabled persons in public employment, F.S. § 413.08; employment discrimination on basis of membership or membership in labor organization, F.S. § 447.171; employment discrimination based on sickle-cell trait, F.S. § 448.075.

Sec. 8-47. Definitions.

As used in this article, the following words, terms and phrases shall have the following meanings ascribed to them in this section:

- (a) *Age* shall mean chronological age not less than 40 years and not more than 70 years.
- (b) *Because of sex or on the basis of sex* includes, but is not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their* ability or inability to work, and nothing in section 8-49(c) shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion, provided, that nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.
- (c) *Employer* shall mean any person who has five or more employees for each working day in each of four or more calendar weeks in the current or preceding calendar year, and any agent of such a person.
- (d) *Employment agency* shall mean any person regularly undertaking, either with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for any employer, and includes any agent of such a person.
- (e) *Labor organization* shall mean any person defined in this chapter and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association or plan so engaged in which

employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment, and any conference, labor disputes, wages, rates of pay, hours or other terms or conditions of employment, and any conference, general committee, joint or system board or joint council so engaged which is subordinate to a national or international labor organization.

(f) *Physical or mental disability* shall mean, for the purpose of this chapter, (i) an impairment which substantially limits one or more of a person's major life activities; (ii) a record of impairment which substantially limits one or more of a person's major life activities; or (iii) being regarded as having an impairment which substantially limits one or more of a person's major life activities. For purposes of the sections of this chapter as they relate to employment, such term does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or the safety of others.

(Code I960, § 10B-8; Ord. No. 3421, § 2, 3-21-88; Ord. No. 980524, § 7, 12-14-98; Ord. No. 030313, § 4, 11-24-03; Ord. No. 070857, § 1, 2-25-08) Cross reference—Definitions and rules of construction generally, § 1-2.

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

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

- (1) Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, terms, conditions or privileges of employment because of the individual's sexual orientation, race, color, gender, age, religion, national ori-

gin, marital status, disability or gender identity. Provided further that failure to provide reasonable access to, and use of, facilities as described in subsection 8-49(d) shall not be unlawful unless and until said provisions become effective as described therein and as provided in section 8-49(d)(1).

- (2) Limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee, because of such individual's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity.
- (3) Discriminate against any person because of his/her physical or mental disability except in respect to a bona fide occupational qualification.

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

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

- (1) Exclude or expel from its membership or otherwise to discriminate against any individual because of his/her sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity,
- (2) Limit, segregate or classify its membership, or applicants for membership, or to classify or fail or refuse to refer for employment, any individual in any way which

would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his/her status as an employee or as an applicant for employment, because of the individual's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;

- (3) Discriminate against any person because of his/her disability except in respect to a bona fide occupational qualification;
- (4) Cause or attempt to cause an employer to discriminate against an individual in violation of this section.

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

(e) It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee indicating any preference, limitation, specification or discrimination based on sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity, except that such a notice or advertisement may indicate a preference limitation, specification or discrimination based on sexual orientation, race, color, gender, age,

religion, national origin, marital status, disability or gender identity when sexual orientation, race, color, gender, age, religion, national origin, marital status or disability is a bona fide occupational qualification for employment.

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

(Code 1960, § 10B-9; Ord. No. 3421, § 3, 3-21-88; Ord. No. 970262, § 5,6-1-98; Ord. No. 980524, § 8, 12-14-98; Ord. No. 030313, § 6,11-24-03; Ord. No. 051225, § 4, 1-28-08)

Sec. 8-49. Exceptions.

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

(b) Notwithstanding any other provisions of this article, it shall not be an unlawful employment practice for an employer to hire and employ

employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or to refer for employment any individual, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program on the basis of his/her sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity in those certain instances where sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

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

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

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

- (1) Denial of access to and use of such facilities on the basis of gender identity would be permitted if the employer provides reasonable access to and use of adequate facilities that are not inconsistent with the employee's gender identity, as established with the employer at the time of initial employment, or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later. If providing reasonable access to and use of other adequate facilities is not readily achievable, then the denial of access to and use of shared facilities on the basis of gender identity is not prohibited until such time as providing reasonable access to and use of other adequate facilities is readily achievable.
- (2) Provision of standalone, "unisex," single-occupancy shower stalls, dressing areas or other facilities distinctly private in nature, where if shared would involve being seen fully unclothed, would be deemed providing reasonable access to other adequate facilities; or such facilities that are shared could be partitioned and divided so as to provide such, along with a reasonably accessible route not visible from areas distinctly private in nature where being seen fully unclothed is unavoidable.

(e) The provisions in this article relating to sexual orientation shall not apply to any religious institution, organization, corporation, association, society, or any nonprofit charitable or educational institution, or organization operated, su-

pervised, or controlled by or in conjunction with a religious institution, organization, corporation, association, or society.
(Code 1960, § 10B-10; Ord. No. 3421, § 4, 3-21-88; Ord. No. 970262, § 6,6-1-98; Ord. No. 980524, § 8, 12-14-98; Ord. No. 030313, § 7,11-24-03; Ord. No. 051225, § 5, 1-28-08)

Sec. 8-50. Filing of complaints.

(a) Any person claiming to be aggrieved by an unlawful practice prohibited by this article may file a written, verified complaint with the director, or his designated representative. The complaint shall state the name and address of the complainant and the person or persons against whom the complaint is made (hereinafter referred to as the "respondent"). The complaint shall set forth the facts upon which the complaint is made, and such other information as the director requires. The complaint must be filed within 180 days after the date the alleged unlawful practice has occurred. The complaint may be voluntarily withdrawn by the complainant at any time.

(b) When it is determined that a complaint has been timely filed, the director shall cause notice of the filing and a copy of the complaint to be served upon the respondent. Notice shall be served within ten days of the date of filing. An amendment likewise shall be served upon the respondent. The notice shall advise the respondent of relevant procedural rights and obligations.

(c) The director shall serve notice upon the complainant acknowledging the filing of the complaint and advising the complainant of relevant procedural rights and remedies. The notice shall advise the complainant of remedies and choice of forums and inform the complainant that the administrative procedure provided for in this article is neither an obstacle nor a prerequisite to the complainant commencing a separate civil action on his own.

(d) Once a complaint has been served on the respondent, the respondent shall preserve all records and other evidence which may pertain to the complaint until the matter has been finally determined.

(e) The respondent may file an answer to the complaint not later than ten days after receipt of the notice of the filing. The answer shall be sworn to or affirmed before a notary public or other person duly authorized by law to administer oaths and take acknowledgments.

(f) A complaint or answer may be amended at any time when it would be fair and reasonable to do so, and the director shall furnish a copy of each amended complaint or answer to the respondent or the complainant, respectively, as promptly as practicable. With respect to any complaint filed pursuant to this article, the initial burden of proof is on the complainant.

(Ord. No. 980524, § 9, 12-14-98)

Sec. 8-51. Processing of complaints.

(a) Within 30 days after the filing of a complaint, the director shall commence such investigation as deemed appropriate to ascertain facts and issues. The director may utilize the services and information gathered from other public agencies charged with the administration of equal opportunity laws.

"(b) The following investigation procedures shall be followed:

- (1) *Complaint verification.* As part of the investigation process, the complaining party may be required to provide an additional sworn written statement which shall include:
 - a. A statement of each particular harm or potential harm which the aggrieved person has suffered or will suffer and the date on which each harm occurred or will occur.
 - b. For each harm, a statement specifying the policy, or practice which is alleged to be unlawful.
 - c. For each act, policy, or practice alleged to have harmed the aggrieved person, a statement of the facts which led the complainant to believe that the act, policy, or practice is discriminatory.

- (2) *Requests for information.* In investigating a complaint, the director and/or the director's designee may obtain information by:
 - a. Oral interview; and/or
 - b. Requests for written statement or affidavit; and/or
 - c. Any discovery methods set forth in the Florida Rules of Civil Procedure.
- (3) *Investigations.* The investigations will seek the voluntary cooperation of all persons in obtaining information. If, however, the director is unable to obtain the voluntary cooperation of persons, the director shall request the board issue subpoenas. The board shall have the power to issue subpoenas or subpoenas duces tecum. Any subpoena issued by the board must be approved by the city attorney as to the subpoena's form and legality before it is issued.
- (4) *Complaining party's failure to cooperate.* Where the complainant fails to provide a necessary information statement; fails or refuses to appear or be available for interviews or conferences; fails or refuses to provide necessary information requested by the director pursuant to this section; or otherwise refuses to cooperate to the extent that the director shall dismiss the complaint after providing 20 days' notice to the complainant unless the director, with board approval, determines there is sufficient grounds and sufficient evidence to proceed with the complaint.
- (5) *Access to files during investigation.* Information obtained during the investigation of a complaint shall be disclosed only in accordance with the provisions of the Florida Public Records Law.

(c) The director shall, within 100 days after the filing of a complaint, complete the investigation of the alleged unlawful discriminatory practice, unless it is impracticable to do so. If the director is unable to complete the investigation within 100 days after the filing of a complaint, the director shall notify, by certified mail or by per-

sonal service, the complainant and the respondent in writing of the reasons for not so doing. The director shall notify the aggrieved person and the respondent if administrative disposition of the complaint pursuant to this article cannot be accomplished within one year of the filing of the complaint.

(d) Beginning with the filing of the complaint and ending with the filing of a reasonable cause charge, as provided for in subsection (g) herein, the director shall attempt to conciliate the matter by methods of initial conference and conciliation with all interested parties and such representatives as the parties may choose to assist them. Such conciliation conferences may be by whatever method the director determines to be most appropriate. The director shall attempt to achieve a just resolution of all violations found, and to obtain agreement that the respondent will eliminate the unlawful practice and provide appropriate affirmative relief. Except as provided in subsection (e) of this section, nothing that is said or done in the course of conciliation or such informal endeavors may be made public or used as evidence in a subsequent proceeding without the written consent of the persons concerned.

(e) Where conciliation attempts are successful, the terms of a settlement of a complaint shall be reduced to a written conciliation agreement. The agreement must be executed by the respondent and the complainant, and is subject to the approval of the director. The conciliation agreement shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. Notwithstanding the provisions of subsection (d) above, each conciliation agreement shall be made public in accordance with the public records law.

(f) A duly executed conciliation agreement shall operate as a dismissal with prejudice of the complaint.

(g) If conciliation has not been reached within 100 days of the filing of the complaint and the complaint has not been withdrawn, the director shall make a determination as to whether reasonable cause exists to believe that an unlawful discriminatory practice has occurred or is about to occur. Reasonable cause shall be based upon

sufficiently trustworthy information which would lead an impartial observer to a belief that a discriminatory practice has occurred or is likely to occur. The director and/or the director's designee shall report the results of the investigation and his or her determination to the board. The board shall receive a copy of the director's report and shall have the opportunity to review the report and submit comments to the director. If the board determines that reasonable cause exists to believe that a discriminatory practice has occurred or is about to occur, it shall issue a written notice of determination of reasonable cause. A copy of the notice shall be served upon the respondent, the complainant, and the aggrieved person within ten days of the date of the written notice; along with the notice, the parties shall be advised of the options available under this section.

(h) When the board has issued a notice of determination of reasonable cause, the aggrieved person may either:

- (1) Bring a civil action against the person named in the complaint in any court of competent jurisdiction no later than one year after the date of the written notice of reasonable cause by the board; or
- (2) Request an administrative hearing as provided for in subsection (j) herein. The request for an administrative hearing must be in writing and must be made no later than 35 days after the date of the written notice of reasonable cause by the board. The election by the aggrieved person of filing a civil action or requesting an administrative hearing under this subsection is the exclusive procedure available to the aggrieved person pursuant to this article.

(i) If the director determines that the complaint "fecks reasonable grounds uporf which tQ , base a violation of this article, the director shall dismiss the complaint, then the director shall inform the board of his or her findings through a written report. The board, in its discretion, may order that the matter be closed or may order, by a three-fourths majority vote, such further investigation as may be deemed necessary. If further investigation is ordered, the results thereof shall

be presented to the board in the form of a written report within ten days and shall be acted upon by the board within an additional 20 days.

(j) If a request for an administrative hearing is timely made under subsection (h), an evidentiary hearing on the merits shall be held. The city, through the city attorney's office, shall arrange for the services of a hearing officer to conduct the administrative hearing. Any conciliation agreement reached prior to a scheduled hearing may result in such hearing being cancelled.

(k) In conducting any administrative hearing to determine whether or not there has occurred a failure to comply with the provisions of this article, the hearing officer shall have the power to administer oaths, issue subpoenas, compel the production of books, paper, and other documents, and receive evidence. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the presiding officer's recommended order, and to be represented by counsel or other qualified representative. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. In interpreting the provisions of this article, the hearing officer may consider administrative and judicial interpretations of substantially equivalent provisions of state or federal laws.

(1) The hearing officer shall prepare a recommended order consisting of findings of fact, conclusions of law and affirmative relief, if applicable. The hearing officer shall transmit the recommended order to the board and all parties. Each party shall have 15 days from the date of the hearing officer's order to submit written exceptions to the hearing officer's order to the board. The board shall review such order and any written exceptions and may set forth any deficiencies it finds with respect to the order. Said deficiencies shall be limited to determinations that the findings were not based upon competent, substantial evidence, or that the proceedings on which the findings were based did not comply with the

essential requirements of law. In reviewing such recommended order, the board shall not have the power to receive or consider additional evidence. The board shall have no power to reject or modify the findings of fact contained in the recommended order. The board may either adopt the recommended order as the final order, or by a three-fourths majority vote, remand the recommended order along with the delineated deficiencies back to the hearing officer for consideration of the deficiencies. The hearing officer shall address the identified deficiencies in an addendum to the recommended order. The hearing officer's order along with the addendum addressing the concerns of the board shall be the final order of the board. The final order shall be served upon the complainant and respondent within ten days of adoption by the board. If the hearing officer finds that a discriminatory practice has occurred or is about to occur, the hearing officer may recommend affirmative relief from the effects of the practice, including actual damages, equitable and injunctive relief and reasonable attorneys fees and costs. Judgment for the amount of damages, equitable relief and costs assessed pursuant to a final order by the board may be entered in any court of competent jurisdiction thereof and may be enforced as any other judgment.

(m) Final orders of the board are subject to certiorari review. Unless specifically ordered by a court of competent jurisdiction, the commencement of any appeal does not suspend or stay an order of the board.

(n) Either party to the administrative proceeding or the city shall have authority to bring an action in equity in a court of competent jurisdiction to enforce the final administrative order to ensure compliance with this article. The court shall be empowered to issue mandatory or prohibitive injunctions to implement such administrative order.

(o) Should any party fail or refuse to comply with the final order issued by the board or breach a conciliation agreement as provided herein, then, following the expiration of the appeal time as provided herein, the board shall forward such order or conciliation agreement to the city commission with a request that the city commission

authorize the city attorney to bring such action or actions as necessary to obtain compliance with this article.

(Ord. No. 980524, § 10,12-14-98; Ord. No. 040874, § 2, 2-28-04)

Sec. 8-52. Civil action and penalties.

In any civil action commenced under subsection (h) of section 8-51, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. A civil action brought under this section shall be commenced no later than one year after the date of determination of reasonable cause by the board. The commencement of a civil action shall divest the board of jurisdiction of the complaint. (Ord. No. 980524, § 11, 12-14-98)

Sees. 8-53—8-65. Reserved.

ARTICLE IV. EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS*

Sec. 8-66. Reserved.

Editor's note—Ord. No. 980524, § 12, adopted Dec. 14, 1998, repealed § 8-66 which pertained to rules of construction and derived from Code 1960, § 10B-11.

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

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

**Cross reference*—Housing, Ch. 13.

State law references—Discrimination on the basis of race, creed, color, sex, physical disability or national origin in public lodgings and food service establishments, F.S. §§ 509.092, 509.141, 509.142; discrimination based on religion in advertising for public accommodations, F.S. § 871.04.

(b) As used in this article, each of the following establishments which serves or holds itself out as serving the public is a place of public accommodation including any place where a member of the public would go seeking the services, goods, facilities, etc., which are held out as being public, including but not limited to:

- (1) Any inn, hotel, motel, resort or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as his/her residence;
- (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, buffet or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station;
- (3) Any tavern, bar, liquor lounge, package store or other facility holding a license for the sale of alcoholic beverages issued by the division of alcoholic beverages and tobacco of the department of business regulation of the state and which serves or which holds itself out as serving the general public;
- (4) Any pool or billiard hall, bowling alley, motion picture house, theater, concert hall, sports arena, stadium, place of amusement, skating rink, amusement park, golf courses, swimming pool or other places of exhibition or entertainment;
- (5) Any gasoline station, retail establishment, convenience store, beauty parlor, barbershop, styling salon and laundries;
- (6) Any hospital, nurseries, schools, library or educational facilities supported in part or whole by public funds, kindergartens, daycare centers, and any conveyance open to the general public, including taxis, limousines, trains and buses;

(7) Any professional office generally open to the public, such as those of attorneys, physicians, dentists, architects, accountants, etc.;

(8) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment and which holds itself out as serving patrons of the covered establishment.

(Code 1960, § 10B-12; Ord. No. 3421, § 5, 3-21-88; Ord. No. 970262, § 7, 6-1-98; Ord. No. 980524, § 13, 12-14-98; Ord. No. 030313, § 8, 11-24-03; Ord. No. 051225, § 6, 1-28-08)

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

It shall be unlawful for any person to:

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

(2) Intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce any person with the purpose of interfering with the right to full and equal enjoyment of places of public accommodation because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity. Provided further that failure to provide reasonable access to, and use of, facilities as described in section 8-69(c) shall not be

unlawful unless and until said provisions become effective as described therein and as provided in section 8-69(c)(1).

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

(Code 1960, § 10B-13; Ord. No. 3421, § 6, 3-21-88; Ord. No. 970262, § 8, 6-1-98; Ord. No. 980524, § 14, 12-14-98; Ord. No. 030313, § 9, 11-24-03; Ord. No. 051225, § 7, 1-28-08)

Sec. 8-69. Exceptions.

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

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

- (1) The refusal to rent any housing facility jointly to two or more unmarried persons of different sex.
- (2) The refusal to rent or continue to rent any housing facility on the grounds that two or more unmarried persons of different sex are or would thereby be in joint occupancy thereof. "Joint occupancy" is hereby defined as two or more persons using a single housing facility or portion thereof which is used or occupied or intended, arranged or designed to be used or occupied as the home, residence or living quarters of such two or more persons.
- (3) Bar any person from operating a housing facility for the exclusive occupancy of a single sex if the housing facility provides only communal bath or toilet facilities.

"Communal bath or toilet facilities" is hereby defined as bath or toilet facilities provided for regular and ordinary use for occupants of more than one separate living unit.

(c) Where a public accommodation provides shared facilities, which are distinctly private in nature where being seen fully unclothed is unavoidable, such as shower rooms and dressing rooms, prohibitions against discrimination on the basis of gender identity in access to and use of such facilities shall be governed as follows:

- (1) Denial of access to and use of such facilities on the basis of gender identity would be permitted if the public accommodation provides reasonable access to and use of adequate facilities that are not inconsistent with the member of the public's gender identity, as established with the public accommodation at the time of attempted initial access to, or upon notification to the public accommodation that the member of the public desiring access has undergone or is undergoing gender transition, whichever occurrence is later. If providing reasonable access to and use of other adequate facilities is not readily achievable, then the denial of access to and use of shared facilities on the basis of gender identity is not prohibited until such time as providing reasonable access to and use of other adequate facilities is readily achievable.
- (2) Provision of standalone, "unisex," single-occupancy shower stalls, dressing areas or other facilities distinctly private in nature, where if shared would involve being seen fully unclothed, would be deemed providing reasonable access to other adequate facilities.; or such facilities" that are shared could be partitioned and divided so as to provide such, along with a reasonably accessible route not visible from areas distinctly private in nature where being seen fully unclothed is unavoidable, which would be deemed providing reasonable access to other adequate facilities.

(d) The provisions in this article relating to sexual orientation and gender identity shall not apply to any religious institution, organization, corporation, association, society, or any nonprofit charitable or educational institution, or organization operated, supervised, or controlled by or in conjunction with a religious institution, organization, corporation, association, or society. (Code 1960, § 10B-14; Ord. No. 3421, § 7, 3-21-88; Ord. No. 970262, § 9, 6-1-98; Ord. No. 980524, § 15, 12-14-98; Ord. No. 030313, § 10, 11-24-03; Ord. No. 051225, § 8, 1-28-08)

Sec. 8-70. Enforcement.

The provisions of this article relating to enforcement, filing, complaint procedure, orders and penalties shall follow in the same manner as in employment actions under article in of this chapter. (Ord. No. 980524, § 16, 12-14-98)

Sees. 8-71—8-85. **Reserved.**

ARTICLE V. FAIR HOUSING*

Sec. 8-86. Declaration of policy.

It is hereby declared to be the policy of the city; hi the exercise of its police power for the public safety, public health and general welfare, to assure equal opportunity for each person so desiring to obtain housing of the person's choice in the city regardless of sexual orientation, race, color, gender, age, religion, national origin, marital status or disability and, to that end, to prohibit discrimination in housing on basis of sexual orientation,

***Editor's note**—Ori'No. 3%2&, § 1, adopted June 9,1986, repealed Ch. 10B, Art IV., §§ 10B-15—10B-22 of the 1960 Code, codified herein as Ch. 8, Art. V, §§ 8-86—5-93; and added new provisions in lieu thereof which have been designated as §§ 8-86—8-101 at the discretion of the editor.

Cross references—Buildings and building regulations, Ch. 6; housing, Ch. 13; state housing initiatives partnership program, Ch. 14.

State law references—Fair Housing Act, F.S. § 760.20 et seq.; prohibition against violation of Title Vin of the Civil Rights Act of 1968 in providing housing, F.S. § 420.205.

race, color, gender, age, religion, national origin, marital status, disability or gender identity by any person.

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3799, § 3, 11-2-92; Ord. No. 970262, § 10, 6-1-98; Ord. No. 980524, § 17, 12-14-98; Ord. No. 030313, § 11, 11-24-03; Ord. No. 051225, § 9, 1-28-08)

Sec. 8-87. Definitions.

The following words and terms shall have the following meanings ascribed to them as used in this article:

- (1) *Discriminatory housing practice* means an act that is unlawful under the terms of this article.
- (2) *Age* means the chronological age of an individual who is 18 years old or older.
- (3) *Disability*:
 - a. "Disability," as used in this chapter, means, with respect to a person:
 1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
 2. A record of having such an impairment; or
 3. Being regarded as having such an impairment.
 - b. The term "disability" excludes current, illegal use of or addiction to a controlled substance as defined by law. The term "disability" does not include the following sexual and behavioral disorders:
 1. Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorder, or other sexual impairments, or other sexual behavior disorders;
 2. Compulsive gambling, kleptomania, or pyromania; or
 3. Psychoactive substance use disorders resulting from current illegal use of drugs.

- (2) *Person* includes one or more human beings, individuals, governments, governmental agencies, governmental departments, governmental programs, political subdivisions, labor unions, mortgage companies, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (3) *Owner* includes the owner, lessee, sublessee, assignee, manager, agent, or other person, firm, or corporation having the right to sell, rent, lease, or transfer any housing facility, real property, or interest therein, within the corporate limits of the city.
- (4) *Building contractor* includes any person, partnership, association, organization, firm or corporation engaged in the designing, redesigning, constructing, reconstructing, repairing or remodeling of any housing facility within the corporate limits of the city.
- (5) *Dwelling or housing facility* includes any facility, structure, mobile home, hotel, motel, or any other building, or portion thereof, which is used or occupied or intended, arranged or designed to be used or occupied as the home, residence or living quarters of one or more persons, or any parcel of land or portion thereof available or intended for the construction or location of such a facility, structure, mobile home, hotel, motel or other building.
- (6) *Family* means one individual living alone or two or more individuals living together as a unit.
- (7) *Lending institution* includes any bank, insurance company, savings and loan association, mortgage company or any other person or organization engaged in the business of lending money or guaranteeing loans.
- (8) *Real estate broker* includes any person duly licensed as a real estate broker in accordance with the laws of the state.
- (9) *Real estate salesperson or agent* includes any person, whether licensed or not, who, for a fee, commission, salary or other valuable consideration, or who, with the intention or expectation of receiving or collecting the same lists, sells, purchases, exchanges, rents, leases or otherwise transfers real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate such an activity, or who advertises or holds himself/herself out as engaged in such activities, or who negotiates or attempts to negotiate a loan secured by a mortgage or other encumbrance, upon a transfer of real estate, or who is engaged in the business of charging an advanced fee or contracting for collection of a fee in connection with a contract whereby he/she undertakes to promote the sale, purchase, exchange, rental, lease or other transfer of real estate through its listing in a publication issued primarily for such purpose; or a person employed by, or acting on behalf of any of these.
- (10) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (11) *Real property* includes building structures, lands, tenements, leaseholds, cooperatives and condominiums.
- (12) *Familial status* means one or more individuals who have not attained the age of 18 years and are domiciled with:
 - a. A parent or another person having legal custody of such individual(s); or
 - b. The designee of such parent or other person having such custody, with the
 - i. written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(13) *Housing for older persons* means housing:

- a. Provided under any state or federal program that is designed specifically and operated to assist elderly persons, as defined in the state or federal program;
- b. Intended for, and solely occupied by, persons 62 years of age or older; or
- c. Intended and operated for occupancy by at least one person 55 years of age or older for each unit. In determining whether housing qualifies as housing intended and operated for occupancy by at least one person 55 years of age or older, the board shall look for at least the following factors:
 1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons;
 2. That at least 80 percent of the dwellings are occupied by at least one person 55 years of age or older for each unit; and
 3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- d. Housing does not fail to meet the requirements for housing for older persons by reason of:
 1. Persons residing in this housing as of the date of enactment of the ordinance from which this subsection is derived [November 2, 1992] who do not meet the requirements of subsection b. or c.; or

2. Unoccupied units, provided that these units are reserved for occupancy by persons who meet the new requirements of subsection b. or c.

(14) *Covered multifamily dwelling* means:

- a. A building which consists of four or more units and has an elevator; or
- b. The ground floor units of a building which consists of four or more units and does not have an elevator.

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3799, §§ 4, 5, 11-2-92; Ord. No. 980524, § 18, 12-14-98; Ord. No. 030313, § 12, 11-24-03)

Cross reference—Definitions and rules of construction generally, § 1-2.

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

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

- (1) To refuse to sell, purchase, rent or lease, or otherwise deny or withhold any housing accommodation from a person or to evict a person because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;
- (2) To evict a person from or to refuse to negotiate with a person for the sale, purchase, rental, assignment or other transfer of the title, leasehold or other interest in any housing facility because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;
- (3) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing facility from or to a person because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;

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- (4) To discriminate against any person in the terms, conditions or privileges of the sale, purchase, rental, assignment or other transfer of any housing facility, or in the furnishing of facilities or services in connection therewith, because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity. Provided further that failure to provide reasonable access to, and use of, facilities as described in section 8-94(g) of this chapter shall not be unlawful unless and until said provisions become effective as described therein and as provided in section 8-94(g)(1);
- (5) To represent to any person that any housing facility is not available for inspection, sale, purchase, rental or lease, assignment or other transfer when in fact it is so available, or to refuse to permit a person to inspect any housing facility, because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity when such a dwelling is in fact available to persons who are financially qualified;
- (6) To make, as part of a process or pattern of discouraging the purchase, sale, rental, occupancy or other use of any housing facility in a particular block, area or neighborhood of the city, any representation to a person known to be a prospective purchaser, seller or renter that such a block, area or neighborhood may undergo, is undergoing or has undergone a change in composition with respect to sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;
- (7) To induce, or attempt to induce, a person to transfer any interest in a housing facility by representations regarding the existing or potential proximity of real property owned, used or occupied by a person of a particular sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;
- (8) To promote, induce or influence, or attempt to promote, induce or influence, by the use of postal cards, letters, circulars, telephone calls, visitation or any other means, directly or indirectly, a person to sell, list for sale, remove from listing, rent, assign, transfer or otherwise, any housing facility by referring, as a part of the pattern or process of inciting neighborhood unrest, community tension or fear of change in composition in a block, street, neighborhood or area of the city by creating or playing upon fear, by representing that the presence or anticipated presence in that area of persons of any particular sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity will or may result in the lowering of property values in the area, the increase in criminal or anti-social behavior in the area, or a decline in the quality of the schools serving the area;
- (9) To engage in, or hire or conspire with others to engage in, acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause economic loss to a person who has provided or offered to provide housing facilities or services to any person, regardless of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity; or
- (10) To engage in, or hire or conspire with others to engage in, acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause economic loss to a person who has purchased, or leased, or contracted to purchase, or lease, any housing facility or service because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity.

(b) Except as provided in section 8-94:

- (1) It is unlawful to discriminate 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:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with the buyer or renter.
 - (2) It is unlawful 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 such dwelling, because of a disability of:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with the buyer or renter.
 - (3) For purposes of subsections (1) and (2), discrimination includes:
 - a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 - b. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
 - c. Covered multifamily dwellings as defined herein which are intended for first occupancy after the effective date of the ordinance from which this section is derived [November 2, 1992] shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. Such buildings shall also be designed and constructed in such a manner that:
 1. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons.
 2. All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheel chair.
 3. All premises within such dwelling contain the following features of adaptive design:
 - (a) An accessible route into and through the dwelling.
 - (b) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
 - (c) Reinforcements in bathroom walls to allow later installation of grab bars.
 - (d) Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.
- (4); -Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically disabled people, commonly cited as ANSI A117.1 1986, suffices to satisfy the requirements of subparagraph (3). (Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 8, 3-21-88; Ord. No. 3799, § 7, 11-2-92; Ord. No.

970262, § 11, 6-1-98; Ord. No. 980524, § 19, 12-14-98; Ord. No. 030313, § 13, 11-24-03; Ord. No. 051225, § 10, 1-28-08)

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

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

- (1) *To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale, rental, assignment or other transfer of a housing facility, that indicates any preference, limitation or discrimination based on sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity, or any intention to make any such preference, limitation or discrimination;*
- (2) *To make or cause to be made an untrue or intentionally misleading statement or advertisement, or in any other manner, to tempt as part of a process or pattern of inciting neighborhood unrest, community tension or fear of change in composition of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity in any street, block, neighborhood, or any other area, to obtain a listing of any housing facility for sale, rental, assignment, transfer or other disposition, where such statement, advertisement or other representation is false or materially misleading, or where there is insufficient basis to judge its truth or falsity to warrant making the statement, or to make any other material misrepresentations in order to obtain such listing, sale, removal from listing, rental, lease, assignment, transfer or other disposition of said housing facility;*
- (3) *To place a sign or display any other device either purporting to offer for sale, rental, assignment, transfer or other disposition*

or tending to lead to the belief that a bona fide offer is being made to sell, rent, assign, transfer or otherwise dispose of any housing facility that is not in fact available or offered for sale, rental, assignment, transfer or other disposition because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity. (Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 9, 3-21-88; Ord. No. 3799, § 8, 11-2-92; Ord. No. 970262, § 12, 6-1-98; Ord. No. 980524, § 20, 12-14-98; Ord. No. 030313, § 14, 11-24-03; Ord. No. 051225, § 11, 1-28-08)

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

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

- (1) *To refuse to design, redesign, construct, reconstruct, repair, remodel or otherwise maintain any housing facility because of the sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity of the owner, lessee, tenant, assignee or other occupant of such housing facility, or of the prospective owner, lessee, tenant, assignee or other occupant of such housing facility;*
 - (2) *To include in the terms, conditions or privileges of any design or construction contract pertaining to a housing facility, any clause, condition or restriction which discriminates against any person, directly or indirectly, because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity;*
 - (3) *To discriminate in the provision of facilities or services related to a design of construction contract pertaining to a housing facility because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity.*
- (Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 10, 3-21-88; Ord. No. 3799, § 9, 11-2-92; Ord. No.

970262, § 13, 6-1-98; Ord. No. 980524, § 21, 12-14-98; Ord. No. 030313, § 15, 11-24-03; Ord. No. 051225, § 12, 1-28-08)

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

(b) *Residential real estate transactions.*

- (1) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction,

because of sexual orientation, race, color, gender, age, religion, national origin, marital status, disability or gender identity.

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

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

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 11, 3-21-88; Ord. No. 3799, § 10, 11-2-92; Ord. No. 970262, § 14, 6-1-98; Ord. No. 980524, § 22, 12-14-98; Ord. No. 030313, § 16, 11-24-03; Ord. No. 051225, § 13, 1-28-08)

Sec. 8-92. Prohibition of discrimination in provision of brokerage practices.

It shall be an unfair and discriminatory brokerage practice and shall be unlawful to deny any qualified person access to or membership or participation in any multiple listing service, real estate brokers' organization, or any other service, organization or facility relating to the business of selling or renting housing facilities or to discriminate against this person in the terms or conditions of such access, membership or participation because of sexual orientation, race, color, gender, age, religion, national origin, marital status or disability.

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 12, 3-21-88; Ord. No. 3799, § 11, 11-2-92; Ord. No. 970262, § 15, 6-1-98; Ord. No. 980524, § 23, 12-14-98; Ord. No. 030313, § 17, 11-24-03)

Sec. 8-93. Prohibition of other discriminatory housing practices.

It shall be unlawful and a discriminatory housing practice for any person:

- (1) To retaliate or discriminate in any manner against a person because he/she has

opposed a practice declared unlawful by this article, or because he/she has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, hearing or conference under this article; or

- (2) To resist, prevent, impede, or interfere with the human relations advisory board, or any of its members or representatives in the lawful performance of its or their duty under this article; or
- (3) To commit by canvassing, any unlawful practices prohibited by this article; or
- (4) To otherwise deny to or withhold any housing accommodation from a person because of such person's sexual orientation, race, color, gender, age, religion, national origin, marital status or disability.

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3799, § 12, 11-2-92; Ord. No. 970262, § 16, 6-1-98; Ord. No. 980524, § 24, 12-14-98; Ord. No. 030313, § 18, 11-24-03)

Sec. 8-94. Exceptions.

(a) Nothing in sections 8-88 through 8-91 and 8-93(4) applies to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence.

(b) Nothing in this article prohibits a religious organization, association or society, or any non profit 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 any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such, persons. Nothing in this article prohibits a private club that in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(c) Nothing in this article requires any person renting or selling a dwelling constructed for first occupancy before the effective date of the ordinance from which this section is derived [November 2, 1992] to modify, alter or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

(d) Any provision of this article regarding familial status does not apply with respect to housing for older persons.

(e) Nothing in this article:

- (1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than sexual orientation, race, color, gender, age, religion, national origin, marital status or disability.
- (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling.
- (3) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (4) Prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined under F.S. ch. 893.

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

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

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ination on the basis of gender identity in access to and use of such facilities shall be governed as follows:

- (1) Denial of access to and use of such facilities on the basis of gender identity would be permitted if the housing facility provides reasonable access to and use of adequate facilities that are not inconsistent with the person's gender identity, as established with the housing facility at the time of attempted initial access to, or upon notification to the housing facility that the person desiring access has undergone, or is undergoing gender transition, whichever occurrence is later. If providing reasonable access to and use of other adequate facilities is not readily achievable, denial of access to and use of shared facilities on the basis of gender identity is not prohibited until such time as providing reasonable access to and use of other adequate facilities is readily achievable.
- (2) Provision of standalone, "unisex," single-occupancy shower stalls, dressing areas or other facilities distinctly private in nature, where if shared would involve being seen fully unclothed, would be deemed providing reasonable access for use of other adequate facilities; or such facilities that are shared could be partitioned and divided so as to provide such, along with a reasonably accessible route not visible from areas distinctly private in nature where being seen fully unclothed is unavoidable, which would be deemed providing reasonable access to other adequate facilities.

(Ord. No. 3228, § 1, 6-9-86; Ord. No. 3421, § 13, 3-21-88; Ord. No. 3799, § 13, 11-2-92; Ord. No. 970262, §. 17, 6-1-98; Ord. No. 980524, § 25, 12-14-98; Ord.- No. 030313, § 19, 11-24-03; Ord. No. 051225, § 14, 1-28-08)

Sec. 8-95. Complaint procedure.

(a) Any aggrieved person may file with the director, or his designated representative, a written complaint, which shall be verified. The com-

plaint shall state the name and address of the complainant and the person or persons against whom the complaint is made (hereinafter referred to as the "respondent"). The complaint shall set forth the facts upon which the complaint is made and such other information as the director requires. The complaint must be filed within one year after the alleged unlawful practice has occurred. The complaint may be withdrawn by the complainant at any time.

(b) When it is determined that a complaint has been timely filed, the director shall cause notice of the filing and a copy of the complaint to be served upon the respondent. Notice shall be served within ten days of the date of filing. An amendment likewise shall be served upon the respondent. The notice shall advise the respondent of relevant procedural rights and obligations. The notice shall advise the respondent of the complainant's rights to commence a civil action in a court of competent jurisdiction not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice shall state that the computation of this two-year period excludes any time during which the matter is pending for administrative relief with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice shall state, however, that the time period includes the time during which an action arising from a breach of a conciliation agreement under this article is pending. The notice shall advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation or conciliation under this article is a discriminatory housing practice that is prohibited.

(c) The director shall serve notice upon the aggrieved person acknowledging the filing of the complaint and advising the aggrieved-person of relevant procedural rights and remedies. The notice shall advise the aggrieved person of remedies and choice of forums and inform the aggrieved person that the administrative procedure provided for in this article is neither an obstacle nor a prerequisite to the aggrieved person commencing a separate civil action on his own. The notice shall advise the aggrieved person of his right to commence a civil action in a court not

later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice shall state that the computation of this two-year period excludes any time during which the matter is pending for administrative relief with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice shall also state, however, that the time period includes the time during which an action arising from a breach of a conciliation agreement under this article is pending. The notice shall advise the aggrieved person that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or conciliation under this article is a discriminatory housing practice that is prohibited.

(d) Once a complaint has been served on the respondent, the respondent shall preserve all records and other evidence which may pertain to the complaint until the matter has been finally determined.

(e) The respondent may file an answer to the complaint not later than ten days after receipt of the notice of the filing. The answer shall be sworn to or affirmed before a notary public or other person duly authorized by law to administer oaths and take acknowledgments.

(f) A complaint or answer may be amended at any time when it would be fair and reasonable to do so, and the director shall furnish a copy of each amended complaint or answer to the respondent or aggrieved person, respectively, as promptly as practicable. With respect to any complaint filed pursuant to this article, the initial burden of proof is on the complainant.

(g) Within 30 days after the filing of a complaint, the director shall commence such investigation as deemed appropriate to ascertain facts and issues. The director may utilize the services and information gathered from other public agencies charged with the administration of equal opportunity laws.

(h) The following investigation procedures shall be followed:

- (1) *Complaint verification.* As part of the investigation process, the complaining party

may be required to provide an additional sworn written statement which shall include:

- a. A statement of each particular harm or potential harm which the aggrieved person has suffered or will suffer and the date on which each harm occurred or will occur.
 - b. For each harm, a statement specifying the act, policy, or practice which is alleged to be unlawful.
 - c. For each act, policy, or practice alleged to have harmed the aggrieved person, a statement of the facts which led the complainant to believe that the act, policy, or practice is discriminatory.
- (2) *Requests for information.* In investigating a complaint, the director and/or the director's designee may obtain information by:
- a. Oral interview; and/or
 - b. Requests for written statement or affidavit; and/or
 - c. Any discovery methods set forth in the Florida Rules of Civil Procedure.
- (3) *Investigations.* The investigations will seek the voluntary cooperation of all persons in obtaining information. If, however, the director is unable to obtain the voluntary cooperation of persons, the director shall request the board issue subpoenas. The board shall have the power to issue subpoenas or subpoenas duces tecum. Any subpoena issued by the board must be approved by the city attorney as to the subpoena's form and legality before it is issued.
- (4) *Complaining party's failure to cooperate.* Where the complainant fails to provide a necessary information statement; fails or refuses to appear or be available for interviews or conferences; fails or refuses to provide necessary information requested by the director pursuant to this section; or otherwise refuses to cooperate to the extent that the director shall dismiss the

complaint after providing 20 days' notice to the complainant unless the director, with board approval, determines there is sufficient grounds and sufficient evidence to proceed with the complaint.

- (5) *Access to files during investigation.* Access to files during investigation shall be in accordance with the provisions of the Florida Public Records Law.

(i) The director shall, within 100 days after the filing of a complaint, complete the investigation of the alleged unlawful discriminatory practice, unless it is impracticable to do so. If the director is unable to complete the investigation within 100 days after the filing of a complaint, the director shall notify, by certified mail or by personal service, the complainant and the respondent in writing of the reasons for not so doing. The director shall notify the aggrieved person and the respondent if administrative disposition of the complaint pursuant to this article cannot be accomplished within one year of the filing of the complaint.

(j) Beginning with the filing of the complaint and ending with the filing of a reasonable cause charge as provided for in subsection (n) herein, the director shall attempt to conciliate the matter by methods of initial conference and conciliation with all interested parties and such representatives as the parties may choose to assist them. Such conciliation conferences may be by whatever method the director determines to be most appropriate. The director shall attempt to achieve a just resolution of all violations found, and to obtain agreement that the respondent will eliminate the unlawful practice and provide appropriate affirmative relief. Except as provided in subsection (k) of this section, nothing that is said or done in the course of conciliation or such informal endeavors may be made public or used as evidence in a "subsequent proceeding" without the written consent of the persons concerned.

(k) Where conciliation attempts are successful, the terms of a settlement of a complaint shall be reduced to a written conciliation agreement. The agreement must be executed by the respondent and the complainant, and is subject to the approval of the director. The conciliation agree-

ment shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. Notwithstanding the provisions of subsection (j) above, each conciliation agreement shall be made public in accordance with the public records law.

(1) A conciliation agreement negotiated under this article to resolve a discriminatory real estate transaction may include, but is not limited to:

- (1) The sale, exchange, lease, rental, assignment, or sublease of real property to an individual;
- (2) The extension to all persons the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;
- (3) The reporting as to the manner of compliance;
- (4) The posting of notice in conspicuous places in the respondent's place of business, indicating compliance with equal housing opportunity, and inclusion of such notices in advertising material;
- (5) The payment to the complainant of damages for injury, expenses incurred by the complainant in securing alternate housing or facilities, and other costs actually incurred by the complainant as a direct result of such discriminatory practice.

(m) A duly executed conciliation agreement shall operate as a dismissal of the complaint.

(n) If conciliation has not been reached within 100 days of the filing of the complaint and if the complaint has not been withdrawn, the director shall make a determination as to whether reasonable cause exists to believe that an unlawful discriminatory practice has occurred or is about to occur. Reasonable cause shall be based upon sufficiently trustworthy information which would lead an impartial observer to a belief that a discriminatory housing practice has occurred or is likely to occur. The director and/or the director's designee shall report the results of the investigation and his or her determination to the board. The board shall receive a copy of the director's report and shall have the opportunity to review

the report and submit comments to the director. If the board determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, it shall issue a written notice of determination of reasonable cause. A copy of the notice shall be served upon the respondent, the complainant, and the aggrieved person within ten days of the date of the written notice. At the time the notice of determination of reasonable cause is served, notice shall be given that a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect, in lieu of an administrative hearing pursuant to this article, to have the claims asserted in the charge decided in a civil action and advise that such election must be made not later than 20 days after the date of receipt of the notice of determination of reasonable cause. The person making the election shall give notice to the board and all other parties.

(o) If the director determines that the complaint lacks reasonable grounds upon which to base a violation of this article, the director shall dismiss the complaint, then the director shall inform the board of his or her findings through a written report. The board, in its discretion, may order that the matter be closed or may order, by a three-fourths majority vote, such further investigation as may be deemed necessary. If further investigation is ordered, the results thereof shall be presented to the board in the form of a written report within ten days and shall be acted upon by the board within an additional 20 days.

(p) If timely election of a civil action is not made under subsection (n), the charge will proceed to an administrative hearing. An evidentiary hearing on the merits shall be held. Any conciliation agreement reached prior to a scheduled hearing may result in such hearing being cancelled. The city, through the city attorney's office, shall arrange for the services of a hearing officer to conduct the administrative hearing.

(q) In conducting any administrative hearing to determine whether or not there has occurred a failure to comply with the provisions of this article, the hearing officer shall have the power to administer oaths, issue subpoenas, compel the production of books, paper, and other documents,

and receive evidence. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the hearing officer's recommended order, and to be represented by counsel or other qualified representative. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. In interpreting the provisions of this article, the hearing officer may consider administrative and judicial interpretations of substantially equivalent provisions of state or federal laws.

(r) The hearing officer shall prepare a recommended order consisting of findings of fact, conclusions of law and affirmative relief, if applicable. The hearing officer shall transmit the recommended order to the board and all parties. Each party shall have 15 days from the date of the hearing officer's order to submit written exceptions to the hearing officer's order to the board. The board shall review such order and any written exceptions and may set forth any deficiencies it finds with respect to the order. Said deficiencies shall be limited to determinations that the findings were not based upon competent, substantial evidence, or that the proceedings on which the findings were based did not comply with the essential requirements of law. In reviewing such recommended order, the board shall not have the power to receive or consider additional evidence. The board shall have no power to reject or modify the findings of fact contained in the recommended order. The board may either adopt the recommended order as the final order, or by a three-fourths majority vote, remand the recommended order along with the delineated deficiencies back to the hearing officer for consideration of the deficiencies. The hearing officer shall address the identified deficiencies in an addendum to the recommended order. The hearing officer's order along with the addendum addressing the concerns of the board shall be the final order of the board. The final order shall be served upon the complainant and respondent within ten days of adoption by the board. If the hearing officer finds

that a discriminatory practice has occurred or is about to occur, the hearing officer may recommend affirmative relief from the effects of the practice, including actual damages, equitable and injunctive relief and reasonable attorneys fees and costs. Judgment for the amount of damages, equitable relief and costs assessed pursuant to a final order by the board may be entered in any court of competent jurisdiction thereof and may be enforced as any other judgment.

(s) Any sale, encumbrance, or rental consummated prior to the issuance of an order by the board issued under the authority of this article and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this article shall not be affected.

(t) Either party to such administrative proceedings shall have the right to appeal the final administrative order described herein by certiorari review. Unless specifically ordered by the court, the commencement of an appeal does not suspend or stay an order of the board. Costs or fees may not be assessed against the board in any appeal from a final order issued by the board under this article. Either party to the administrative proceeding or the city shall have authority to bring an action in equity in a court of competent jurisdiction to enforce the final administrative order to ensure compliance with this article. The court shall be empowered to issue mandatory or prohibitive injunction to implement such administrative order.

(u) Should any party fail or refuse to comply with the final order issued by the board or breach a conciliation agreement as provided herein, then, following the expiration of the appeal time as provided herein, the board shall forward such order or conciliation agreement to the city commission with a request that the city commission authorize the city attorney to bring such action or actions as necessary to obtain compliance with this article.

(Ord. No. 980524, § 26, 12-14-98; Ord. No. 040874, § 3, 2-28-05)

Editor's note—Ord. No. 980524, § 26, adopted Dec. 14, 1998, repealed the former § 8-95 and enacted a new § 8-95 as

set out herein. The former § 8-95 pertained to the fair housing coordinator and derived from Ord. No. 3228, § 1, adopted June 9, 1986.

Sec. 8-96. Civil action and penalties.

(a) In addition to the election of remedies provisions if, as a result of investigation under this article, the director finds there is reasonable cause to believe that an unlawful discriminatory housing practice has occurred, at the request of the person aggrieved, the board may recommend to the city commission that the matter be referred to the state attorney's office for appropriate proceedings to enforce the provisions of this article. The board may also recommend to the city commissioners that the city attorney bring a civil action in a court of competent jurisdiction if the director is unable to conciliate a complaint or if the city is unable to obtain voluntary compliance with this article. The city and/or the board need not have requested or petitioned for an administrative hearing or exhausted any administrative remedies prior to bringing a civil action.

(b) If an aggrieved person wishes to bring a civil action; such action shall be commenced no later than two years after an alleged discriminatory practice has occurred. The aggrieved person need not have requested or petitioned for an administrative hearing or exhausted his or her administrative remedies prior to bringing a civil action. Such two-year period does not include any time during which conciliation efforts or an administrative hearing action was pending with respect to such complaint.

(c) Whenever an action filed in a court of competent jurisdiction pursuant to this article comes to trial, the director shall immediately terminate all efforts to obtain conciliation.

(d) In a civil action brought under this article, if a court finds that a discriminatory housing practice has occurred, it shall issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including injunctive and other equitable relief, actual damages, and reasonable attorneys' fees and costs. If the city has brought the civil action, the court shall award reasonable attorneys' fees and costs to the city in any action in which the city prevails.

(e) It is hereby found and declared that a violation of any provision of this article constitutes an irreparable injury to the citizens of the City of Gainesville. (Ord. No. 980524, § 27, 12-14-98)

Editor's note—Ord. No. 980524, § 27, adopted Dec. 14, 1998, repealed the former § 8-96 and enacted a new § 8-96 as set out herein. The former § 8-96 pertained to fair housing board established and membership, and derived from Ord. No. 3228, § 1, adopted June 9, 1986; Ord. No. 3799, § 14, adopted Nov. 2, 1992; and Ord. No. 3827, § 1, adopted Jan. 25, 1993.

Sec. 8-97. Additional remedies.

The procedures prescribed by this article do not constitute an administrative prerequisite to another action or remedy available under other law. Nothing in this article shall be deemed to modify, impair, or otherwise affect any right or remedy conferred by the constitution or laws of the United States or the State of Florida, and the provisions of this article shall be in addition to those provided by such other laws. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing any complaint with any other agency or any court having proper jurisdiction. (Ord. No. 980524, § 28, 12-14-98)

Editor's note—Ord. No. 980524, § 28, adopted Dec. 14, 1998, repealed the former § 8-97 and enacted a new § 8-97 as set out herein. The former § 8-97 pertained to duties and powers of the fair housing board and derived from Ord. No. 3228, § 1, adopted June 9, 1986, and Ord. No. 3799, § 15, adopted Nov. 2, 1992.

Sees. 8-98—8-101. Reserved.

Editor's note—Ord. No. 980524, § 29, adopted Dec. 14, 1998, repealed §§ 8-98—8-101, which pertained to procedure, violation of article, penalties, and additional remedies, respectively, and derived from Ord. No. 3228, § 1, adopted June 9, 1986, and Ord. No. 3799, §§ 16, 17, adopted Nov. 2, 1992.

Sees. 8-102—8-110. Reserved.

ARTICLE VI EQUAL CREDIT OPPORTUNITY*

Sec. 8-111. Rules of construction.

The provisions of this article are adopted by the city commission with the knowledge of a similar

*State law reference—Discrimination on basis of sex, race or marital status in lending money, granting credit or providing equal pay for equal services, F.S. § 725.07.

federal law contained in 15 U.S.C. Section 1691a, et seq. The commission has specifically patterned this article after that law and except where the two (2) are clearly different, hereby adopts relevant judicial and administrative constructions of that federal law as applicable hereto. (Code 1960, § 10B-23)

Sec. 8-112. Definitions.

As used in this article, the following words shall have the following meanings ascribed to them in this section:

Applicant or *credit applicant* shall mean any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

Credit shall mean the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

Creditor shall mean any person who regularly extends, renews or continues credit; any person who regularly arranges for the extension, renewal or continuation of credit; or any assignees of an original creditor who participates in the decision to extend, renew or continue credit. (Code 1960, § 10B-24)

Cross reference—Definitions and rules of construction generally, § 1-2.

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

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

(Code 1960, § 10B-25; Ord. No. 970262, § 18, 6-1-98; Ord. No. 980524, § 30, 12-14-98; Ord. No. 030313, § 20, 11-24-03; Ord. No. 051225, § 15, 1-28-08)

Sec. 8-114. Exceptions.

Section 8-113 shall not apply to:

- (1) Any inquiry of marital status if the inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of credit worthiness;
- (2) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings; provided, however, this subsection shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of the credit worthiness of any applicant;
- (3) Consideration or application of state property laws which directly or indirectly affect credit worthiness of the applicant.
- (4) The provisions in this article relating to sexual orientation and gender identity shall not apply to any religious institution, organization, corporation, association, society or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious institution, organization, corporation, association or society.

(Code 1960, § 10B-26; Ord. No. 970262, § 19, 6-1-98; Ord. No. 051225, § 16, 1-28-08)

Sec. 8-115. Enforcement.

The provisions of this article relating to enforcement, filing, complaint procedure, orders and penalties shall follow in the same manner as in employment actions under article III of this chapter,

(Ord. No. 980524, § 31, 12-14-98).