

Legislative #
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- 30 city and more particularly of concern to the city in providing for the health,
31 welfare, safety and morals of the citizens of the municipality;
- 32 (2) The availability of adequate housing without discrimination on the basis of
33 sexual orientation, race, color, gender, age, religion, national origin, marital
34 status, disability, ~~or gender identity, citizenship status, or lawful source of~~
35 income is a matter of concern to the citizens of the city and more particularly
36 of concern to the city in providing for the health, welfare, safety and morals of
37 the citizens of the municipality;
- 38 (3) Employment practices without discrimination on the basis of sexual
39 orientation, race, color, gender, age, religion, national origin, marital status,
40 disability or gender identity is a matter of concern to the citizens of the city and
41 more particularly of concern to the city in providing for the health, welfare,
42 safety and morals of the citizens of the municipality.
- 43 (4) The extension of credit without discrimination on the basis of sexual
44 orientation, race, color, gender, age, religion, national origin, marital status,
45 disability or gender identity is a matter of concern to the citizens of the city and
46 more particularly of concern to the city in providing for the health, welfare,
47 safety and morals of the citizens of the municipality; and
- 48 (5) Employment discrimination against persons having physical or mental
49 disabilities that do not constitute bona fide occupational qualifications is a
50 matter of concern to the citizens of the city and more particularly of concern to
51 the city in providing for the health, welfare, safety and morals of the citizens of
52 the municipality.

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

60 (b) The above findings being made, the city commission hereby declares the policy of
61 the city to be, for the protection of the public health, safety and general welfare, for the
62 maintenance of business and good government, and for the promotion of the city's trade,
63 commerce and manufacturing, to prohibit discrimination in the access to and equal enjoyment
64 of places of public accommodation, to ensure equal opportunity to all persons to live in
65 decent housing facilities, regardless of sexual orientation, race, color, gender, age, religion,
66 national origin, marital status, disability, ~~or gender identity~~, citizenship status, or lawful source
67 of income and to that end to prohibit discrimination in the extension of credit without regard
68 to sexual orientation, race, color, gender, age, religion, national origin, marital status,
69 disability or gender identity and to prohibit employment discrimination against persons
70 because of sexual orientation, race, color, gender, age, religion, national origin, marital status,
71 disability or gender identity that do not constitute bona fide occupational qualifications.

72 **Sec. 8-2. Objective.**

73 The objective of the provisions of this chapter is to provide a means for implementation
74 of the above-declared policy and to discourage and eliminate discriminatory practices.

75

76 **Sec. 8-3. "Person" defined-Definitions.**

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

79 (a) As used in this chapter, the term "person" includes one or more individuals, labor
80 unions, partnerships, associations, corporations, legal representatives, mutual companies, joint
81 stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11
82 U.S.C., receivers, fiduciaries, and the Gainesville-Alachua County Regional Airport Authority.
83 Except as otherwise noted above, the term shall not include any federal, state or local
84 government or any agency thereof, but shall include all natural persons whether or not acting as
85 agents for such governmental entities.

86 (b) "Sexual orientation" means the condition of being heterosexual, homosexual, or
87 bisexual or having a history of such identification. This definition is not intended to permit any
88 practice prohibited by federal, state or local law.

89 (c) "Gender identity" means an inner sense of being a specific gender, or the expression
90 of a gender identity by verbal statement, appearance, or mannerisms, or other gender-related
91 characteristics of an individual with or without regard to the individual's designated sex at birth.

92 (d) "Citizenship status" means a perception that the person has a particular citizenship
93 status based on his or her national origin, race, color, other physical attribute(s) or language, or
94 that the person is associated with a person who has, or is perceived to have, a particular
95 citizenship status.

96 (e) "Lawful source of income" means the lawful, verifiable income received by or on
97 behalf of a person, including but not limited to, income derived from social security,
98 supplemental security income, child support, alimony, veteran's benefits, disability benefits.

99 pension and retirement benefits, or any form of federal, state, or local public, food, or housing
100 assistance or subsidy, including assistance from the Supplemental Nutrition Assistance Program
101 (SNAP) and the Housing Choice Voucher Program or "Section 8" vouchers, whether such
102 income is received directly or indirectly by the renter or purchaser and includes supplemental
103 income.

104 (f) "Marital status" means an individual's status of being married, separated, or
105 unmarried, including being single, divorced, widowed or a domestic partner.

106 (g) The terms "race," "color" and "national origin" shall have the same meanings as
107 provided under title VII of the Civil Rights Act of 1964.

108 (h) Discrimination on the basis of "gender" shall have the same meaning as
109 discrimination "because of sex" as defined within section 701 of title VII of the Civil Rights Act
110 of 1964.

111 (i) The term "religion" shall have the same meaning as defined within section 701 of
112 title VII of the Civil Rights Act of 1964.

113 **Sec. 8-4. Violations; penalty.**

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

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

119 (c) It shall be unlawful and punishable as provided in this section for any person to
120 engage in any reprisal against any person because that person has filed a complaint, testified,

121 assisted or participated in any manner in any investigation, proceeding or hearing under this
122 chapter.

123 (d) Any person convicted of violating any of the provisions of this chapter shall upon
124 conviction be punished as provided in section 1-9.

125 **Sec. 8-5. Cumulative effect of provisions.**

126 Nothing in this chapter shall be deemed to exempt or relieve any person from any
127 liability, duty, penalty or punishment provided by any applicable state or federal law or local
128 ordinance.

129 **Sec. 8-6. "Sexual orientation," and "gender identity" defined Office of Equity and Inclusion**

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

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

137 (a) The City of Gainesville Equal Opportunity Office is hereby designated the "Office
138 of Equity and Inclusion."

139 (b) The City of Gainesville Equal Opportunity Director shall administer the
140 provisions of this chapter in addition to performing all functions prescribed by Section 3.08 of
141 the Charter of the City of Gainesville.

142 **Secs. 8-7 – 8-20. Reserved.**

143 Section 2. Section 8-21 of Article II of Chapter 8 of the Code of Ordinances of the City
144 of Gainesville, is deleted in its entirety and replaced as follows:

145 **Sec. 8-21. ~~Equal opportunity director.~~ Reserved.**

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

148 ~~(b) The duties, functions, powers, and responsibilities authorized by this article are as~~
149 ~~follows:~~

150 ~~(1) Implement the provisions of this chapter and the rules and regulations~~
151 ~~promulgated hereunder and all City of Gainesville ordinances, codes, rules and~~
152 ~~regulations pertaining to discrimination of the basis of sexual orientation, race,~~
153 ~~color, gender, age, religion, national origin, marital status, disability or gender~~
154 ~~identity in employment, fair housing, fair credit, and public accommodations,~~
155 ~~and advise the city commissioners when changes in the federal or state human~~
156 ~~rights laws require revisions to this chapter.~~

157 ~~(2) Receive and investigate written complaints, as provided by this chapter, of~~
158 ~~unlawful practices in violation of this chapter when a complainant seeks to file~~
159 ~~a complaint. Refer any written complaints received by the director that allege~~
160 ~~unlawful practices in employment, fair housing, fair credit, or public~~
161 ~~accommodations by the federal government or the State of Florida to the~~
162 ~~appropriate agency with authority to investigate such complaints.~~

163 ~~(3) Upon receiving a written complaint, make such investigations as the director~~
164 ~~deems appropriate to ascertain facts and issues.~~

188 ~~(10) Bring to the attention of the city commission, those items that may require the~~
189 ~~city commission's notice or action to resolve.~~

190 Section 3. Article V of Chapter 8 of the Code of Ordinances of the City of Gainesville, is
191 amended to read as follows:

192 **ARTICLE V. FAIR HOUSING**

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

194 It is hereby declared to be the policy of the city, in the exercise of its police power for the
195 public safety, public health and general welfare, to assure equal opportunity for each person so
196 desiring to obtain housing of the person's choice in the city regardless of sexual orientation, race,
197 color, gender, age, religion, national origin, marital status, ~~or~~ disability, gender identity,
198 citizenship status, or lawful source of income and, to that end, to prohibit discrimination in
199 housing on basis of sexual orientation, race, color, gender, age, religion, national origin, marital
200 status, ~~disability, or gender identity,~~ citizenship status, or lawful source of income by any person.

201 **Sec. 8-87. Definitions.**

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

204 (1) *Discriminatory housing practice* means an act that is unlawful under the terms of
205 this article.

206 (2) *Age* means the chronological age of an individual who is 18 years old or older.

207 (3) *Disability:*

208 a. "Disability," as used in this chapter, means, with respect to a person:

209 1. A physical or mental impairment which substantially limits one or
210 more of such person's major life activities;

- 211 2. A record of having such an impairment; or
- 212 3. Being regarded as having such an impairment.
- 213 b. The term "disability" excludes current, illegal use of or addiction to a
- 214 controlled substance as defined by law. The term "disability" does not
- 215 include the following sexual and behavioral disorders:
- 216 1. Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism,
- 217 gender identity disorders not resulting from physical impairments, or
- 218 other sexual behavior disorders;
- 219 2. Compulsive gambling, kleptomania, or pyromania; or
- 220 3. Psychoactive substance use disorders resulting from current illegal use
- 221 of drugs.

222 ~~(2) — *Person* includes one or more human beings, individuals, governments,~~

223 ~~governmental agencies, governmental departments, governmental programs,~~

224 ~~political subdivisions, labor unions, mortgage companies, firms, associations,~~

225 ~~joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries,~~

226 ~~corporations, and all other groups or combinations.~~

227 ~~(3-4) *Owner* includes the owner, lessee, sub lessee, assignee, manager, agent, or other~~

228 ~~person, firm, or corporation having the right to sell, rent, lease, or transfer any~~

229 ~~housing facility, real property, or interest therein, within the corporate limits of~~

230 ~~the city.~~

231 ~~(4-5) *Building contractor* includes any person, partnership, association, organization,~~

232 ~~firm or corporation engaged in the designing, redesigning, constructing,~~

233 reconstructing, repairing or remodeling of any housing facility within the
234 corporate limits of the city.

235 ~~(5-6)~~ *Dwelling or housing facility* includes any facility, structure, mobile home, hotel,
236 motel, or any other building, or portion thereof, which is used or occupied or
237 intended, arranged or designed to be used or occupied as the home, residence or
238 living quarters of one or more persons, or any parcel of land or portion thereof
239 available or intended for the construction or location of such a facility, structure,
240 mobile home, hotel, motel or other building.

241 ~~(6-7)~~ *Family* means one individual living alone or two or more individuals living
242 together as a unit.

243 ~~(7-8)~~ *Lending institution* includes any bank, insurance company, savings and loan
244 association, mortgage company or any other person or organization engaged in
245 the business of lending money or guaranteeing loans.

246 ~~(8-9)~~ *Real estate broker* includes any person duly licensed as a real estate broker in
247 accordance with the laws of the state.

248 ~~(9-10)~~ *Real estate salesperson or agent* includes any person, whether licensed or not,
249 who, for a fee, commission, salary or other valuable consideration, or who, with
250 the intention or expectation of receiving or collecting the same lists, sells,
251 purchases, exchanges, rents, leases or otherwise transfers real estate, or the
252 improvements thereon, including options, or who negotiates or attempts to
253 negotiate such an activity, or who advertises or holds himself/herself out as
254 engaged in such activities, or who negotiates or attempts to negotiate a loan
255 secured by a mortgage or other encumbrance, upon a transfer of real estate, or

256 who is engaged in the business of charging an advanced fee or contracting for
257 collection of a fee in connection with a contract whereby he/she undertakes to
258 promote the sale, purchase, exchange, rental, lease or other transfer of real estate
259 through its listing in a publication issued primarily for such purpose; or a person
260 employed by, or acting on behalf of any of these.

261 ~~(10-11)~~ *To rent* includes to lease, to sublease, to let and otherwise to grant for a
262 consideration the right to occupy premises not owned by the occupant.

263 ~~(11-12)~~ *Real property* includes building structures, lands, tenements, leaseholds,
264 cooperatives and condominiums.

265 ~~(12-13)~~ *Familial status* means one or more individuals who have not attained the age of
266 18 years and are domiciled with:

- 267 a. A parent or another person having legal custody of such individual(s); or
268 b. The designee of such parent or other person having such custody, with the
269 written permission of such parent or other person.

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

273 ~~(13-14)~~ *Housing for older persons* means housing:

- 274 a. Provided under any state or federal program that is designed specifically
275 and operated to assist elderly persons, as defined in the state or federal
276 program;
277 b. Intended for, and solely occupied by, persons 62 years of age or older; or

- 278 c. Intended and operated for occupancy by at least one person 55 years of
279 age or older for each unit. In determining whether housing qualifies as
280 housing intended and operated for occupancy by at least one person 55
281 years of age or older, the board shall look for at least the following factors:
- 282 1. The existence of significant facilities and services specifically
283 designed to meet the physical or social needs of older persons or, if the
284 provision of the facilities and services is not practicable, that the
285 housing is necessary to provide important housing opportunities for
286 older persons;
 - 287
 - 288 2. That at least 80 percent of the dwellings are occupied by at least one
289 person 55 years of age or older for each unit; and
 - 290 3. The publication of and adherence to policies and procedures which
291 demonstrate an intent by the owner or manager to provide housing for
292 persons 55 years of age or older.
- 293 d. Housing does not fail to meet the requirements for housing for older
294 persons by reason of:
- 295 1. Persons residing in this housing as of the date of enactment of the
296 ordinance from which this subsection is derived [November 2, 1992]
297 who do not meet the requirements of subsection b. or c.; or
 - 298 2. Unoccupied units, provided that these units are reserved for occupancy
299 by persons who meet the new requirements of subsection b. or c.

300 (14-15) *Covered multifamily dwelling* means:

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

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

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

- 308 (1) To refuse to sell, purchase, rent or lease, or otherwise deny or withhold any
309 housing accommodation from a person or to evict a person because of such
310 person's sexual orientation, race, color, gender, age, religion, national origin,
311 marital status, disability, ~~or gender identity, citizenship status, or lawful source of~~
312 income;
- 313 (2) To evict a person from or to refuse to negotiate with a person for the sale,
314 purchase, rental, assignment or other transfer of the title, leasehold or other
315 interest in any housing facility because of such person's sexual orientation, race,
316 color, gender, age, religion, national origin, marital status, disability, ~~or gender~~
317 identity, citizenship status, or lawful source of income;
- 318 (3) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease
319 any housing facility from or to a person because of such person's sexual
320 orientation, race, color, gender, age, religion, national origin, marital status,
321 disability, ~~or gender identity, citizenship status, or lawful source of income;~~
- 322 (4) To discriminate against any person in the terms, conditions or privileges of the
323 sale, purchase, rental, assignment or other transfer of any housing facility, or in

324 the furnishing of facilities or services in connection therewith, because of sexual
325 orientation, race, color, gender, age, religion, national origin, marital status,
326 disability, ~~or~~ gender identity, citizenship status, or lawful source of income;

327 (5) To represent to any person that any housing facility is not available for inspection,
328 sale, purchase, rental or lease, assignment or other transfer when in fact it is so
329 available, or to refuse to permit a person to inspect any housing facility, because
330 of such person's sexual orientation, race, color, gender, age, religion, national
331 origin, marital status, disability, ~~or~~ gender identity, citizenship status, or lawful
332 source of income when such a dwelling is in fact available to persons who are
333 financially qualified;

334 (6) To make, as part of a process or pattern of discouraging the purchase, sale, rental,
335 occupancy or other use of any housing facility in a particular block, area or
336 neighborhood of the city, any representation to a person known to be a
337 prospective purchaser, seller or renter that such a block, area or neighborhood
338 may undergo, is undergoing or has undergone a change in composition with
339 respect to sexual orientation, race, color, gender, age, religion, national origin,
340 marital status, disability, ~~or~~ gender identity, citizenship status, or lawful source of
341 income;

342 (7) To induce, or attempt to induce, a person to transfer any interest in a housing
343 facility by representations regarding the existing or potential proximity of real
344 property owned, used or occupied by a person of a particular sexual orientation,
345 race, color, gender, age, religion, national origin, marital status, disability, ~~or~~
346 gender identity, citizenship status, or lawful source of income;

- 347 (8) To promote, induce or influence, or attempt to promote, induce or influence, by
348 the use of postal cards, letters, circulars, telephone calls, visitation or any other
349 means, directly or indirectly, a person to sell, list for sale, remove from listing,
350 rent, assign, transfer or otherwise, any housing facility by referring, as a part of
351 the pattern or process of inciting neighborhood unrest, community tension or fear
352 of change in composition in a block, street, neighborhood or area of the city by
353 creating or playing upon fear, by representing that the presence or anticipated
354 presence in that area of persons of any particular sexual orientation, race, color,
355 gender, age, religion, national origin, marital status, ~~disability,~~ gender identity,
356 citizenship status, or lawful source of income will or may result in the lowering of
357 property values in the area, the increase in criminal or anti-social behavior in the
358 area, or a decline in the quality of the schools serving the area;
- 359 (9) To engage in, or hire or conspire with others to engage in, acts or activities of any
360 nature, the purpose of which is to harass, degrade, embarrass or cause economic
361 loss to a person who has provided or offered to provide housing facilities or
362 services to any person, regardless of sexual orientation, race, color, gender, age,
363 religion, national origin, marital status, ~~disability,~~ gender identity, citizenship
364 status, or lawful source of income; or
- 365 (10) To engage in, or hire or conspire with others to engage in, acts or activities of any
366 nature, the purpose of which is to harass, degrade, embarrass or cause economic
367 loss to a person who has purchased or leased, or contracted to purchase or lease,
368 any housing facility or service because of such person's sexual orientation, race,

369 color, gender, age, religion, national origin, marital status, disability, ~~or~~ gender
370 identity, citizenship status, or lawful source of income.

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

372 (1) It is unlawful to discriminate in the sale or rental of, or to otherwise make
373 unavailable or deny, a dwelling to any buyer or renter because of a disability of:

374 a. That buyer or renter;

375 b. A person residing in or intending to reside in that dwelling after it is sold,
376 rented or made available; or

377 c. Any person associated with the buyer or renter.

378 (2) It is unlawful to discriminate against any person in the terms, conditions or
379 privileges of sale or rental of a dwelling or in the provision of services or facilities
380 in connection with such dwelling, because of a disability of:

381 a. That buyer or renter;

382 b. A person residing in or intending to reside in that dwelling after it is sold,
383 rented or made available; or

384 c. Any person associated with the buyer or renter.

385 (3) For purposes of subsections (1) and (2), discrimination includes:

386 a. A refusal to permit, at the expense of the disabled person, reasonable
387 modifications of existing premises occupied or to be occupied by such
388 person if such modifications may be necessary to afford such person full
389 enjoyment of the premises, except that, in the case of rental, the landlord
390 may, where it is reasonable to do so, condition permission for a
391 modification on the renter agreeing to restore the interior of the premises

392 to the condition that existed before the modification, reasonable wear and
393 tear excepted.

394 b. A refusal to make reasonable accommodations in rules, policies, practices
395 or services when such accommodations may be necessary to afford such
396 person equal opportunity to use and enjoy a dwelling.

397 c. Covered multifamily dwellings as defined herein which are intended for
398 first occupancy after the effective date of the ordinance from which this
399 section is derived [November 2, 1992] shall be designed and constructed
400 to have at least one building entrance on an accessible route unless it is
401 impractical to do so because of the terrain or unusual characteristics of the
402 site. Such buildings shall also be designed and constructed in such a
403 manner that:

404 1. The public use and common use portions of such dwellings are readily
405 accessible to and usable by disabled persons.

406 2. All doors designed to allow passage into and within all premises
407 within such dwellings are sufficiently wide to allow passage by a
408 person in a wheelchair.

409 3. All premises within such dwelling contain the following features of
410 adaptive design:

411 (a) An accessible route into and through the dwelling.

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

414 (c) Reinforcements in bathroom walls to allow later installation of
415 grab bars.

416 (d) Usable kitchens and bathrooms such that a person in a wheelchair
417 can maneuver about the space.

418 (4) Compliance with the appropriate requirements of the American National
419 Standards Institute for buildings and facilities providing accessibility and usability
420 for physically disabled people, commonly cited as ANSI A117.1 1986, suffices to
421 satisfy the requirements of subparagraph (3).

422

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

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

427 (1) To make, print or publish, or cause to be made, printed or published, any notice,
428 statement or advertisement, with respect to the sale, rental, assignment or other
429 transfer of a housing facility, that indicates any preference, limitation or
430 discrimination based on sexual orientation, race, color, gender, age, religion,
431 national origin, marital status, disability, ~~or~~ gender identity, citizenship status, or
432 lawful source of income, or any intention to make any such preference, limitation
433 or discrimination;

434 (2) To make or cause to be made an untrue or intentionally misleading statement or
435 advertisement, or in any other manner, attempt as part of a process or pattern of
436 inciting neighborhood unrest, community tension or fear of change in

437 composition of sexual orientation, race, color, gender, age, religion, national
438 origin, marital status, disability, ~~or gender identity, citizenship status, or lawful~~
439 source of income in any street, block, neighborhood, or any other area, to obtain a
440 listing of any housing facility for sale, rental, assignment, transfer or other
441 disposition, where such statement, advertisement or other representation is false
442 or materially misleading, or where there is insufficient basis to judge its truth or
443 falsity to warrant making the statement, or to make any other material
444 misrepresentations in order to obtain such listing, sale, removal from listing,
445 rental, lease, assignment, transfer or other disposition of said housing facility;

446
447 (3) To place a sign or display any other device either purporting to offer for sale,
448 rental, assignment, transfer or other disposition or tending to lead to the belief that
449 a bona fide offer is being made to sell, rent, assign, transfer or otherwise dispose
450 of any housing facility that is not in fact available or offered for sale, rental,
451 assignment, transfer or other disposition because of sexual orientation, race, color,
452 gender, age, religion, national origin, marital status, disability, ~~or gender identity,~~
453 citizenship status, or lawful source of income.

454
455 **Sec. 8-90. Prohibition of discrimination in building practices.**

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

458 (1) To refuse to design, redesign, construct, reconstruct, repair, remodel or otherwise
459 maintain any housing facility because of the sexual orientation, race, color,
460 gender, age, religion, national origin, marital status, disability, ~~or gender identity,~~

- 461 citizenship status, or lawful source of income of the owner, lessee, tenant,
462 assignee or other occupant of such housing facility, or of the prospective owner,
463 lessee, tenant, assignee or other occupant of such housing facility;
- 464 (2) To include in the terms, conditions or privileges of any design or construction
465 contract pertaining to a housing facility, any clause, condition or restriction which
466 discriminates against any person, directly or indirectly, because of such person's
467 sexual orientation, race, color, gender, age, religion, national origin, marital
468 status, disability, ~~or gender identity,~~ citizenship status, or lawful source of
469 income;
- 470
- 471 (3) To discriminate in the provision of facilities or services related to a design or
472 construction contract pertaining to a housing facility because of sexual
473 orientation, race, color, gender, age, religion, national origin, marital status,
474 disability, ~~or gender identity,~~ citizenship status, or lawful source of income.

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

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

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

491 (2) To use any form or application for such financial assistance or to make any record
492 or inquiry in connection with application for such financial assistance which
493 expresses, directly or indirectly, any limitation, specification or discrimination as
494 to sexual orientation, race, color, gender, age, religion, national origin, marital
495 status, disability, ~~or gender identity, citizenship status, or lawful source of income.~~

496 (b) *Residential real estate transactions.*

497 (1) It is unlawful for any person or entity whose business includes engaging in
498 residential real estate transactions to discriminate against any person in making
499 available such a transaction, or in the terms or conditions of such a transaction,
500 because of sexual orientation, race, color, gender, age, religion, national origin,
501 marital status, disability, ~~or gender identity, citizenship status, or lawful source of~~
502 income.

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

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

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

511 It shall be an unfair and discriminatory brokerage practice and shall be unlawful to deny

512 any qualified person access to or membership or participation in any multiple listing service, real

513 estate brokers' organization, or any other service, organization or facility relating to the business

514 of selling or renting housing facilities or to discriminate against this person in the terms or

515 conditions of such assess, membership or participation because of sexual orientation, race, color,

516 gender, age, religion, national origin, marital status, ~~or disability~~, gender identity, citizenship

517 status, or lawful source of income.

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

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

- 520 (1) To retaliate or discriminate in any manner against a person because he/she has
- 521 opposed a practice declared unlawful by this article, or because he/she has filed a
- 522 complaint, testified, assisted, or participated in any manner in any investigation,
- 523 proceeding, hearing or conference under this article; or
- 524 (2) To resist, prevent, impede, or interfere with the human relations advisory board,
- 525 or any of its members or representatives in the lawful performance of its or their
- 526 duty under this article; or

- 527 (3) To commit by canvassing, any unlawful practices prohibited by this article; or
528 (4) To otherwise deny to or withhold any housing accommodation from a person
529 because of such person's sexual orientation, race, color, gender, age, religion
530 national origin, marital status, ~~or disability~~, gender identity, citizenship status, or
531 lawful source of income.

532 **Sec. 8-94. Exceptions.**

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

537 (b) Nothing in this article prohibits a religious organization, association or society, or
538 any nonprofit institution or organization operated, supervised or controlled by or in conjunction
539 with a religious organization, association or society, from limiting the sale, rental or occupancy
540 of any dwelling which it owns or operates for other than a commercial purpose to persons of the
541 same religion or from giving preference to such persons. Nothing in this article prohibits a
542 private club not in fact open to the public, which as an incident to its primary purpose or
543 purposes provides lodgings which it owns or operates for other than a commercial purpose, from
544 limiting the rental or occupancy of such lodgings to its members or from giving preference to its
545 members.

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

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

552 (e) Nothing in this article:

553 (1) Prohibits a person engaged in the business of furnishing appraisals of real
554 property from taking into consideration factors other than sexual orientation, race,
555 color, gender, age, religion, national origin, marital status, ~~or~~ disability, gender
556 identity, citizenship status, or lawful source of income.

557 (2) Limits the applicability of any reasonable local restriction regarding the maximum
558 number of occupants permitted to occupy a dwelling.

559 (3) Requires that a dwelling be made available to an individual whose tenancy would
560 constitute a direct threat to the health or safety of other individuals or whose
561 tenancy would result in substantial physical damage to the property of others.

562 (4) Prohibits conduct against a person because such person has been convicted by any
563 court of competent jurisdiction of the illegal manufacture or distribution of a
564 controlled substance as defined under F.S. ch. 893.

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

569 (g) Nothing in this chapter shall be construed to establish an unlawful housing practice
570 based on actual or perceived gender identity due to the denial of access to shared shower or
571 dressing facilities in which being seen full unclothed is unavoidable.

572

573 **Sec. 8-95. Complaint procedure.**

574 (a) Any aggrieved person may file with the director, or his designated representative, a
575 written complaint, which shall be verified. The complaint shall state the name and address of the
576 complainant and the person or persons against whom the complaint is made (hereinafter referred
577 to as the "respondent"). The complaint shall set forth the facts upon which the complaint is made
578 and such other information as the director requires. The complaint must be filed within one year
579 after the alleged unlawful practice has occurred. The complaint may be withdrawn by the
580 complainant at any time.

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

595 (c) The director shall serve notice upon the aggrieved person acknowledging the filing of
596 the complaint and advising the aggrieved person of relevant procedural rights and remedies. The
597 notice shall advise the aggrieved person of remedies and choice of forums and inform the
598 aggrieved person that the administrative procedure provided for in this article is neither an
599 obstacle nor a prerequisite to the aggrieved person commencing a separate civil action on his
600 own. The notice shall advise the aggrieved person of his right to commence a civil action in a
601 court not later than two years after the occurrence or termination of the alleged discriminatory
602 housing practice. The notice shall state that the computation of this two-year period excludes any
603 time during which the matter is pending for administrative relief with respect to a complaint or
604 charge based on the alleged discriminatory housing practice. The notice shall also state, however,
605 that the time period includes the time during which an action arising from a breach of a
606 conciliation agreement under this article is pending. The notice shall advise the aggrieved person
607 that retaliation against any person because he or she made a complaint or testified, assisted or
608 participated in an investigation or conciliation under this article is a discriminatory housing
609 practice that is prohibited.

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

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

616 (f) A complaint or answer may be amended at any time when it would be fair and
617 reasonable to do so, and the director shall furnish a copy of each amended complaint or answer

618 to the respondent or aggrieved person, respectively, as promptly as practicable. With respect to
619 any complaint filed pursuant to this article, the initial burden of proof is on the complainant.

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

624 (h) The following investigation procedures shall be followed:

625 (1) *Complaint verification.* As part of the investigation process, the complaining party
626 may be required to provide an additional sworn written statement which shall
627 include:

628

629 a. A statement of each particular harm or potential harm which the aggrieved
630 person has suffered or will suffer and the date on which each harm
631 occurred or will occur.

632 b. For each harm, a statement specifying the act, policy, or practice which is
633 alleged to be unlawful.

634 c. For each act, policy, or practice alleged to have harmed the aggrieved
635 person, a statement of the facts which led the complainant to believe that
636 the act, policy, or practice is discriminatory.

637 (2) *Requests for information.* In investigating a complaint, the director and/or the
638 director's designee may obtain information by:

639 a. Oral interview; and/or

640 b. Requests for written statement or affidavit; and/or

- 641 c. Any discovery methods set forth in the Florida Rules of Civil Procedure.
- 642 (3) *Investigations.* The investigations will seek the voluntary cooperation of all
643 persons in obtaining information. If, however, the director is unable to obtain the
644 voluntary cooperation of persons, the director shall request the board issue
645 subpoenas. The board shall have the power to issue subpoenas or subpoenas duces
646 tecum. Any subpoena issued by the board must be approved by the city attorney
647 as to the subpoena's form and legality before it is issued.
- 648 (4) *Complaining party's failure to cooperate.* Where the complainant fails to provide
649 a necessary information statement; fails or refuses to appear or be available for
650 interviews or conferences; fails or refuses to provide necessary information
651 requested by the director pursuant to this section; or otherwise refuses to
652 cooperate to the extent that the director shall dismiss the complaint after providing
653 20 days' notice to the complainant unless the director, with board approval,
654 determines there is sufficient grounds and sufficient evidence to proceed with the
655 complaint.
- 656 (5) *Access to files during investigation.* Access to files during investigation shall be in
657 accordance with the provisions of the Florida Public Records Law.
- 658 (i) The director shall, within 100 days after the filing of a complaint, complete the
659 investigation of the alleged unlawful discriminatory practice, unless it is impracticable to do so.
660 If the director is unable to complete the investigation within 100 days after the filing of a
661 complaint, the director shall notify, by certified mail or by personal service, the complainant and
662 the respondent in writing of the reasons for not so doing. The director shall notify the aggrieved

663 person and the respondent if administrative disposition of the complaint pursuant to this article
664 cannot be accomplished within one year of the filing of the complaint.

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

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

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

683 (1) The sale, exchange, lease, rental, assignment, or sublease of real property to an
684 individual;

685 (2) The extension to all persons the full and equal enjoyment of the advantages,

- 686 facilities, privileges, and services of the respondent;
- 687 (3) The reporting as to the manner of compliance;
- 688 (4) The posting of notice in conspicuous places in the respondent's place of business,
689 indicating compliance with equal housing opportunity, and inclusion of such
690 notices in advertising material;
- 691 (5) The payment to the complainant of damages for injury, expenses incurred by the
692 complainant in securing alternate housing or facilities, and other costs actually
693 incurred by the complainant as a direct result of such discriminatory practice.
- 694 (m) A duly executed conciliation agreement shall operate as a dismissal of the
695 complaint.
- 696 (n) If conciliation has not been reached within 100 days of the filing of the complaint
697 and if the complaint has not been withdrawn, the director shall make a determination as to
698 whether reasonable cause exists to believe that an unlawful discriminatory practice has occurred
699 or is about to occur. Reasonable cause shall be based upon sufficiently trustworthy information
700 which would lead an impartial observer to a belief that a discriminatory housing practice has
701 occurred or is likely to occur. The director and/or the director's designee shall report the results
702 of the investigation and his or her determination to the board. The board shall receive a copy of
703 the director's report and shall have the opportunity to review the report and submit comments to
704 the director. If the board determines that reasonable cause exists to believe that a discriminatory
705 housing practice has occurred or is about to occur, it shall issue a written notice of determination
706 of reasonable cause. A copy of the notice shall be served upon the respondent, the complainant,
707 and the aggrieved person within ten days of the date of the written notice. At the time the notice
708 of determination of reasonable cause is served, notice shall be given that a complainant, a

709 respondent, or an aggrieved person on whose behalf the complaint was filed may elect, in lieu of
710 an administrative hearing pursuant to this article, to have the claims asserted in the charge
711 decided in a civil action and advise that such election must be made not later than 20 days after
712 the date of receipt of the notice of determination of reasonable cause. The person making the
713 election shall give notice to the board and all other parties.

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

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

726 (q) In conducting any administrative hearing to determine whether or not there has
727 occurred a failure to comply with the provisions of this article, the hearing officer shall have the
728 power to administer oaths, issue subpoenas, compel the production of books, paper, and other
729 documents, and receive evidence. All parties shall have an opportunity to respond, to present
730 evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal
731 evidence, to submit proposed findings of facts and orders, to file exceptions to the hearing

732 officer's recommended order, and to be represented by counsel or other qualified representative.
733 Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,
734 but it shall not be sufficient in itself to support a finding unless it would be admissible over
735 objection in civil actions. In interpreting the provisions of this article, the hearing officer may
736 consider administrative and judicial interpretations of substantially equivalent provisions of state
737 or federal laws.

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

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

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

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

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

777

778 **Sec. 8-96. Civil action and penalties.**

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

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

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

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

800 the court shall award reasonable attorneys' fees and costs to the city in any action in which the
801 city prevails.

802 (e) It is hereby found and declared that a violation of any provision of this article
803 constitutes an irreparable injury to the citizens of the City of Gainesville.

804 **Sec. 8-97. Additional remedies.**

805 The procedures prescribed by this article do not constitute an administrative prerequisite
806 to another action or remedy available under other law. Nothing in this article shall be deemed to
807 modify, impair, or otherwise affect any right or remedy conferred by the constitution or laws of
808 the United States or the State of Florida, and the provisions of this article shall be in addition to
809 those provided by such other laws. Nothing herein shall prevent any person from exercising any
810 right or seeking any remedy to which he might otherwise be entitled, or from filing any
811 complaint with any other agency or any court having proper jurisdiction.

812 **Secs. 8-98—8-101. Reserved.**

813 **Secs. 8-102—8-110. Reserved.**

814 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1
815 through 3 of this ordinance shall become and be made a part of the Code of Ordinances of the
816 City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
817 renumbered or relettered in order to accomplish such intentions.

818 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
819 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
820 finding shall not affect the other provisions or applications of the ordinance which can be given
821 effect without the invalid or unconstitutional provisions or application, and to this end the
822 provisions of this ordinance are declared severable.

823 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
824 such conflict hereby repealed.

825 **Section 7.** This ordinance shall become effective immediately upon adoption.

826 **PASSED AND ADOPTED THIS ____ DAY OF _____, 2019.**

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830
831

LAUREN POE
MAYOR

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833
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ATTEST:

Approved as to form and legality

838
839
840
841

OMICHELE D. GAINY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

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843
844

This ordinance passed on first reading this ____ day of _____, 2019.

This ordinance passed on second reading this ____ day of _____, 2019.