

DRAFT LANGUAGE

ORDINANCE NO. 09-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, CHAPTER 9, HUMAN RIGHTS; AMENDING ARTICLE #2, ESTABLISHING THE HUMAN RIGHTS BOARD; ADDING GENDER AND GENDER IDENTITY OR EXPRESSION TO THE FAIR HOUSING CODE; ADDING SEXUAL ORIENTATION AND GENDER, AND GENDER IDENTITY OR EXPRESSION TO EMPLOYMENT DISCRIMINATION PROTECTION. DIVISION TYPE DIVISION #, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, REGARDING TYPE DIVISION TITLE, BY AMENDING SECTION ENTER SECTION #, ENTITLED "ENTER SECTION TITLE"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, It is the intent of the County Commissioners (the "Board"), in enacting this Chapter, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic; and

WHEREAS, The Commission's purpose in enacting this chapter is to promote the public health and welfare of all persons who live in, visit and work in the county. It is important for the county to ensure that all persons within the county have equal access to employment, housing, public accommodations, and education; and

WHEREAS, it is the desire of the county commission to foster and encourage the growth and development of the county in a manner that will ensure all persons an equal

opportunity to live free of discrimination imposed by age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic; or the expression of any of these characteristics and

WHEREAS, discriminatory practices are contrary to the public policy of the county and are a menace to the public peace and welfare of our citizens; and

WHEREAS, the county shall direct its efforts and resources toward eliminating discriminatory practices within the county in the areas of employment, housing, public accommodations, and education where they exist; WHEREAS, the Board of County Commissioners desires to enact an ordinance amending Chapter 9 Human Rights, Leon County Code of Laws, relating to Human Rights;

BE IT ORDAINED by the Board of County Commissioners of the County of Leon, Florida, as follows, that: The Code of Laws of Leon County, Florida, is hereby amended by amending Article II Fair Housing Code with new language; establishing employment protections for sexual orientation, gender and gender identity or expression; establishing a Human Relations Advisory Committee and renumbering Chapter 9, Article II to be numbered, Section 9.25 through 9.42, which section reads as follows:

Article I Section 9.1-9-24 Section I 9.1-9.24 of Chapter 9 - Reserved.

Article II Fair Housing Code – (moved to Article IV) replaced with new sections denoted below:

Sec. 9-24. Generally.

The general purpose of this article is to secure for all individuals within the county the freedom from discrimination because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, gender, gender

identity or expression, sexual orientation, or physical characteristic in connection with housing, and thereby to promote the interests, rights and privileges of individuals within the county.

Section# 9- of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Section 9.27 Declaration of Policy.

- (a) It is the intent of the county commission, in enacting this chapter, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or the expression of any of these characteristics. The county's purpose in enacting this chapter is to promote the public health and welfare of all persons who live in, visit and work in the county. It is important for the county to ensure that all persons within the county have equal access to employment, housing, public accommodations, and education. It is the county's intent to work cooperatively, to the extent possible, with other governmental entities that may provide similar protections and to avoid unnecessary duplication of services. The county will ensure that protection is extended to all covered by this Chapter, and will act in the manner described more fully below.

- (b) It is the county's intent to work cooperatively, to the maximum extent possible, with other governmental entities that may provide similar protections and to avoid unnecessary duplication of services.
- (c) It is the desire of the County commission to foster and encourage the growth and development of the county in a manner that will ensure all persons an equal opportunity to live free of discrimination imposed by age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or the expression of any of these characteristics. Discriminatory practices are contrary to the public policy of the county and are a menace to the public peace and welfare of our citizens. The county shall direct its efforts and resources toward eliminating discriminatory practices within the county in the areas of employment, housing, public accommodations, and education where they exist.
- (d) The general purpose of this chapter is to secure for all individuals within the county freedom from discrimination because of age, color, disability, gender, marital status, familial status, national origin, race, religion, gender identity or expression, sexual orientation, and physical characteristics, or the expression of any of these characteristics, and thereby to protect their interest in personal dignity, to make available to the county their full protective capacities, to secure the county against domestic strife and unrest, to preserve the public safety, health, and

general welfare, and to promote the interests, rights, and privileges of individuals within the county.

Section 9.28. Definitions

The following words and phrases, when used in this chapter, shall have the following meanings:

- (a) Age means any person herein described as being at least eighteen (18) years of age.
- (b) Aggrieved person means any person who claims to have been injured by a discriminatory practice, who file a complaint with the county or the courts.
- (c) Committee means the Leon County Human Relations Advisory Committee, unless a different meaning clearly appears from context.
- (d) Board means the Leon County Commission.
- (e) Complainant means a person who files a complaint under this chapter.
- (f) Chair means the chair of the Leon County Human Relations Advisory Committee or chair of a hearing panel, as the context may indicate.
- (g) County Administrator means the Leon County Administrator or his or her designee.
- (h) Charge means, except as otherwise provided, a written statement which alleges the occurrence of a discriminatory practice under this Chapter.
- (i) Conciliation means the attempted resolution of issues raised by a complaint, or by the investigator of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the conciliator.

- (j) Conciliation agreement means a written agreement entered into between the parties to a conciliation resolving an alleged discriminatory practice. The agreement may require respondent to refrain from committing a discriminatory practice or to take affirmative action, and may include consent to the entry of a court decree embodying the terms of the agreement. A conciliation agreement shall be subject to approval by the County Administrator or his or her designee, or by a court of competent jurisdiction.

- (k) County Attorney means the County Attorney of Leon County, or his or her designee.

- (l) Conciliator means an attorney at law certified to practice in the state, a circuit court civil mediator certified by the Florida Supreme Court, or a third year law student who is under the direct supervision of a law professor or circuit court civil mediator certified by the Florida Supreme Court.

- (m) Disability, with respect to an individual, means:
 - i. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - ii. A record of impairment;
 - iii. Being regarded as having such an impairment; or
 - iv. Having a developmental disability as defined in Subsection 393.063(9), Florida Statutes.

- (L) Discriminatory classification means a classification on the basis of race, color, religion, sex, national origin, age, marital status, familial status, disability, sexual orientation, or gender identity and expression, or the expression of any of these characteristics.
- (M) Discriminatory practice means any practice made unlawful by this Chapter.
- (N) Document includes, but is not limited to, writings, drawings, graphs, charts, photographs, sound recordings, and other data or compilations from which information can be obtained.
- (O) 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 such agent of such a person.
- (P) 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.
- (Q) Gender is used interchangeably with sex and means actual or perceived sex.
- (R) Gender identity or expression means a gender-related identity, appearance, expression or behavior of an individual, regardless of an individual's assigned sex at birth.

- (S) Marital status means the state of being unmarried, married, or separated. The term "unmarried" includes people who are single, divorced, or widowed.
- (T) National origin means the national origin of an ancestor or the country of origin of a person's forebears, naturally, by marriage, or by adoption.
- (U) Sexual orientation means actual or perceived heterosexuality, homosexuality or bisexuality, or the perception that an individual is heterosexual, bisexual, or homosexual, or the perception that an individual is associated with individuals who maintain such orientation.
- (V) Unlawful discriminatory practice means a practice prohibited under the provisions of this chapter.
- (W) Person includes an individual, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, Fiduciary, trustee in bankruptcy, unincorporated organization or any other legal or commercial entity.

Sec. 9-29. Remedies.

(a) If the Court finds that a discriminatory act has occurred or is about to occur, the Court may order affirmative relief from the effects of the practice, including actual damages, equitable and injunctive relief and reasonable attorneys fees and costs.

(b) In any civil action commenced under this chapter, 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 Chapter shall be commenced no later than one year after the date of the alleged act of discrimination.

Sec. 9-30. Prohibited acts.

(a) It shall be unlawful for a person to retaliate or discriminate in any manner against a person because such person opposed a practice prohibited by this chapter or prohibited by existing federal or state law prohibiting discrimination; or to retaliate or discriminate in any manner against a person because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceedings, hearing or conference under this chapter or under any federal or state law prohibiting discrimination.

(b) It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

ARTICLE III. EMPLOYMENT DISCRIMINATION

Sec. 9-31. Generally.

The general purpose of this article is to secure for all individuals within the county the freedom from discrimination because of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic in connection with employment, or the expression of any of these characteristics, where said rights are not otherwise fully protected by any federal, state or county law, and thereby to promote the interests, rights and privileges of individuals within the county.

Sec. 9-32. Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

Compensation, terms, conditions, or privileges of employment encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.

Employee means an individual employed by an employer.

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 such agent of such a person.

Employment agency means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such a person.

Labor organization means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.

Sec. 9-33. Unlawful employment practices.

(a) The following shall constitute unlawful discrimination in employment practices:

(1) It is a discriminatory practice for an employer to:

- a. Fail or refuse to hire, discharge, promote, or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic; or
- b. Limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or expression of any of these characteristics.

(2) It is a discriminatory practice for an employment agency on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic to:

a. Fail or refuse to refer for employment or otherwise discriminate against an individual; or

b. Classify or refer for employment an individual on such a discriminatory basis.

(3) It is a discriminatory practice for a labor organization to:

a. Exclude or to expel from membership or otherwise discriminate against any individual on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic;

b. Limit, segregate, or classify membership or applicants for membership, or to classify or to fail or refuse to refer an individual for employment in a way which would deprive or tend to deprive, limit, or adversely affect an individual's employment opportunities on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic; or

c. Cause, assist, or attempt to cause or assist an employer to violate this division.

(4) It is an unlawful practice for an employer, labor organization, or training committee to discriminate against an individual on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or the

expression of any of these characteristics, in a training program providing apprenticeship or other training.

(5) It is a discriminatory practice for an employer, labor organization, or employment agency to publish an advertisement relating to employment, indicating a preference, limitation, specification, or discrimination based on age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or the expression of any of these characteristics.

(6) Except as permitted and required by regulations of the county, or by applicable federal or state law, it is a discriminatory practice for an employer or employment agency to elicit information about an employee's age, race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic, or the expression of any of these characteristics, or to keep or disclose a record of such information for the purposes of effecting discrimination.

(b) It is not a discriminatory employment practice for:

(1) A religious corporation, association, or society to employ individuals of a particular religion to perform work connected with the beliefs, tenets and doctrines of the corporation, association, or society of its religious activities; or

(2) A religious educational institution or religious organization owned, operated, supervised, or controlled by a religious institution or organization to limit employment or give preference to members of the same religion.

Sec. 9-34. Complaints.

(a) A person who claims that another person has committed a discriminatory housing practice against him or unlawful discrimination in employment may report that offense to the administrator by filing an informal complaint within one year after the date of the alleged discriminatory employment practice and not later.

(b) An informal complaint must be in writing, verified or affirmed, on a form to be supplied by the administrator and shall contain the following:

(1) Identity and address of the respondent.

(2) Date of offense and date of filing the informal complaint.

(3) General statement of facts of the offense including the basis of the discrimination (race, color, ancestry, national origin, religion, sex, familial status, marital status, handicap, age, or sexual orientation, gender, gender identity or expression, or the expression of any of these characteristics).

(4) Name and signature of the complainant.

(c) Each complaint shall be held in confidence by the administrator unless and until the complainant and the respondent consent in writing that it shall be made public.

(d) Within 15 days after the filing of the informal complaint, the administrator shall transmit a copy of the same to each respondent named therein by certified mail, return receipt requested. Thereupon, the respondent may file a written, verified informal answer to the informal complaint.

(e) An informal complaint or answer may be amended at any time, and the administrator shall furnish a copy of each amended informal complaint or amended answer to the respondent or complainant, respectively, as promptly as practicable.

(f) The administrator shall assist complainants or respondents when necessary in the preparation and filing of informal complaints or answers or any amendments thereto.

(5) The administrator shall advise complainants of their rights and options provided in F.S. § 760.34 and Chapter 9 of the Leon County Code.

(Ord. No. 90-43, § 5, 11-27-90; Ord. No. 00-16, § 1, 4-18-00)

Sec. 9-35. Processing complaints.

(a) Within 30 days after the filing of an informal complaint, the administrator or his or her designee, shall make such investigation as he or she deems appropriate to ascertain facts and issues. If the administrator or his or her designee shall deem that there are reasonable grounds to believe that a violation has occurred and can be resolved by conciliation, he or she shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties, such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done in the course of the informal conference with the individuals to resolve the dispute may be public or used as evidence in a subsequent proceeding by either party without the written consent of both the complainant and the respondent.

(b) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator and must be signed and verified by the complainant and respondent and approved by the administrator. The conciliation agreement shall be for conciliation purposes only and shall not constitute an admission by any party that the law has been violated.

(c) If the administrator deems that there is not probable cause to believe that the alleged discriminatory housing practice has been committed, the administrator shall take no further action with respect to the alleged offense.

(d) If the administrator or his or her designee determines that a matter involving a contravention of this article by failure to conciliate a complaint after the parties in good faith have attempted such conciliation or determines that the violation alleged in the complaint cannot be resolved by conciliation, he shall notify both the complainant and the respondent within 30 days of the failure to conciliate or the determination that the alleged violation cannot be resolved, and he shall proceed as provided in subsection (c) of this section.

(e) Any allegation of discrimination may be filed directly with a court of competent jurisdiction, without first having to contact the county administrator, or his or her designee, and without having to engage in conciliation.

(Ord. No. 90-43, § 6, 11-27-90)

Sec. 9-36. Remedies.

(a) If the County Administrator or his or her designee finds that a discriminatory act has occurred or is about to occur, the County Administrator or his or her designee may order affirmative relief from the effects of the practice, including actual damages, equitable and injunctive relief and reasonable attorneys fees and costs, after conciliation or failure thereof.

(b) In any civil action commenced under this chapter, 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 Chapter shall be commenced no later than one year after the date of the incident.

(c) Any allegation of discrimination may be filed directly with a court of competent jurisdiction, without first having to contact the county administrator, or his or her designee, and without having to engage in conciliation.

Sec. 9-37. Additional remedies.

(1.) The procedure prescribed by this article does 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, and the provisions of this article shall be in addition to those provided by such other laws.

(2.) Any allegation of discrimination may be filed directly with a court of competent jurisdiction, without first having to contact the county administrator, or his or her designee, and without having to engage in conciliation.

(3.) the aggrieved person may commence a civil action in a court of competent jurisdiction against the respondent named in the complaint.

(4) If, in a private enforcement proceeding under this Article, the court finds that a discriminatory practice has occurred or is about to occur it may issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including temporary or permanent injunctive and other equitable relief, temporary restraining order, actual and punitive damages, reasonable attorney's fees, interest, costs or other appropriate relief.

(5). In any action that is filed with the Court and determined to be frivolous, the Court may subject the losing party to sanctions, pursuant to State and Federal law.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability.

If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of
Leon County, Florida this ____ day of _____, 20

LEON COUNTY, FLORIDA

By: _____

Chairman

INSERT CHAIRMAN'S NAME,
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

By: _____
Bob Inzer, Clerk of Court
Leon County, Florida

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By: _____
Herbert W. A. Thiele, Esq.
County Attorney