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ORDINANCE NO. 10-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 9 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, REGARDING HUMAN RIGHTS, BY ENACTING NEW SECTIONS TO ARTICLE I, IN GENERAL, PROVIDING FOR FINDINGS AND POLICY, DEFINITIONS, PROHIBITED ACTS, REMEDIES, AND NO WAIVER PROVISIONS; BY REPEALING ARTICLE II, FAIR HOUSING CODE AND ENACTING A NEW ARTICLE II, EMPLOYMENT DISCRIMINATION, PROVIDING FOR PURPOSE, DEFINITIONS, UNLAWFUL DISCRIMINATORY PRACTICES IN EMPLOYMENT, AND EXEMPTIONS; BY ENACTING A NEW ARTICLE III, EQUAL ACCESS TO PLACES OF PUBLIC ACCOMODATIONS, PROVIDING FOR PURPOSE, DEFINITIONS, PROHIBITED DISCRIMINATORY PRACTICES IN PUBLIC ACCOMODATIONS, AND EXEMPTIONS; BY ENACTING A NEW ARTICLE IV, FAIR HOUSING, PROVIDING FOR PURPOSE, DEFINITIONS, UNLAWFUL DISCRIMINATORY PRACTICES IN HOUSING, AND EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Board's purpose in enacting this Chapter is to promote the public health and welfare of all individuals who live in, visit and work in Leon County, and it is important for the Board to ensure that all individuals within Leon County have equal access to employment, housing, and public accommodations; and

WHEREAS, it is the desire of the Board to foster and encourage the growth and development of Leon County in a manner that will ensure all individuals an equal opportunity to live free of discrimination imposed by age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation; and

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1 WHEREAS, discriminatory practices are contrary to the public policy of the Board and
2 are a menace to the public health and welfare of the citizens of Leon County; and

3 WHEREAS, the Board desires to direct its efforts toward eliminating discriminatory
4 practices within Leon County in the areas of employment, housing, and public accommodations
5 where they exist; and

6 WHEREAS, the Board of County Commissioners desires to enact an ordinance amending
7 Chapter 9, Leon County Code of Laws, relating to Human Rights, which prohibits and makes
8 unlawful certain discriminatory practices in employment, public accommodations, and housing,
9 and which provides for a private cause of action for an individual aggrieved by such unlawful
10 discriminatory practices.

11 BE IT ORDAINED by the Board of County Commissioners of the County of Leon,
12 Florida, as follows, that:

13 **Section 1. GENERAL PROVISIONS.** The Code of Laws of Leon County, Florida, is
14 hereby amended at Chapter 9, Human Rights, by adding new sections to Article I, In General, to
15 be numbered Sec. 9-1 through Sec. 9-5, which sections are to read as follows:

16 Sec. 9-1. Declaration of Findings and Policy.

17 The Board hereby makes the following findings and declares it to be the policy of the
18 Board that:

19 (1) It is a matter of concern to the Board to protect and safeguard the right and
20 opportunity of all individuals to be free from all forms of discrimination,
21 including discrimination based on age, race, color, religion, national origin,
22 ancestry, disability, marital status, familial status, sex, gender, gender identity or
23 expression, or sexual orientation; and that the Board's purpose in enacting this
24 Chapter is to promote the public health and welfare of all individuals who live in,
25 visit, and work in Leon County; and that it is important to ensure that all
26 individuals within Leon County have equal access to employment, housing, and
27 public accommodations; and

28 (2) It is the desire of the Board to foster and encourage the growth and
29 development of Leon County in a manner that will ensure all individuals an equal
30 opportunity to live free of discrimination imposed by age, race, color, religion,
31 national origin, ancestry, disability, marital status, familial status, sex, gender,
32 gender identity or expression, or sexual orientation; and that discriminatory
33 practices are contrary to the public policy of Leon County and are a menace to
34 the public health and welfare of our citizens and, as such, the Board shall direct
35 its efforts toward eliminating discriminatory practices within Leon County in the
36 areas of employment, housing, and public accommodations where they exist; and

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1 (3) The general purpose of this Chapter is to secure for all individuals within
2 Leon County freedom from discrimination because of age, race, color, religion,
3 national origin, ancestry, disability, marital status, familial status, sex, gender,
4 gender identity or expression, or sexual orientation, and thereby to protect their
5 interest in personal dignity, to make Leon County secure against domestic strife
6 and unrest, to preserve the public safety, health, and general welfare, and to
7 promote the interests, rights, and privileges of individuals within Leon County,
8 and, in an effort to accomplish this purpose, to create a private cause of action
9 available to all individuals in Leon County against such discriminatory practices.

10 Sec. 9-2. Definitions.

11 The following words, terms and phrases, when used in this Chapter, shall have the
12 meanings ascribed to them in this section, except where the context clearly indicates a
13 different meaning or a different meaning is given under another Article of this Chapter:

14 *Age* shall mean chronological age greater than or equal to eighteen (18) years.

15 *Aggrieved individual* shall mean any individual who claims to have been injured
16 by a discriminatory practice.

17 *Board* shall mean the Leon County Board of County Commissioners.

18 *Disability*, with respect to an individual, shall mean (i) a physical or mental
19 impairment that substantially limits one or more of the major life activities of such
20 individual; (ii) a record of impairment that substantially limits one or more of the
21 major life activities of such individual; (iii) being regarded as having an impairment
22 that substantially limits one or more of the major life activities of such individual; or
23 (iv) having a developmental disability as defined in Section 393.063(9), Florida
24 Statutes (2009), or as such Section may thereafter be amended.

25 *Discriminatory practice* shall mean any practice or act made unlawful or which
26 is otherwise prohibited by this Chapter.

27 *Familial status* shall mean an individual's status established when such
28 individual who has not attained the age of 18 years is domiciled with (i) a parent or
29 other individual having legal custody of such individual; or (ii) a designee of a parent
30 or other individual having legal custody, with the written permission of such parent or
31 other individual.

32 *Gender* is used interchangeably with sex and shall mean actual or perceived sex.

33 *Gender identity or expression* shall mean a gender-related identity, appearance,
34 expression, or behavior of an individual, regardless of an individual's assigned sex at
35 birth.

36 *Marital status* shall mean an individual's status of being married, separated, or
37 unmarried including being single, divorced, or widowed.

1 *National origin* shall mean the national origin of an ancestor or the country of
2 origin of an individual's forebears, naturally, by marriage, or by adoption.

3 *Person* shall mean and include an individual, association, corporation, joint
4 apprenticeship committee, joint stock company, labor organization, legal
5 representative, mutual company, partnership, receiver, trust, fiduciary, trustee in
6 bankruptcy, unincorporated organization or any other legal or commercial entity;
7 provided, however, a person shall not mean or include any federal, state, or local
8 government entity, or any agency or unit of such entities to which the absolute
9 protection of sovereign immunity extends.

10 *Religious organization* shall include a religious corporation, association, or
11 society.

12 *Sexual orientation* shall mean an individual's actual heterosexuality,
13 homosexuality or bisexuality, or the perception that an individual is heterosexual,
14 bisexual, or homosexual, or an individual's actual or perceived association with
15 individuals who maintain such orientation.

16 Sec. 9-3. General Discriminatory Practices.

17 In addition to those discriminatory practices made unlawful by this Chapter, the
18 following discriminatory practices shall be unlawful:

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

26 (2) It shall be unlawful to coerce, intimidate, threaten or interfere with any
27 individual in the exercise or enjoyment of, or on account of his having exercised
28 or enjoyed, or on account of his having aided or encouraged any other individual
29 in the exercise or enjoyment of, any right granted or protected by this Chapter.

30 Sec. 9-4. Private Cause of Action; Remedies.

31 (a) An aggrieved individual may, under this Chapter, commence a civil action in a
32 court of competent jurisdiction against the person alleged to have committed a
33 discriminatory practice; provided, however, that such civil action must be filed no
34 later than one (1) year after the discriminatory practice is alleged to have been
35 committed.

1 (b) If, in a civil action commenced under this Chapter, the court finds that a
2 discriminatory practice has been committed or is about to be committed, the court
3 may issue an order prohibiting the discriminatory practice and providing affirmative
4 relief from the effects of the discriminatory practice including, but not limited to, a
5 temporary or permanent injunction or other equitable relief, a temporary restraining
6 order, an award of actual damages, including back pay, punitive damages, an award
7 of reasonable attorney's fees, interest, and costs, or other such relief as the court
8 deems appropriate.

9 (c) With regard to attorney's fees, sanctions for raising unsupported claims or
10 defenses, service of motions, and damages for delay of litigation, Section 57.105,
11 Florida Statutes (2009), or as such Section may thereafter be amended, is hereby
12 adopted as follows:

13 (1) In any civil action commenced under this Chapter, upon the court's initiative
14 or motion of any party, the court shall award a reasonable attorney's fee to be
15 paid to the prevailing party in equal amounts by the losing party and the losing
16 party's attorney on any claim or defense at any time during a civil proceeding or
17 action in which the court finds that the losing party or the losing party's attorney
18 knew or should have known that a claim or defense when initially presented to
19 the court or at any time before trial:

20 a. Was not supported by the material facts necessary to establish the claim
21 or defense; or

22 b. Would not be supported by the application of then-existing law to those
23 material facts.

24 However, the losing party's attorney is not personally responsible if he or she has
25 acted in good faith, based on the representations of his or her client as to the
26 existence of those material facts. If the court awards attorney's fees to a claimant
27 pursuant to this Subsection, the court shall also award prejudgment interest.

28 (2) Paragraph (1)b does not apply if the court determines that the claim or
29 defense was initially presented to the court as a good faith argument for the
30 extension, modification, or reversal of existing law or the establishment of new
31 law, as it applied to the material facts, with a reasonable expectation of success.

32 (3) At any time in any civil proceeding or action in which the moving party
33 proves by a preponderance of the evidence that any action taken by the opposing
34 party, including, but not limited to, the filing of any pleading or part thereof, the
35 assertion of or response to any discovery demand, the assertion of any claim or
36 defense, or the response to any request by any other party, was taken primarily
37 for the purpose of unreasonable delay, the court shall award damages to the
38 moving party for its reasonable expenses incurred in obtaining the order, which
39 may include attorney's fees, and other loss resulting from the improper delay.

1 (4) A motion by a party seeking sanctions under this section must be served but
2 may not be filed with or presented to the court unless, within 21 days after
3 service of the motion, the challenged paper, claim, defense, contention,
4 allegation, or denial is not withdrawn or appropriately corrected.

5 (5) In administrative proceedings under Chapter 120, Florida Statutes (2009), or
6 as such Chapter may thereafter be amended, an administrative law judge shall
7 award a reasonable attorney's fee and damages to be paid to the prevailing party
8 in equal amounts by the losing party and a losing party's attorney or qualified
9 representative in the same manner and upon the same basis as provided in
10 Subsections (1)-(4). Such award shall be a final order subject to judicial review
11 pursuant to Section 120.68, Florida Statutes (2009), or as such Section may
12 thereafter be amended. If the losing party is an agency as defined in Section
13 120.52(1), Florida Statutes (2009), or as such Section may thereafter be
14 amended, the award to the prevailing party shall be against and paid by the
15 agency. A voluntary dismissal by a nonprevailing party does not divest the
16 administrative law judge of jurisdiction to make the award described in this
17 Subsection.

18 (6) The provisions of this section are supplemental to other sanctions or
19 remedies available under law or under court rules.

20 Sec. 9-5. Sovereign Immunity; No Waiver of Rights or Remedies at Law

21 (a) Pursuant to Article X, Section 13, Florida Constitution, nothing in this Chapter
22 shall be deemed to be a provision for bringing suit against the state or otherwise be
23 deemed to be a waiver of sovereign immunity.

24 (b) Nothing in this Chapter shall be construed to prohibit any sovereignly immune
25 entity from adopting its own internal policies and rules to prohibit discriminatory
26 practices and acts and to resolve allegations or complaints of such discriminatory
27 practices and acts to the extent allowed by law.

28 (c) Nothing in this Chapter shall be deemed to modify, impair, or otherwise affect
29 any other right or remedy conferred by the constitution or laws of the United States or
30 the State of Florida, and the provisions of this Chapter shall be deemed to be in
31 addition to those provided by such other laws.

32 Sec. 9-6. through 9-24. Reserved.

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1 **Section 2. EMPLOYMENT DISCRIMINATION.** The Code of Laws of Leon County,
2 Florida, is hereby amended at Chapter 9, Human Rights, by repealing Article II, Fair Housing
3 Code, and replacing it with a new Article II, Employment Discrimination, which shall begin at
4 Section 9-25 and read as follows:

5 Sec. 9-25. Generally.

6 (a) The general purpose of this Article is to secure for all individuals within Leon
7 County the freedom from discrimination because of age, race, color, religion, national
8 origin, ancestry, disability, marital status, familial status, sex, gender, gender identity
9 or expression, or sexual orientation in connection with employment, and thereby to
10 promote the interests, rights and privileges of individuals within Leon County.

11 (b) Nothing in this Article shall be construed to limit an employer, employment
12 agency or labor organization from taking adverse action against an individual because
13 of a charge of harassment against that individual, provided that rules and policies on
14 harassment, including when adverse action is taken, are designed for, and uniformly
15 applied to, all individuals regardless of age, race, color, religion, national origin,
16 ancestry, disability, marital status, familial status, sex, gender, gender identity or
17 expression, or sexual orientation.

18 (c) Nothing in this Article shall be construed to establish a discriminatory practice
19 based on sex or gender due to the denial of access to rest rooms, shower rooms and
20 similar facilities which are by their nature simply private, provided that the employer,
21 employment agency or labor organization provides reasonable access to adequate
22 facilities that are not inconsistent with the employee's sex or gender as established
23 with the employer, employment agency or labor organization at the time of
24 employment or upon written notification to the employer, employment agency or
25 labor organization that the employee has undergone or is undergoing sex or gender
26 transition, whichever is later.

27 (d) Nothing in this Article shall be construed to require the construction of new or
28 additional facilities.

29 (e) Nothing in this Article shall prohibit an employer, employment agency or labor
30 organization from requiring an employee, during the employee's hours at work, to
31 adhere to reasonable dress or grooming standards not prohibited by other provisions
32 of federal, state, or local law, provided that the employer, employment agency or
33 labor organization permits any employee who has undergone sex or gender transition
34 prior to the time of employment, and any employee who has provided written
35 notification to the employer, employment agency or labor organization that the
36 employee has undergone or is undergoing sex or gender transition after the time of
37 employment, to adhere to the same dress or grooming standards for the sex or gender
38 to which the employee has transitioned or is transitioning.

1 (f) Nothing in this Article shall be construed to require an employer, employment
2 agency or labor organization to treat an unmarried couple in the same manner as the
3 employer, employment agency or labor organization treats a married couple for the
4 purposes of employee benefits; provided, however, that nothing in this Article shall
5 be construed to prohibit an employer, employment agency or labor organization from
6 adopting its own internal policies and rules to treat an unmarried couple in the same
7 manner as the employer, employment agency or labor organization treats a married
8 couple.

9 (g) Nothing in this Article shall be construed to repeal or modify any federal, state,
10 or local law creating a special right or preference concerning employment for a
11 veteran.

12 Sec. 9-26. Definitions.

13 The following words, terms and phrases, when used in this Article, shall have the
14 following meanings ascribed to them in this Section, except where the context clearly
15 indicates a different meaning.

16 *Compensation and terms, conditions, or privileges of employment* are used
17 interchangeably and shall encompass all employee benefits, including such benefits
18 provided pursuant to a bona fide employee benefit plan.

19 *Employee* shall mean an individual employed by an employer.

20 *Employer* shall mean any person who has five or more employees for each
21 working day in each of four or more calendar weeks in the current or preceding
22 calendar year, and any such agent of such a person.

23 *Employment agency* shall mean any person regularly undertaking, with or
24 without compensation, to procure employees for an employer or to procure for
25 employees opportunities to work for an employer, and includes an agent of such a
26 person.

27 *Labor organization* shall mean any organization which exists for the purpose, in
28 whole or in part, of collective bargaining or of dealing with employers concerning
29 grievances, terms or conditions of employment, or other mutual aid or protection in
30 connection with employment.

31 *Religion* shall include all aspects of religious observance and practice, as well as
32 belief, unless an employer demonstrates that he is unable to reasonably accommodate
33 to an employee's or prospective employee's religious observance or practice without
34 undue hardship on the conduct of the employer's business.

1 Sec. 9-27. Unlawful Employment Practices.

2 (a) It shall be a discriminatory practice for an employer to:

3 (1) Fail or refuse to hire, discharge, promote, or otherwise discriminate against
4 an individual with respect to compensation or the terms, conditions, or privileges
5 of employment because of age, race, color, religion, national origin, ancestry,
6 disability, marital status, familial status, sex, gender, gender identity or
7 expression, or sexual orientation; or

8 (2) Limit, segregate, or classify an employ ee in a way which would deprive or
9 tend to deprive an individual of employment opportunities or otherwise adversely
10 affect the status of an employee because of age, race, color, religion, national
11 origin, ancestry, disability, marital status, familial status, sex, gender, gender
12 identity or expression, or sexual orientation.

13 (b) It shall be a discriminatory practice for an employment agency to:

14 (1) Fail or refuse to refer for employment or otherwise discriminate against an
15 individual on the basis of age, race, color, religion, national origin, ancestry,
16 disability, marital status, familial status, sex, gender, gender identity or
17 expression, or sexual orientation;

18 (2) Classify or refer for employment an individual on the basis of age, race,
19 color, religion, national origin, ancestry, disability, marital status, familial status,
20 sex, gender, gender identity or expression, or sexual orientation; or

21 (3) Cause, assist, or attempt to cause or assist an employer to violate any
22 provision of this Article.

23 (c) It shall be a discriminatory practice for a labor organization to:

24 (1) Exclude or to expel from membership or otherwise discriminate against any
25 individual on the basis of age, race, color, religion, national origin, ancestry,
26 disability, marital status, familial status, sex, gender, gender identity or
27 expression, or sexual orientation;

28 (2) Limit, segregate, or classify membership or applicants for membership, or to
29 classify or to fail or refuse to refer an individual for employment in a way which
30 would deprive or tend to deprive, limit, or adversely affect an individual's
31 employment opportunities on the basis of age, race, color, religion, national
32 origin, ancestry, disability, marital status, familial status, sex, gender, gender
33 identity or expression, or sexual orientation; or

34 (3) Cause, assist, or attempt to cause or assist an employer to violate any
35 provision of this Article.

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1 (d) It shall be a discriminatory practice for an employer, employment agency, labor
2 organization, or a training committee associated with an employer, employment
3 agency, or labor organization to discriminate against an individual on the basis of age,
4 race, color, religion, national origin, ancestry, disability, marital status, familial status,
5 sex, gender, gender identity or expression, or sexual orientation in a training program
6 providing apprenticeship or other training.

7 (e) It shall be a discriminatory practice for an employer, employment agency, or
8 labor organization to publish an advertisement relating to employment, indicating a
9 preference, limitation, specification, or discrimination on the basis of age, race, color,
10 religion, national origin, ancestry, disability, marital status, familial status, sex,
11 gender, gender identity or expression, or sexual orientation.

12 (f) Except as permitted and required by regulations of Leon County, or by applicable
13 federal or state law, it shall be a discriminatory practice for an employer, employment
14 agency, or labor organization to elicit information about an employee's age, race,
15 color, religion, national origin, ancestry, disability, marital status, familial status, sex,
16 gender, gender identity or expression, or sexual orientation, or to keep or disclose a
17 record of such information for the purposes of effecting discrimination.

18 Sec. 9-28. Exemptions.

19 (a) This Article shall not apply to a corporation, association, educational institution,
20 or society that is exempt from the religious discrimination provisions of title VII of
21 the Civil Rights Acts of 1964 pursuant to section 702(a) of such Act (42 U.S.C.
22 2000e-1(a)), or as such section may hereafter be amended. For purposes of this
23 Subsection, such corporations, associations, educational institutions, or societies shall
24 include religious corporations, associations, educational institutions, or societies
25 which condition opportunities in the area of employment to members of that religious
26 corporation, association, educational institution, or society or to persons who
27 subscribe to its tenants or beliefs.

28 (b) Notwithstanding any other provision of this Article, it shall not be a
29 discriminatory practice under this Article for a school, college, university, or other
30 educational institution or institution of learning to hire and employ individuals of a
31 particular religion if such school, college, university, or other educational institution
32 or institution of learning is, in whole or in substantial part, owned, supported,
33 controlled, or managed by a particular religion or by a particular religious
34 corporation, association, or society, or if the curriculum of such school, college,
35 university, or other educational institution or institution of learning is directed toward
36 the propagation of a particular religion.

37 (c) Notwithstanding any other provision of this Article, it shall not be a
38 discriminatory practice under this Article for an employer, employment agency, labor
39 or organization to:

1 (1) Take or fail to take any action on the basis of age, race, color, religion,
2 national origin, ancestry, disability, marital status, familial status, sex, gender,
3 gender identity or expression, or sexual orientation in those certain instances in
4 which age, race, color, religion, national origin, ancestry, absence of a particular
5 disability, marital status, familial status, sex, gender, gender identity or
6 expression, or sexual orientation is a bona fide occupational qualification
7 reasonably necessary for the performance of the particular employment to which
8 such action or inaction is related.

9 (2) Observe the terms of a bona fide seniority system, a bona fide employee
10 benefit plan such as a retirement, pension, or insurance plan, or a system which
11 measures earnings by quantity or quality of production, which is not designed,
12 intended, or used to evade the purposes of this Article. However, no such
13 employee benefit plan or system which measures earnings shall excuse the
14 failure to hire, and no such seniority system, employee benefit plan, or system
15 which measures earnings shall excuse the involuntary retirement of, any
16 individual on the basis of any factor not related to the ability of such individual to
17 perform the particular employment for which such individual has applied or in
18 which such individual is engaged. This Subsection (2) shall not be construed to
19 make unlawful the rejection or termination of employment when the individual
20 applicant or employee has failed to meet bona fide requirements for the job or
21 position sought or held or to require any changes in any bona fide retirement or
22 pension programs or existing collective bargaining agreements during the life of
23 the contract, or for 2 years after October 1, 1981, whichever occurs first, nor
24 shall this Article preclude such physical and medical examinations of applicants
25 and employees as an employer may require of applicants and employees to
26 determine fitness for the job or position sought or held.

27 (3) Give and act upon the results of any professionally developed or validated
28 ability test, provided that such test, its administration, or action upon the results,
29 is not designed, intended, or used to discriminate because of age, race, color,
30 religion, national origin, ancestry, disability, marital status, familial status, sex,
31 gender, gender identity or expression, or sexual orientation.

32 (4) Take or fail to take any action on the basis of age, pursuant to law or
33 regulation governing any employment or training program designed to benefit
34 individuals of a particular age group.

35 (5) Take or fail to take any action on the basis of marital status if that status is
36 prohibited under its antinepotism policy.

37 Sec. 9-29. through 9-39. Reserved.

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1 **Section 3.** **EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS.** The
2 Code of Laws of Leon County, Florida, is hereby amended at Chapter 9, Human Rights, by
3 adding a new Article III, Equal Access to Places of Public Accommodations, which shall begin
4 at Section 9-40 and read as follows:

5 Sec. 9-40. Generally.

6 The general purpose of this Article is to secure for all individuals within Leon
7 County the full and equal enjoyment of the goods, services, facilities, privileges,
8 advantages, and accommodations of any place of public accommodation, as defined in
9 this Article, without discrimination because of age, race, color, religion, national origin,
10 ancestry, disability, marital status, familial status, sex, gender, gender identity or
11 expression, or sexual orientation, and thereby to promote the interests, rights and
12 privileges of all individuals within Leon County.

13 Sec. 9-41. Definitions.

14 The following words, terms and phrases, when used in this Article, shall have the
15 following meanings ascribed to them in this Section, except where the context clearly
16 indicates a different meaning.

17 *Operator* shall mean and include any owner, lessee, proprietor, manager,
18 superintendent, agent, or occupant of a place of accommodation or an employee or
19 independent contractor of any such person.

20 *Public accommodation* shall mean a place of public accommodation owned or
21 operated by a person including, but not limited to, lodgings, facilities principally
22 engaged in selling food for consumption on the premises, gasoline stations, places of
23 exhibition or entertainment, and other covered establishments. Each of the following
24 establishments owned or operated by a person and which serve the public is a place of
25 public accommodation within the meaning of this Section:

26 (1) Any inn, hotel, motel, resort or other establishment which provides lodging to
27 transient guests, other than an establishment located within a building which
28 contains not more than four rooms for rent or hire and which is actually occupied
29 by the proprietor of such establishment as his or her residence.

30 (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, buffet or
31 other facility principally engaged in selling food for consumption on the
32 premises, including, but not limited to, any such facility located on the premises
33 of any retail establishment, or any gasoline station.

34 (3) Any tavern, bar, liquor lounge, package store or other facility holding a
35 license for the sale of alcoholic beverages issues by the Division of Alcoholic
36 Beverages and Tobacco of the Department of Business and Professional
37 Regulation of the State, and which serves or which holds itself out as serving the
38 general public.

- 1 (4) Any pool or billiard hall, bowling alley, motion picture house, theater,
2 concert hall, sports arena, stadium, place of amusement, skating rink, amusement
3 park, golf courses, swimming pool, or other place of exhibition or entertainment.
- 4 (5) Any gasoline station, retail establishment, convenience store, beauty parlor,
5 barbershop, styling salon, or laundries.
- 6 (6) Facilities, or portions of facilities, when open to the general public, including
7 but not limited to: hospitals, nurseries, schools, libraries or educational facilities
8 supported in part or whole by public funds, kindergartens, daycare centers.
- 9 (7) Any transportation conveyance open to the general public, including but not
10 limited to: taxis, limousines, trains, and buses.
- 11 (8) Any professional office generally open to the public, such as those of
12 attorneys, physicians, dentists, architects, or accountants.
- 13 (9) Any establishment which is physically located within the premises of any
14 establishment otherwise covered by this Section, or within the premises of which
15 is physically located any such covered establishment, and which holds itself out
16 as serving patrons of such covered establishment.

17 Sec. 9-42. Prohibition of Discrimination in Public Accommodations.

- 18 (a) It is a violation of this Article for a person who owns or operates a place of
19 public accommodation, whether personally or through the actions of an employee or
20 independent contractor, to deny or refuse to another individual the full and equal
21 enjoyment of the facilities and services of any place of public accommodation on the
22 basis of that individual's age, race, color, religion, national origin, ancestry, disability,
23 marital status, familial status, sex, gender, gender identity or expression, or sexual
24 orientation.
- 25 (b) It is a violation of this Article for a person who owns or operates a place of
26 public accommodation, either personally or through the actions of an employee or
27 independent contractor, to display or publish any written communication which is to
28 the effect that any of the facilities and/or services of a place of public accommodation
29 will be denied to any individual or that any such individual is unwelcome,
30 objectionable or unacceptable because of that individual's age, race, color, religion,
31 national origin, ancestry, disability, marital status, familial status, sex, gender, gender
32 identity or expression, or sexual orientation.

1 Sec. 9-43. Exemptions.

2 (a) The provisions of this Article shall not apply to lodge halls or other similar
3 facilities of private organizations which are made available for public use
4 occasionally or periodically.

5 (b) The provisions of this Article shall not prohibit a religious organization or any
6 nonprofit institution or organization operated, supervised, or controlled by or in
7 conjunction with a religious organization from limiting the full and equal enjoyment
8 of the goods, services, facilities, privileges, advantages, and accommodations of any
9 place of public accommodation which it owns or operates, other than for a
10 commercial purpose, to individuals of the same religion, or to individuals who
11 subscribe to its tenets or beliefs, or from giving preference to such individuals.

12 (c) The provisions of this Article relating to public accommodations do not prohibit
13 discrimination on the basis of sex or gender in rest rooms, shower rooms, bathhouses,
14 and similar facilities which are by their nature simply private, or dormitory lodging
15 facilities.

16 (d) The provisions of this Article shall not apply to any private club or other
17 establishment which is not, in fact, open to the public, except to the extent that the
18 goods, services, facilities, privileges, advantages, or accommodations of the
19 establishment are made available to the customers or patrons of another establishment
20 which is a place of public accommodation. However, any institution, club, or place of
21 accommodation which has more than four hundred (400) members, provides regular
22 meal service and regularly receives payment for dues, fees, use of space, facilities,
23 services, meals or beverages, directly or indirectly, from or on behalf of nonmembers
24 for the furtherance of the trade or business, shall not receive an exemption as a private
25 club under this subdivision.

26 (e) The provisions of this Article shall not be construed as prohibiting the giving of
27 special discounts on goods and services by a place of public accommodation,
28 provided such goods or services, at other than such special discount rates, are not
29 denied, to individuals on the basis of age, race, color, religion, national origin,
30 ancestry, disability, marital status, familial status, sex, gender, gender identity or
31 expression, or sexual orientation, unless such denial is pursuant to the laws of the
32 United States, State of Florida, or local government.

33 Sec. 9-44. through 9-49. Reserved.

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1 **Section 4. FAIR HOUSING.** The Code of Laws of Leon County, Florida, is hereby
2 amended at Chapter 9, Human Rights, by adding a new Article IV, Fair Housing, which shall
3 begin at Section 9-50 and read as follows:

4 Sec. 9-50. Generally.

5 The general purpose of this Article is to promote through fair, orderly, and lawful
6 procedure the opportunity for each individual so desiring to obtain housing of such
7 individual's choice in Leon County without regard to age, race, color, religion, national
8 origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or
9 expression, or sexual orientation, and, to that end, to prohibit discrimination in housing
10 by any person.

11 Sec. 9-51. Definitions.

12 The following words, terms and phrases, when used in this Article, shall have the
13 following meanings ascribed to them in this Section, except where the context clearly
14 indicates a different meaning.

15 *Covered multifamily dwelling* shall mean (i) a building which consists of four or
16 more units and has an elevator; or (ii) the ground floor units of a building which
17 consists of four or more units and does not have an elevator.

18 *Dwelling* shall mean any building or structure, or portion thereof, which is
19 occupied as, or designed or intended for occupancy as, a residence by one or more
20 families, and any vacant land which is offered for sale or lease for the construction or
21 location on the land of any such building or structure, or portion thereof.

22 *Family* shall include a single individual.

23 *FCRH* shall mean the Florida Commission on Human Relations or any of its
24 successor organizations.

25 *To rent* shall include to lease, to sublease, to let, and otherwise to grant for a
26 consideration the right to occupy premises not owned by the occupant.

27 Sec. 9-52. Discrimination in the Sale or Rental of Housing and Other Prohibited Practices.

28 (a) It shall be unlawful to refuse to sell or rent after the making of a bona fide offer,
29 to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or
30 deny a dwelling to any individual because of age, race, color, religion, national origin,
31 ancestry, disability, marital status, familial status, sex, gender, gender identity or
32 expression, or sexual orientation.

1 (b) It shall be unlawful to discriminate against any individual in the terms,
2 conditions, or privileges of sale or rental of a dwelling, or in the provision of services
3 or facilities in connection therewith, because of age, race, color, religion, national
4 origin, ancestry, disability, marital status, familial status, sex, gender, gender identity
5 or expression, or sexual orientation. Prohibited actions under this Subsection include,
6 but are not limited to:

7 (1) Using different provisions in leases or contracts of sale, such as those relating
8 to rental charges, security deposits and the terms of a lease and those relating to
9 down payment and closing requirements, because of age, race, color, religion,
10 national origin, ancestry, disability, marital status, familial status, sex, gender,
11 gender identity or expression, or sexual orientation.

12 (2) Failing or delaying maintenance or repairs of sale or rental dwellings because
13 of age, race, color, religion, national origin, ancestry, disability, marital status,
14 familial status, sex, gender, gender identity or expression, or sexual orientation.

15 (3) Failing to process an offer for the sale or rental of a dwelling or to
16 communicate an offer accurately because of age, race, color, religion, national
17 origin, ancestry, disability, marital status, familial status, sex, gender, gender
18 identity or expression, or sexual orientation.

19 (4) Limiting the use of privileges, services or facilities associated with a dwelling
20 because of age, race, color, religion, national origin, ancestry, disability, marital
21 status, familial status, sex, gender, gender identity or expression, or sexual
22 orientation of an owner, tenant or a person associated with him or her.

23 (5) Denying or limiting services or facilities in connection with the sale or rental
24 of a dwelling, because an individual failed or refused to provide sexual favors.

25 (c) It shall be unlawful to make, print, or publish, or cause to be made, printed, or
26 published, any notice, statement, or advertisement with respect to the sale or rental of
27 a dwelling that indicates any preference, limitation, or discrimination based age, race,
28 color, religion, national origin, ancestry, disability, marital status, familial status, sex,
29 gender, gender identity or expression, or sexual orientation, or an intention to make
30 any such preference, limitation, or discrimination. The prohibitions in this Subsection
31 shall apply to all written or oral notices or statements by a person engaged in the sale
32 or rental of a dwelling. Written notices and statements include any applications,
33 flyers, brochures, deeds, signs, banners, posters, billboards or any documents used
34 with respect to the sale or rental of a dwelling. Discriminatory notices, statements
35 and advertisements include, but are not limited to:

36 (1) Using words, phrases, photographs, illustrations, symbols or forms which
37 convey that dwellings are available or not available to a particular group of
38 individuals because of age, race, color, religion, national origin, ancestry,
39 disability, marital status, familial status, sex, gender, gender identity or
40 expression, or sexual orientation.

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- 1 (2) Expressing to agents, brokers, employees, prospective sellers or renters or
2 any other individuals a preference for or limitation on any purchaser or renter
3 because of age, race, color, religion, national origin, ancestry, disability, marital
4 status, familial status, sex, gender, gender identity or expression, or sexual
5 orientation of such individuals.
- 6 (3) Selecting media or locations for advertising the sale or rental of dwellings
7 which deny particular segments of the housing market information about housing
8 opportunities because of age, race, color, religion, national origin, ancestry,
9 disability, marital status, familial status, sex, gender, gender identity or
10 expression, or sexual orientation.
- 11 (4) Refusing to publish advertising for the sale or rental of dwellings or requiring
12 different charges or terms for such advertising because of age, race, color,
13 religion, national origin, ancestry, disability, marital status, familial status, sex,
14 gender, gender identity or expression, or sexual orientation.
- 15 (d) It shall be unlawful to represent to any individual because of age, race, color,
16 religion, national origin, ancestry, disability, marital status, familial status, sex,
17 gender, gender identity or expression, or sexual orientation that any dwelling is not
18 available for inspection, sale, or rental when such dwelling is in fact so available.
- 19 (e) It shall be unlawful, for profit, to induce or attempt to induce any individual to
20 sell or rent any dwelling by a representation regarding the entry or prospective entry
21 into the neighborhood of an individual or individuals of a particular age, race, color,
22 religion, national origin, ancestry, disability, marital status, familial status, sex,
23 gender, gender identity or expression, or sexual orientation.
- 24 (f) It shall be unlawful, because of age, race, color, religion, national origin,
25 ancestry, disability, marital status, familial status, sex, gender, gender identity or
26 expression, or sexual orientation, to restrict or attempt to restrict the choices of an
27 individual by word or conduct in connection with seeking, negotiating for, buying or
28 renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing
29 patterns, or to discourage or obstruct choices in a community, neighborhood or
30 development. Prohibited actions under this Subsection that are generally referred to
31 as unlawful steering practices include, but are not limited to:
- 32 (1) Discouraging any individual from inspecting, purchasing or renting a
33 dwelling because of age, race, color, religion, national origin, ancestry, disability,
34 marital status, familial status, sex, gender, gender identity or expression, or
35 sexual orientation, or because of the age, race, color, religion, national origin,
36 ancestry, disability, marital status, familial status, sex, gender, gender identity or
37 expression, or sexual orientation of individuals in a community, neighborhood or
38 development.

- 1 (2) Discouraging the purchase or rental of a dwelling because of age, race, color,
2 religion, national origin, ancestry, disability, marital status, familial status, sex,
3 gender, gender identity or expression, or sexual orientation, by exaggerating
4 drawbacks or failing to inform any individual of desirable features of a dwelling
5 or of a community, neighborhood, or development.
- 6 (3) Communicating to any prospective purchaser that he or she would not be
7 comfortable or compatible with existing residents of a community, neighborhood
8 or development because of age, race, color, religion, national origin, ancestry,
9 disability, marital status, familial status, sex, gender, gender identity or
10 expression, or sexual orientation.
- 11 (4) Assigning any individual to a particular section of a community,
12 neighborhood or development, or to a particular floor of a building, because of
13 age, race, color, religion, national origin, ancestry, disability, marital status,
14 familial status, sex, gender, gender identity or expression, or sexual orientation.
- 15 (g) It shall be unlawful, because of age, race, color, religion, national origin,
16 ancestry, disability, marital status, familial status, sex, gender, gender identity or
17 expression, or sexual orientation, to engage in any conduct relating to the provision of
18 housing or of services and facilities in connection therewith that otherwise makes
19 unavailable or denies dwellings to individuals. Prohibited activities relating to
20 dwellings under this Subsection include, but are not limited to:
- 21 (1) Discharging or taking other adverse action against an employee, broker or
22 agent because he or she refused to participate in a discriminatory housing
23 practice.
- 24 (2) Employing codes or other devices to segregate or reject applicants,
25 purchasers or renters, refusing to take or to show listings of dwellings in certain
26 areas because of age, race, color, religion, national origin, ancestry, disability,
27 marital status, familial status, sex, gender, gender identity or expression, or
28 sexual orientation, or refusing to deal with certain brokers or agents because they
29 or one or more of their clients are of a particular age, race, color, religion,
30 national origin, ancestry, disability, marital status, familial status, sex, gender,
31 gender identity or expression, or sexual orientation.
- 32 (3) Denying or delaying the processing of an application made by a purchaser or
33 renter or refusing to approve such an individual for occupancy in a cooperative or
34 condominium dwelling because of age, race, color, religion, national origin,
35 ancestry, disability, marital status, familial status, sex, gender, gender identity or
36 expression, or sexual orientation.
- 37 (4) Refusing to provide municipal services or property or hazard insurance for
38 dwellings or providing such services or insurance differently because of age,
39 race, color, religion, national origin, ancestry, disability, marital status, familial
40 status, sex, gender, gender identity or expression, or sexual orientation.

1 (h) The protections afforded under this Article against discrimination on the basis of
2 familial status apply to any individual who is pregnant or is in the process of securing
3 legal custody of any individual who has not attained the age of 18 years.

4 (i) It shall be unlawful to discriminate in the sale or rental of, or to otherwise make
5 unavailable or deny, a dwelling to any buyer or renter because of a disability of (i)
6 that buyer or renter; (ii) an individual residing in or intending to reside in that
7 dwelling after it is sold, rented, or made available; or (iii) any person associated with
8 the buyer or renter.

9 (j) It shall be unlawful to discriminate against any individual in the terms,
10 conditions, or privileges of sale or rental of a dwelling, or in the provision of services
11 or facilities in connection with such dwelling, because of a disability of (i) that buyer
12 or renter; (ii) an individual residing in or intending to reside in that dwelling after it is
13 sold, rented, or made available; or (iii) any individual associated with the buyer or
14 renter.

15 (k) For purposes of Subsections (i) and (j), discrimination includes:

16 (1) A refusal to permit, at the expense of the disabled individual, reasonable
17 modifications of existing premises occupied or to be occupied by such individual
18 if such modifications may be necessary to afford such individual full enjoyment
19 of the premises; or

20 (2) A refusal to make reasonable accommodations in rules, policies, practices, or
21 services, when such accommodations may be necessary to afford such individual
22 equal opportunity to use and enjoy a dwelling.

23 (l) Covered multifamily dwellings as defined herein which are intended for first
24 occupancy after March 13, 1991, shall be designed and constructed to have at least
25 one building entrance on an accessible route unless it is impractical to do so because
26 of the terrain or unusual characteristics of the site as determined by FCHR rule. Such
27 buildings shall also be designed and constructed in such a manner that:

28 (1) The public use and common use portions of such dwellings are readily
29 accessible to and usable by disabled individuals.

30 (2) All doors designed to allow passage into and within all premises within such
31 dwellings are sufficiently wide to allow passage by an individual in a wheelchair.

32 (3) All premises within such dwellings contain the following features of adaptive
33 design:

34 a. An accessible route into and through the dwelling.

35 b. Light switches, electrical outlets, thermostats, and other environmental
36 controls in accessible locations.

1 c. Reinforcements in bathroom walls to allow later installation of grab
2 bars.

3 d. Usable kitchens and bathrooms such that a person in a wheelchair can
4 maneuver about the space.

5 (4) For purposes of Subsection (3), compliance with the appropriate
6 requirements of the American National Standards Institute for buildings and
7 facilities providing accessibility and usability for physically handicapped people,
8 commonly cited as ANSI A117.1-1986, or as such standards may thereafter be
9 amended, suffices to satisfy the requirements therein.

10 (5) State agencies with building construction regulation responsibility or local
11 governments, as appropriate, shall review the plans and specifications for the
12 construction of covered multifamily dwellings to determine consistency with the
13 requirements of Subsection (1).

14 Sec. 9-53. Discrimination in the Provision of Brokerage Services.

15 It shall be unlawful to deny any individual access to, or membership or participation
16 in, any multiple-listing service, real estate brokers' organization, or other service,
17 organization, or facility relating to the business of selling or renting dwellings, or to
18 discriminate against him or her in the terms or conditions of such access, membership, or
19 participation, on the basis of age, race, color, religion, national origin, ancestry, disability,
20 marital status, familial status, sex, gender, gender identity or expression, or sexual
21 orientation.

22 Sec. 9-54. Discrimination in the Financing of Housing or in Residential Real Estate
23 Transactions.

24 (a) It shall be unlawful for any bank, building and loan association, insurance
25 company, or other corporation, association, firm, or enterprise the business of which
26 consists in whole or in part of the making of commercial real estate loans to deny a
27 loan or other financial assistance to an individual applying for the loan for the
28 purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling,
29 or to discriminate against him or her in the fixing of the amount, interest rate,
30 duration, or other term or condition of such loan or other financial assistance, because
31 of the age, race, color, religion, national origin, ancestry, disability, marital status,
32 familial status, sex, gender, gender identity or expression, or sexual orientation of
33 such individual or of any individual associated with him or her in connection with
34 such loan or other financial assistance or the purposes of such loan or other financial
35 assistance, or because of the age, race, color, religion, national origin, ancestry,
36 disability, marital status, familial status, sex, gender, gender identity or expression, or
37 sexual orientation of the present or prospective owners, lessees, tenants, or occupants
38 of the dwelling or dwellings in relation to which such loan or other financial
39 assistance is to be made or given.

1 (b) Residential Real Estate Transactions.

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

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

10 a. The making or purchasing of loans or providing other financial
11 assistance (i) for purchasing, constructing, improving, repairing, or
12 maintaining a dwelling; or (ii) secured by residential real estate.

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

14 Sec. 9-55. Exemptions.

15 (a) Single-family and Multi-family Dwellings.

16 (1) Nothing in this Article applies to:

17 a. Any single-family house sold or rented by its owner, provided such
18 private individual owner does not own more than three single-family houses
19 at any one time. In the case of the sale of a single-family house by a private
20 individual owner who does not reside in such house at the time of the sale or
21 who was not the most recent resident of the house prior to the sale, the
22 exemption granted by this Subsection applies only with respect to one sale
23 within any 24-month period. In addition, the bona fide private individual
24 owner shall not own any interest in, nor shall there be owned or reserved on
25 his or her behalf, under any express or voluntary agreement, title to, or any
26 right to all or a portion of the proceeds from the sale or rental of, more than
27 three single-family houses at any one time. The sale or rental of any single-
28 family house shall be excepted from the application of this Article only if the
29 house is sold or rented:

30 1. Without the use in any manner of the sales or rental facilities or the
31 sales or rental services of any real estate licensee or such facilities or
32 services of any person in the business of selling or renting dwellings, or
33 of any employee or agent of any such licensee or person; and

34 2. Without the publication, posting, or mailing, after notice, of any
35 advertisement or written notice in violation of (c).

1 Nothing in this provision prohibits the use of attorneys, escrow agents,
2 abstractors, title companies, and other such professional assistance as is
3 necessary to perfect or transfer the title.

4 b. Rooms or units in dwellings containing living quarters occupied or
5 intended to be occupied by no more than four families living independently
6 of each other, if the owner actually maintains and occupies one of such
7 living quarters as his or her residence.

8 (2) For the purposes of Subsection (1), a person is deemed to be in the business
9 of selling or renting dwellings if the person:

10 a. Has, within the preceding 12 months, participated as principal in three
11 or more transactions involving the sale or rental of any dwelling or interest
12 therein;

13 b. Has, within the preceding 12 months, participated as agent, other than in
14 the sale of his or her own personal residence, in providing sales or rental
15 facilities or sales or rental services in two or more transactions involving the
16 sale or rental of any dwelling or interest therein; or

17 c. Is the owner of any dwelling designed or intended for occupancy by, or
18 occupied by, five or more families.

19 (b) Nothing in this Article prohibits a religious organization or any nonprofit
20 institution or organization operated, supervised, or controlled by or in conjunction
21 with a religious organization from limiting the sale, rental, or occupancy of any
22 dwelling which it owns or operates for other than a commercial purpose to
23 individuals of the same religion or from giving preference to such individuals, unless
24 membership in such religion is restricted on account of race, color, or national origin.

25 (c) Nothing in this Article prohibits a private club not in fact open to the public,
26 which as an incident to its primary purpose or purposes provides lodgings which it
27 owns or operates for other than a commercial activity, from limiting the rental or
28 occupancy of such lodgings to its members or from giving preference to its members.

29 (d) Nothing in this Article requires any person renting or selling a dwelling
30 constructed for first occupancy before March 13, 1991, to modify, alter, or adjust the
31 dwelling in order to provide physical accessibility except as otherwise required by
32 law.

33 (e) Housing for Older Persons.

34 (1) Any provision of this Article regarding age or familial status does not apply
35 with respect to housing for older persons.

1 (2) Nothing in this Subsection is intended to limit the applicability of any
2 reasonable local, state, or federal restrictions regarding the maximum number of
3 occupants permitted to occupy a dwelling.

4 (3) As used in this Subsection, the term "housing for older persons" means
5 housing:

6 a. Provided under any state or federal program that is determined by state
7 or federal rule to be specifically designed and operated to assist elderly
8 persons, as defined in the state or federal program;

9 b. Intended for, and solely occupied by, persons 62 years of age or older;
10 or

11 c. Intended and operated for occupancy by persons 55 years of age or
12 older.

13 (4) In order for housing to qualify as being intended and operated for occupancy
14 by persons 55 years of age or older in accordance with Subsection (3)c, such
15 housing must meet the following requirements:

16 a. The housing facility or community publishes and adheres to policies and
17 procedures that demonstrate the intent required under this Subsection. If the
18 housing facility or community meets the requirements of Subsections (5) and
19 Subsection b and the recorded governing documents provide for an adult,
20 senior, or retirement housing facility or community and the governing
21 documents lack an amendatory procedure, prohibit amendments, or restrict
22 amendments until a specified future date, then that housing facility or
23 community shall be deemed housing for older persons intended and operated
24 for occupancy by persons 55 years of age or older. If those documents
25 further provide a prohibition against residents 16 years of age or younger,
26 that provision shall be construed, for purposes of this Article, to only apply
27 to residents 18 years of age or younger, in order to conform with federal law
28 requirements. Governing documents which can be amended at a future date
29 must be amended and properly recorded within 1 year after that date to
30 reflect the requirements for consideration as housing for older persons, if
31 that housing facility or community intends to continue as housing for older
32 persons.

1 b. The housing facility or community complies with rules made by the
2 Secretary of the United States Department of Housing and Urban
3 Development pursuant to 24 C.F.R. Part 100, or as that part may be
4 thereafter amended, for verification of occupancy, which rules provide for
5 verification by reliable surveys and affidavits and include examples of the
6 types of policies and procedures relevant to a determination of compliance
7 with the requirements of Subsection a. Such surveys and affidavits are
8 admissible in administrative and judicial proceedings for the purposes of
9 such verification.

10 (5) In order for housing to qualify as being intended and operated for occupancy
11 by persons 55 years of age or older in accordance with Subsection (3)c, at least
12 80 percent of the occupied units shall be occupied by at least one person 55 years
13 of age or older.

14 a. For purposes of Subsection (5), occupied unit means (i) a dwelling unit
15 that is actually occupied by one or more persons on the date that the
16 exemption is claimed; or (ii) a temporarily vacant unit, if the primary
17 occupant has resided in the unit during the past year and intends to return on
18 a periodic basis.

19 b. For purposes of Subsection (5), occupied by at least one person 55 years
20 of age or older means that on the date the exemption for housing designed
21 for persons who are 55 years of age or older is claimed (i) at least one
22 occupant of the dwelling unit is 55 years of age or older; or (ii) If the
23 dwelling unit is temporarily vacant, at least one of the occupants
24 immediately prior to the date on which the unit was temporarily vacated was
25 55 years of age or older.

26 c. Newly constructed housing for first occupancy after March 12, 1989
27 need not comply with the requirements of Subsection (5) until at least 25
28 percent of the units are occupied. For purposes of this Subsection c, newly
29 constructed housing includes a facility or community that has been wholly
30 unoccupied for at least 90 days prior to re-occupancy due to renovation or
31 rehabilitation.

32 d. Housing satisfies the requirements of Subsection (5) even though:

33 1. On September 13, 1988, under 80 percent of the occupied units in
34 the housing facility or community were occupied by at least one person
35 55 years of age or older, provided that at least 80 percent of the units
36 occupied by new occupants after September 13, 1988 are occupied by at
37 least one person 55 years of age or older.

38 2. There are unoccupied units, provided that at least 80 percent of the
39 occupied units are occupied by at least one person 55 years of age or
40 older.

1 3. There are units occupied by employees of the housing facility or
2 community (and family members residing in the same unit) who are
3 under 55 years of age, provided the employees perform substantial
4 duties related to the management or maintenance of the facility or
5 community.

6 4. There are units occupied by persons who are necessary to provide a
7 reasonable accommodation to disabled residents and who are under the
8 age of 55.

9 5. For a period expiring one year from the effective date of 24 C.F.R.
10 Part 100, Subpart E, there are insufficient units occupied by at least one
11 person 55 years of age or older, but the housing facility or community,
12 at the time the exemption is asserted (i) has reserved all unoccupied
13 units for occupancy by at least one person 55 years of age or older until
14 at least 80 percent of the units are occupied by at least one person who
15 is 55 years of age or older; and (ii) meets the requirements of this
16 Subsection (5).

17 e. For purposes of the transition provision described in Subsection d.5, a
18 housing facility or community may not evict, refuse to renew leases, or
19 otherwise penalize families with children who reside in the facility or
20 community in order to achieve occupancy of at least 80 percent of the
21 occupied units by at least one person 55 years of age or older.

22 f. Where application of the 80 percent rule results in a fraction of a unit,
23 that unit shall be considered to be included in the units that must be occupied
24 by at least one person 55 years of age or older.

25 g. Each housing facility or community may determine the age restriction,
26 if any, for units that are not occupied by at least one person 55 years of age
27 or older, so long as the housing facility or community complies with the
28 provisions of Subsection (6)

29 (6) In order for housing to qualify as being intended and operated for occupancy
30 by persons 55 years of age or older in accordance with Subsection (3)c, it must
31 publish and adhere to policies and procedures that demonstrate its intent to
32 operate as housing for persons 55 years of age or older.

33 a. For purposes of Subsection (6), the following factors, among others, are
34 considered relevant in determining whether the housing facility or
35 community has complied with this requirement:

36 1. The manner in which the housing facility or community is
37 described to prospective residents;

38 2. Any advertising designed to attract prospective residents;

- 1 3. Lease provisions;
- 2 4. Written rules, regulations, covenants, deed or other restrictions;
- 3 5. The maintenance and consistent application of relevant procedures;
- 4 6. Actual practices of the housing facility or community; and
- 5 7. Public posting in common areas of statements describing the
- 6 facility or community as housing for persons 55 years of age or older.

7 b. Phrases such as “adult living”, “adult community”, or similar statements
 8 in any written advertisement or prospectus are not consistent with the intent
 9 that the housing facility or community intends to operate as housing for
 10 persons 55 years of age or older.

11 c. If there is language in deed or other community or facility documents
 12 which is inconsistent with the intent to provide housing for persons who are
 13 55 years of age or older housing, consideration shall be given to documented
 14 evidence of a good faith attempt to remove such language in determining
 15 whether the housing facility or community complies with the requirements
 16 of this section in conjunction with other evidence of intent.

17 d. A housing facility or community may allow occupancy by families with
 18 children as long as it meets the requirements of Subsection (5) and
 19 Subsection a.

20 (7) In order for housing to qualify as being intended and operated for occupancy
 21 by persons 55 years of age or older in accordance with Subsection (3)c, it must
 22 be able to produce, in response to a complaint filed under this Article,
 23 verification of compliance with Subsection (5) through reliable surveys and
 24 affidavits.

25 a. For purposes of Subsection (7), a facility or community shall, within
 26 180 days of the effective date of this rule, develop procedures for routinely
 27 determining the occupancy of each unit, including the identification of
 28 whether at least one occupant of each unit is 55 years of age or older. Such
 29 procedures may be part of a normal leasing or purchasing arrangement.

30 b. The procedures described in Subsection a must provide for regular
 31 updates, through surveys or other means, of the initial information supplied
 32 by the occupants of the housing facility or community. Such updates must
 33 take place at least once every two years. A survey may include information
 34 regarding whether any units are occupied by persons described in
 35 Subsections (5)d.1, (5)d.3, and (5)d.4.

36 c. Any of the following documents are considered reliable documentation
 37 of the age of the occupants of the housing facility or community:

- 1 1. Driver's license;
- 2 2. Birth certificate;
- 3 3. Passport;
- 4 4. Immigration card;
- 5 5. Military identification;
- 6 6. Any other state, local, national, or international official documents
- 7 containing a birth date of comparable reliability; or
- 8 7. A certification in a lease, application, affidavit, or other document
- 9 signed by any member of the household age 18 or older asserting that at
- 10 least one person in the unit is 55 years of age or older.

- 11 d. A facility or community shall consider any one of the forms of
- 12 verification identified above as adequate for verification of age, provided
- 13 that it contains specific information about current age or date of birth.

- 14 e. The housing facility or community must establish and maintain
- 15 appropriate policies to require that occupants comply with the age
- 16 verification procedures required by this Subsection (7).

- 17 f. If the occupants of a particular dwelling unit refuse to comply with the
- 18 age verification procedures, the housing facility or community may, if it has
- 19 sufficient evidence, consider the unit to be occupied by at least one person
- 20 55 years of age or older. Such evidence may include:

- 21 1. Government records or documents, such as a local household
- 22 census;
- 23 2. Prior forms or applications; or
- 24 3. A statement from an individual who has personal knowledge of the
- 25 age of the occupants. The individual's statement must set forth the basis
- 26 for such knowledge and be signed under the penalty of perjury.

- 27 g. Surveys and verification procedures which comply with the
- 28 requirements of this Subsection (7) shall be admissible in administrative and
- 29 judicial proceedings for the purpose of verifying occupancy.

- 30 h. A summary of occupancy surveys shall be available for inspection upon
- 31 reasonable notice and request by any person.

- 1 (8) Housing shall not fail to be considered housing for older persons if:
 - 2 a. An individual who resides in such housing on or after September 13,
 - 3 1988, does not meet the age requirements of this Subsection (e), provided
 - 4 that any new occupant meets such age requirements;
 - 5 b. One or more units are unoccupied, provided that any unoccupied units
 - 6 are reserved for occupancy by individuals who meet the age requirements of
 - 7 this Subsection (e); or
 - 8 c. There are units occupied by employees of the housing (and family
 - 9 members residing in the same unit) who do not meet the age requirements of
 - 10 this Subsection (e), provided they perform substantial duties directly related
 - 11 to the management or maintenance of the housing.
- 12 (9) A person shall not be personally liable for monetary damages for a violation
 - 13 of this Subsection (e) if such person reasonably relied in good faith on the
 - 14 application of the exemption under this Subsection relating to housing for older
 - 15 persons.
 - 16 a. For purposes of this Subsection (9), a person claiming the good faith
 - 17 belief defense must have actual knowledge that the housing facility or
 - 18 community has, through an authorized representative, asserted in writing
 - 19 that it qualifies for a housing for older persons exemption.
 - 20 b. Before the date on which the discrimination is claimed to have occurred,
 - 21 a community or facility, through its authorized representatives, must certify,
 - 22 in writing and under oath or affirmation, to the person subsequently claiming
 - 23 the defense that it complies with the requirements for such an exemption as
 - 24 housing for persons 55 years of age or older in order for such person to
 - 25 claim the defense.
 - 26 c. For purposes of this Subsection (9), an authorized representative of a
 - 27 housing facility or community means the individual, committee,
 - 28 management company, owner, or other entity having the responsibility for
 - 29 adherence to the requirements established by this Subsection (e).
 - 30 d. For purposes of this Subsection (9), a person means a natural person.
 - 31 e. A person shall not be entitled to the good faith defense if the person has
 - 32 actual knowledge that the housing facility or community does not, or will
 - 33 not, qualify as housing for persons 55 years of age or older. Such a person
 - 34 will be ineligible for the good faith defense regardless of whether the person
 - 35 received the written assurance described in this Subsection (9).

1 (10) A facility or community claiming an exemption under this Subsection (e)
 2 shall register with the FCHR in accordance with Section 760.29(4)(e), Florida
 3 Statutes (2009), or as that Section may thereafter be amended. The information
 4 provided to the FCHR will be available to the public in accordance with the
 5 provisions of Section 760.29(4)(e), Florida Statutes (2009), or as that Section
 6 may thereafter be amended. The registration and documentation required by this
 7 Subsection shall not substitute for proof of compliance with the requirements of
 8 this Subsection. Failure to comply with the requirements of this Subsection shall
 9 not disqualify a facility or community that otherwise qualifies for the exemption
 10 provided in this Subsection.

11 (f) Nothing in this Article:

12 (1) Prohibits a person engaged in the business of furnishing appraisals of real
 13 property from taking into consideration factors other than age, race, color,
 14 religion, national origin, ancestry, disability, marital status, familial status, sex,
 15 gender, gender identity or expression, or sexual orientation.

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

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

22 (4) Prohibits conduct against a individual because such individual has been
 23 convicted by any court of competent jurisdiction of the illegal manufacture or
 24 distribution of a controlled substance as defined under Chapter 893, Florida
 25 Statutes (2009), or as that Chapter may thereafter be amended.

26 **Section 5. Conflicts.**

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

32 **Section 6. Severability.**

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

1 **Section 7. Effective Date.**

2 This ordinance shall have effect upon becoming law.

3 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon
4 County, Florida this _____ day of May, 2010.

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LEON COUNTY, FLORIDA

By: _____
Bob Rackleff, Chairman
Board of County Commissioners

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

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

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

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

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