

## Chapter 9 - HUMAN RIGHTS

### FOOTNOTE(S):

--- (1) ---

**Editor's note**—Ord. No. 10-15, §§ 1—4, adopted May 11, 2010, repealed former Ch. 9, §§ 9-1—9-32, and enacted a new Ch. 9 as set out herein. Former Ch. 9 pertained to the same subject matter and derived from Ord. No. 90-43, §§ 1—8, adopted Nov. 27, 1990 and Ord. No. 00-16, § 1, adopted April 18, 2000.

**Cross reference**— Licenses, taxation and miscellaneous business regulations, ch. 11.

**State Law reference**— Authority to act in the common interest of the people of the county and exercise all powers and privileges not specifically prohibited (all in manner not inconsistent with law), F.S. § 125.01(1)(w); human rights, F.S. ch. 760.

### ARTICLE I. - IN GENERAL

#### Sec. 9-1. - Declaration of findings and policy.

The board hereby makes the following findings and declares it to be the policy of the board that:

- (1) It is a matter of concern to the board 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 that 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 that it is important to ensure that all individuals within Leon County have equal access to employment, housing, and public accommodations; and
- (2) 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 that discriminatory practices are contrary to the public policy of Leon County and are a menace to the public health and welfare of our citizens and, as such, the board shall direct its efforts toward eliminating discriminatory practices within Leon County in the areas of employment, housing, and public accommodations where they exist; and
- (3) The general purpose of this chapter is to secure for all individuals within Leon County freedom from discrimination because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, and thereby to protect their interest in personal dignity, to make Leon County secure 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 Leon County, and, in an effort to accomplish this purpose, to create a private cause of action available to all individuals in Leon County against such discriminatory practices.

(Ord. No. 10-15, § 1, 5-11-10)

#### Sec. 9-2. - Definitions.

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

Age shall mean chronological age greater than or equal to 18 years.

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

Board shall mean the Leon County Board of County Commissioners.

Disability, with respect to an individual, shall mean (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 that substantially limits one or more of the major life activities of such individual; (iii) being regarded as having an impairment that substantially limits one or more of the major life activities of such individual; or (iv) having a developmental disability as defined in F.S. (2009) § 393.063(9), or as such section may thereafter be amended.

Discriminatory practice shall mean any practice or act made unlawful or which is otherwise prohibited by this chapter.

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

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

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

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

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

Person shall mean and include 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; provided, however, a person shall not mean or include any federal, state, or local government entity, or any agency or unit of such entities to which the absolute protection of sovereign immunity extends.

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

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

(Ord. No. 10-15, § 1, 5-11-10)

### Sec. 9-3. - General discriminatory practices.

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

- (1) It shall be unlawful for a person to retaliate or discriminate in any manner against an individual because such individual 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 an individual because such individual 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.

- (2) It shall be unlawful to coerce, intimidate, threaten or interfere with any individual 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 individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(Ord. No. 10-15, § 1, 5-11-10)

Sec. 9-4. - Private cause of action; remedies.

- (a) An aggrieved individual may, under this chapter, commence a civil action in a court of competent jurisdiction against the person alleged to have committed a discriminatory practice; provided, however, that such civil action must be filed no later than one year after the discriminatory practice is alleged to have been committed.
- (b) If, in a civil action commenced under this chapter, the court finds that a discriminatory practice has been committed or is about to be committed, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the discriminatory practice including, but not limited to, a temporary or permanent injunction or other equitable relief, a temporary restraining order, an award of actual damages, including back pay, punitive damages, an award of reasonable attorney's fees, interest, and costs, or other such relief as the court deems appropriate.
- (c) With regard to attorney's fees, sanctions for raising unsupported claims or defenses, service of motions, and damages for delay of litigation, F.S. (2009) § 57.105, or as such section may thereafter be amended, is hereby adopted as follows:
  - (1) In any civil action commenced under this chapter, upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:
    - a. Was not supported by the material facts necessary to establish the claim or defense; or
    - b. Would not be supported by the application of then-existing law to those material facts.However, the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client as to the existence of those material facts. If the court awards attorney's fees to a claimant pursuant to this subsection, the court shall also award prejudgment interest.
  - (2) Paragraph (1)b. does not apply if the court determines that the claim or defense was initially presented to the court as a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, as it applied to the material facts, with a reasonable expectation of success.
  - (3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for its reasonable expenses incurred in obtaining the order, which may include attorney's fees, and other loss resulting from the improper delay.

- (4) A motion by a party seeking sanctions under this section must be served but may not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.
- (5) In administrative proceedings under F.S. (2009) ch. 120, or as such chapter may thereafter be amended, an administrative law judge shall award a reasonable attorney's fee and damages to be paid to the prevailing party in equal amounts by the losing party and a losing party's attorney or qualified representative in the same manner and upon the same basis as provided in subsections (1)—(4). Such award shall be a final order subject to judicial review pursuant to F.S. (2009) § 120.68, or as such section may thereafter be amended. If the losing party is an agency as defined in F.S. (2009) § 120.52(1), or as such section may thereafter be amended, the award to the prevailing party shall be against and paid by the agency. A voluntary dismissal by a nonprevailing party does not divest the administrative law judge of jurisdiction to make the award described in this subsection.
- (6) The provisions of this section are supplemental to other sanctions or remedies available under law or under court rules.

(Ord. No. 10-15, § 1, 5-11-10)

Sec. 9-5. - Sovereign immunity; no waiver of rights or remedies at law.

- (a) Pursuant to Article X, Section 13, Florida Constitution, nothing in this chapter shall be deemed to be a provision for bringing suit against the state or otherwise be deemed to be a waiver of sovereign immunity.
- (b) Nothing in this chapter shall be construed to prohibit any sovereignly immune entity from adopting its own internal policies and rules to prohibit discriminatory practices and acts and to resolve allegations or complaints of such discriminatory practices and acts to the extent allowed by law.
- (c) Nothing in this chapter shall be deemed to modify, impair, or otherwise affect any other right or remedy conferred by the constitution or laws of the United States or the State of Florida, and the provisions of this chapter shall be deemed to be in addition to those provided by such other laws.

(Ord. No. 10-15, § 1, 5-11-10)

Secs. 9-6—9-24. - Reserved.

## ARTICLE II. - EMPLOYMENT DISCRIMINATION

Sec. 9-25. - Generally.

- (a) The general purpose of this article is to secure for all individuals within Leon County the freedom from discrimination because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation in connection with employment, and thereby to promote the interests, rights and privileges of individuals within Leon County.
- (b) Nothing in this article shall be construed to limit an employer, employment agency or labor organization from taking adverse action against an individual because of a charge of harassment against that individual, provided that rules and policies on harassment, including when adverse action is taken, are designed for, and uniformly applied to, all individuals regardless of age, race,

color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.

- (c) Nothing in this article shall be construed to establish a discriminatory practice based on sex or gender due to the denial of access to rest rooms, shower rooms and similar facilities which are by their nature simply private, provided that the employer, employment agency or labor organization provides reasonable access to adequate facilities that are not inconsistent with the employee's sex or gender as established with the employer, employment agency or labor organization at the time of employment or upon written notification to the employer, employment agency or labor organization that the employee has undergone or is undergoing sex or gender transition, whichever is later.
- (d) Nothing in this article shall be construed to require the construction of new or additional facilities.
- (e) Nothing in this article shall prohibit an employer, employment agency or labor organization from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of federal, state, or local law, provided that the employer, employment agency or labor organization permits any employee who has undergone sex or gender transition prior to the time of employment, and any employee who has provided written notification to the employer, employment agency or labor organization that the employee has undergone or is undergoing sex or gender transition after the time of employment, to adhere to the same dress or grooming standards for the sex or gender to which the employee has transitioned or is transitioning.
- (f) Nothing in this article shall be construed to require an employer, employment agency or labor organization to treat an unmarried couple in the same manner as the employer, employment agency or labor organization treats a married couple for the purposes of employee benefits; provided, however, that nothing in this article shall be construed to prohibit an employer, employment agency or labor organization from adopting its own internal policies and rules to treat an unmarried couple in the same manner as the employer, employment agency or labor organization treats a married couple.
- (g) Nothing in this article shall be construed to repeal or modify any federal, state, or local law creating a special right or preference concerning employment for a veteran.

(Ord. No. 10-15, § 2, 5-11-10)

Sec. 9-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Employee shall mean 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 shall mean 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 shall mean 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.

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

(Ord. No. 10-15, § 2, 5-11-10)

Sec. 9-27. - Unlawful employment practices.

- (a) It shall be a discriminatory practice for an employer to:
  - (1) 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, familial status, sex, gender, gender identity or expression, or sexual orientation; or
  - (2) 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, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (b) It shall be a discriminatory practice for an employment agency to:
  - (1) Fail or refuse to refer for employment or otherwise discriminate against an individual on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation;
  - (2) Classify or refer for employment an individual on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation; or
  - (3) Cause, assist, or attempt to cause or assist an employer to violate any provision of this article.
- (c) It shall be a discriminatory practice for a labor organization to:
  - (1) 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, familial status, sex, gender, gender identity or expression, or sexual orientation;
  - (2) 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, familial status, sex, gender, gender identity or expression, or sexual orientation; or
  - (3) Cause, assist, or attempt to cause or assist an employer to violate any provision of this article.
- (d) It shall be a discriminatory practice for an employer, employment agency, labor organization, or a training committee associated with an employer, employment agency, or labor organization to discriminate against an individual on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation in a training program providing apprenticeship or other training.
- (e) It shall be a discriminatory practice for an employer, employment agency, or labor organization to publish an advertisement relating to employment, indicating a preference, limitation, specification, or discrimination on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (f) Except as permitted and required by regulations of Leon County, or by applicable federal or state law, it shall be a discriminatory practice for an employer, employment agency, or labor organization to elicit information about an employee's age, race, color, religion, national origin, ancestry, disability,

marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, or to keep or disclose a record of such information for the purposes of effecting discrimination.

(Ord. No. 10-15, § 2, 5-11-10)

Sec. 9-28. - Exemptions.

- (a) This article shall not apply to a corporation, association, educational institution, or society that is exempt from the religious discrimination provisions of title VII of the Civil Rights Acts of 1964 pursuant to section 702(a) of such Act (42 U.S.C. 2000e-1(a)), or as such section may hereafter be amended. For purposes of this subsection, such corporations, associations, educational institutions, or societies shall include religious corporations, associations, educational institutions, or societies which condition opportunities in the area of employment to members of that religious corporation, association, educational institution, or society or to persons who subscribe to its tenants or beliefs.
- (b) Notwithstanding any other provision of this article, it shall not be a discriminatory practice under this article for a school, college, university, or other educational institution or institution of learning to hire and employ individuals of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.
- (c) Notwithstanding any other provision of this article, it shall not be a discriminatory practice under this article for an employer, employment agency, labor or organization to:
  - (1) Take or fail to take any action on the basis of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation in those certain instances in which age, race, color, religion, national origin, ancestry, absence of a particular disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.
  - (2) Observe the terms of a bona fide seniority system, a bona fide employee benefit plan such as a retirement, pension, or insurance plan, or a system which measures earnings by quantity or quality of production, which is not designed, intended, or used to evade the purposes of this article. However, no such employee benefit plan or system which measures earnings shall excuse the failure to hire, and no such seniority system, employee benefit plan, or system which measures earnings shall excuse the involuntary retirement of, any individual on the basis of any factor not related to the ability of such individual to perform the particular employment for which such individual has applied or in which such individual is engaged. This subsection (2) shall not be construed to make unlawful the rejection or termination of employment when the individual applicant or employee has failed to meet bona fide requirements for the job or position sought or held or to require any changes in any bona fide retirement or pension programs or existing collective bargaining agreements during the life of the contract, or for two years after October 1, 1981, whichever occurs first, nor shall this article preclude such physical and medical examinations of applicants and employees as an employer may require of applicants and employees to determine fitness for the job or position sought or held.
  - (3) Give and act upon the results of any professionally developed or validated ability test, provided that such test, its administration, or action upon the results, is not designed, intended, or used to discriminate because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (4) Take or fail to take any action on the basis of age, pursuant to law or regulation governing any employment or training program designed to benefit individuals of a particular age group.

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

(Ord. No. 10-15, § 2, 5-11-10)

Secs. 9-29—9-39. - Reserved.

### ARTICLE III. - EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS

Sec. 9-40. - Generally.

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

(Ord. No. 10-15, § 3, 5-11-10)

Sec. 9-41. - Definitions.

The following words, terms and phrases, when used in this article, shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

- (1) Any inn, hotel, motel, resort or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, buffet or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.
- (3) Any tavern, bar, liquor lounge, package store or other facility holding a license for the sale of alcoholic beverages issues by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation of the state, and which serves or which holds itself out as serving the general public.
- (4) Any pool or billiard hall, bowling alley, motion picture house, theater, concert hall, sports arena, stadium, place of amusement, skating rink, amusement park, golf courses, swimming pool, or other place of exhibition or entertainment.
- (5) Any gasoline station, retail establishment, convenience store, beauty parlor, barbershop, styling salon, or laundries.

- (6) Facilities, or portions of facilities, when open to the general public, including but not limited to: hospitals, nurseries, schools, libraries or educational facilities supported in part or whole by public funds, kindergartens, daycare centers.
- (7) Any transportation conveyance open to the general public, including but not limited to: taxis, limousines, trains, and buses.
- (8) Any professional office generally open to the public, such as those of attorneys, physicians, dentists, architects, or accountants.
- (9) Any establishment which is physically located within the premises of any establishment otherwise covered by this section, or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

(Ord. No. 10-15, § 3, 5-11-10)

Sec. 9-42. - Prohibition of discrimination in public accommodations.

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

(Ord. No. 10-15, § 3, 5-11-10)

Sec. 9-43. - Exemptions.

- (a) The provisions of this article shall not apply to lodge halls or other similar facilities of private organizations which are made available for public use occasionally or periodically.
- (b) The provisions of this article shall not prohibit a religious organization or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from limiting the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation which it owns or operates, other than for a commercial purpose, to individuals of the same religion, or to individuals who subscribe to its tenets or beliefs, or from giving preference to such individuals.
- (c) The provisions of this article relating to public accommodations do not prohibit discrimination on the basis of sex or gender in rest rooms, shower rooms, bathhouses, and similar facilities which are by their nature simply private, or dormitory lodging facilities.
- (d) The provisions of this article shall not apply to any private club or other establishment which is not, in fact, open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the establishment are made available to the customers or patrons of another establishment which is a place of public accommodation. However, any institution, club, or place of accommodation which has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals

or beverages, directly or indirectly, from or on behalf of nonmembers for the furtherance of the trade or business, shall not receive an exemption as a private club under this subdivision.

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

(Ord. No. 10-15, § 3, 5-11-10)

Secs. 9-44—9-49. - Reserved.

#### ARTICLE IV. - FAIR HOUSING

Sec. 9-50. - Generally.

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

(Ord. No. 10-15, § 4, 5-11-10)

Sec. 9-51. - Definitions.

The following words, terms and phrases, when used in this article, shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Family shall include a single individual.

FCHR shall mean the Florida Commission on Human Relations or any of its successor organizations.

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

(Ord. No. 10-15, § 4, 5-11-10)

Sec. 9-52. - Discrimination in the sale or rental of housing and other prohibited practices.

- (a) It shall be unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any individual

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

- (b) It shall be unlawful to discriminate against any individual in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation. Prohibited actions under this subsection include, but are not limited to:
- (1) Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (2) Failing or delaying maintenance or repairs of sale or rental dwellings because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (3) Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (4) Limiting the use of privileges, services or facilities associated with a dwelling because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation of an owner, tenant or a person associated with him or her.
  - (5) Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because an individual failed or refused to provide sexual favors.
- (c) It shall be unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, or an intention to make any such preference, limitation, or discrimination. The prohibitions in this subsection shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling. Discriminatory notices, statements and advertisements include, but are not limited to:
- (1) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of individuals because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (2) Expressing to agents, brokers, employees, prospective sellers or renters or any other individuals a preference for or limitation on any purchaser or renter because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation of such individuals.
  - (3) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (4) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.

- (d) It shall be unlawful to represent to any individual because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (e) It shall be unlawful, for profit, to induce or attempt to induce any individual to sell or rent any dwelling by a representation regarding the entry or prospective entry into the neighborhood of an individual or individuals of a particular age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (f) It shall be unlawful, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, to restrict or attempt to restrict the choices of an individual by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development. Prohibited actions under this subsection that are generally referred to as unlawful steering practices include, but are not limited to:
  - (1) Discouraging any individual from inspecting, purchasing or renting a dwelling because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, or because of the age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation of individuals in a community, neighborhood or development.
  - (2) Discouraging the purchase or rental of a dwelling because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, by exaggerating drawbacks or failing to inform any individual of desirable features of a dwelling or of a community, neighborhood, or development.
  - (3) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (4) Assigning any individual to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (g) It shall be unlawful, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to individuals. Prohibited activities relating to dwellings under this subsection include, but are not limited to:
  - (1) Discharging or taking other adverse action against an employee, broker or agent because he or she refused to participate in a discriminatory housing practice.
  - (2) Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (3) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such an individual for occupancy in a cooperative or condominium dwelling because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.

- (4) Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services or insurance differently because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (h) The protections afforded under this article against discrimination on the basis of familial status apply to any individual who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (i) It shall be unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of (i) that buyer or renter; (ii) an individual residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (iii) any person associated with the buyer or renter.
- (j) It shall be unlawful to discriminate against any individual in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of (i) that buyer or renter; (ii) an individual residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (iii) any individual associated with the buyer or renter.
- (k) For purposes of subsections (i) and (j), discrimination includes:
  - (1) A refusal to permit, at the expense of the disabled individual, reasonable modifications of existing premises occupied or to be occupied by such individual if such modifications may be necessary to afford such individual full enjoyment of the premises; or
  - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such individual equal opportunity to use and enjoy a dwelling.
- (1) Covered multifamily dwellings as defined herein which are intended for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site as determined by FCHR rule. Such buildings shall also be designed and constructed in such a manner that:
  - (1) The public use and common use portions of such dwellings are readily accessible to and usable by disabled individuals.
  - (2) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by an individual in a wheelchair.
  - (3) All premises within such dwellings contain the following features of adaptive design:
    - a. An accessible route into and through the dwelling.
    - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
    - c. Reinforcements in bathroom walls to allow later installation of grab bars.
    - d. Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.
  - (4) For purposes of subsection (3), compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A117.1-1986, or as such standards may thereafter be amended, suffices to satisfy the requirements therein.
  - (5) State agencies with building construction regulation responsibility or local governments, as appropriate, shall review the plans and specifications for the construction of covered multifamily dwellings to determine consistency with the requirements of subsection (1).

(Ord. No. 10-15, § 4, 5-11-10)

Sec. 9-53. - Discrimination in the provision of brokerage services.

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

(Ord. No. 10-15, § 4, 5-11-10)

Sec. 9-54. - Discrimination in the financing of housing or in residential real estate transactions.

- (a) It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to an individual applying for the loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation of such individual or of any individual associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or because of the age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.
- (b) Residential real estate transactions.
  - (1) It shall be unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any individual in making available such a transaction, or in the terms or conditions of such a transaction, because of age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
  - (2) As used in this subsection, the term "residential real estate transaction" means any of the following:
    - a. The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or (ii) secured by residential real estate.
    - b. The selling, brokering, or appraising of residential real property.

(Ord. No. 10-15, § 4, 5-11-10)

Sec. 9-55. - Exemptions.

- (a) Single-family and multifamily dwellings.
  - (1) Nothing in this article applies to:
    - a. Any single-family house sold or rented by its owner, provided such private individual owner does not own more than three single-family houses at any one time. In the case of the sale of a single-family house by a private individual owner who does not reside in such house at

the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this subsection applies only with respect to one sale within any 24-month period. In addition, the bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on his or her behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of this article only if the house is sold or rented:

1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate licensee or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such licensee or person; and
2. Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 9-52(c).

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

- b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.
- (2) For the purposes of subsection (1), a person is deemed to be in the business of selling or renting dwellings if the person:
- a. Has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or interest therein;
  - b. Has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or interest therein; or
  - c. Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.
- (b) Nothing in this article prohibits a religious organization or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to individuals of the same religion or from giving preference to such individuals, unless membership in such religion is restricted on account of race, color, or national origin.
- (c) Nothing in this article prohibits a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial activity, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) Nothing in this article requires any person renting or selling a dwelling constructed for first occupancy before March 13, 1991, to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.
- (e) Housing for older persons.
- (1) Any provision of this article regarding age or familial status does not apply with respect to housing for older persons.
  - (2) Nothing in this subsection is intended to limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
  - (3) As used in this subsection, the term housing for older persons means housing:

- a. Provided under any state or federal program that is determined by state or federal rule to be specifically designed and operated to assist elderly persons, as defined in the state or federal program;
  - b. Intended for, and solely occupied by, persons 62 years of age or older; or
  - c. Intended and operated for occupancy by persons 55 years of age or older.
- (4) In order for housing to qualify as being intended and operated for occupancy by persons 55 years of age or older in accordance with subsection (3)c., such housing must meet the following requirements:
- a. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subsection. If the housing facility or community meets the requirements of subsection (5) and subsection b. and the recorded governing documents provide for an adult, senior, or retirement housing facility or community and the governing documents lack an amendatory procedure, prohibit amendments, or restrict amendments until a specified future date, then that housing facility or community shall be deemed housing for older persons intended and operated for occupancy by persons 55 years of age or older. If those documents further provide a prohibition against residents 16 years of age or younger, that provision shall be construed, for purposes of this article, to only apply to residents 18 years of age or younger, in order to conform with federal law requirements. Governing documents which can be amended at a future date must be amended and properly recorded within one year after that date to reflect the requirements for consideration as housing for older persons, if that housing facility or community intends to continue as housing for older persons.
  - b. The housing facility or community complies with rules made by the Secretary of the United States Department of Housing and Urban Development pursuant to 24 C.F.R. Part 100, or as that part may be thereafter amended, for verification of occupancy, which rules provide for verification by reliable surveys and affidavits and include examples of the types of policies and procedures relevant to a determination of compliance with the requirements of subsection a. such surveys and affidavits are admissible in administrative and judicial proceedings for the purposes of such verification.
- (5) In order for housing to qualify as being intended and operated for occupancy by persons 55 years of age or older in accordance with subsection (3)c., at least 80 percent of the occupied units shall be occupied by at least one person 55 years of age or older.
- a. For purposes of subsection (5), occupied unit means (i) a dwelling unit that is actually occupied by one or more persons on the date that the exemption is claimed; or (ii) a temporarily vacant unit, if the primary occupant has resided in the unit during the past year and intends to return on a periodic basis.
  - b. For purposes of subsection (5), occupied by at least one person 55 years of age or older means that on the date the exemption for housing designed for persons who are 55 years of age or older is claimed (i) at least one occupant of the dwelling unit is 55 years of age or older; or (ii) If the dwelling unit is temporarily vacant, at least one of the occupants immediately prior to the date on which the unit was temporarily vacated was 55 years of age or older.
  - c. Newly constructed housing for first occupancy after March 12, 1989 need not comply with the requirements of subsection (5) until at least 25 percent of the units are occupied. For purposes of this subsection c., newly constructed housing includes a facility or community that has been wholly unoccupied for at least 90 days prior to re-occupancy due to renovation or rehabilitation.
  - d. Housing satisfies the requirements of subsection (5) even though:
    - 1. On September 13, 1988, under 80 percent of the occupied units in the housing facility or community were occupied by at least one person 55 years of age or older, provided

that at least 80 percent of the units occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

2. There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.
  3. There are units occupied by employees of the housing facility or community (and family members residing in the same unit) who are under 55 years of age, provided the employees perform substantial duties related to the management or maintenance of the facility or community.
  4. There are units occupied by persons who are necessary to provide a reasonable accommodation to disabled residents and who are under the age of 55.
  5. For a period expiring one year from the effective date of 24 C.F.R. Part 100, Subpart E, there are insufficient units occupied by at least one person 55 years of age or older, but the housing facility or community, at the time the exemption is asserted (i) has reserved all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units are occupied by at least one person who is 55 years of age or older; and (ii) meets the requirements of this subsection (5).
    - e. For purposes of the transition provision described in subsection d.5., a housing facility or community may not evict, refuse to renew leases, or otherwise penalize families with children who reside in the facility or community in order to achieve occupancy of at least 80 percent of the occupied units by at least one person 55 years of age or older.
    - f. Where application of the 80 percent rule results in a fraction of a unit, that unit shall be considered to be included in the units that must be occupied by at least one person 55 years of age or older.
    - g. Each housing facility or community may determine the age restriction, if any, for units that are not occupied by at least one person 55 years of age or older, so long as the housing facility or community complies with the provisions of subsection (6).
- (6) In order for housing to qualify as being intended and operated for occupancy by persons 55 years of age or older in accordance with subsection (3)c., it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older.
- a. For purposes of subsection (6), the following factors, among others, are considered relevant in determining whether the housing facility or community has complied with this requirement:
    1. The manner in which the housing facility or community is described to prospective residents;
    2. Any advertising designed to attract prospective residents;
    3. Lease provisions;
    4. Written rules, regulations, covenants, deed or other restrictions;
    5. The maintenance and consistent application of relevant procedures;
    6. Actual practices of the housing facility or community; and
    7. Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.
  - b. Phrases such as "adult living", "adult community", or similar statements in any written advertisement or prospectus are not consistent with the intent that the housing facility or community intends to operate as housing for persons 55 years of age or older.

- c. If there is language in deed or other community or facility documents which is inconsistent with the intent to provide housing for persons who are 55 years of age or older housing, consideration shall be given to documented evidence of a good faith attempt to remove such language in determining whether the housing facility or community complies with the requirements of this section in conjunction with other evidence of intent.
  - d. A housing facility or community may allow occupancy by families with children as long as it meets the requirements of subsection (5) and subsection a.
- (7) In order for housing to qualify as being intended and operated for occupancy by persons 55 years of age or older in accordance with subsection (3)c., it must be able to produce, in response to a complaint filed under this article, verification of compliance with subsection (5) through reliable surveys and affidavits.
- a. For purposes of subsection (7), a facility or community shall, within 180 days of the effective date of this rule, develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one occupant of each unit is 55 years of age or older. Such procedures may be part of a normal leasing or purchasing arrangement.
  - b. The procedures described in subsection a must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. Such updates must take place at least once every two years. A survey may include information regarding whether any units are occupied by persons described in subsections (5)d.1., (5)d.3., and (5)d.4.
  - c. Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:
    1. Driver's license;
    2. Birth certificate;
    3. Passport;
    4. Immigration card;
    5. Military identification;
    6. Any other state, local, national, or international official documents containing a birth date of comparable reliability; or
    7. A certification in a lease, application, affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.
  - d. A facility or community shall consider any one of the forms of verification identified above as adequate for verification of age, provided that it contains specific information about current age or date of birth.
  - e. The housing facility or community must establish and maintain appropriate policies to require that occupants comply with the age verification procedures required by this subsection (7).
  - f. If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the housing facility or community may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Such evidence may include:
    1. Government records or documents, such as a local household census;
    2. Prior forms or applications; or

3. A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under the penalty of perjury.
  - g. Surveys and verification procedures which comply with the requirements of this subsection (7) shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy.
  - h. A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.
- (8) Housing shall not fail to be considered housing for older persons if:
- a. An individual who resides in such housing on or after September 13, 1988, does not meet the age requirements of this subsection (e), provided that any new occupant meets such age requirements;
  - b. One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by individuals who meet the age requirements of this subsection (e); or
  - c. There are units occupied by employees of the housing (and family members residing in the same unit) who do not meet the age requirements of this subsection (e), provided they perform substantial duties directly related to the management or maintenance of the housing.
- (9) A person shall not be personally liable for monetary damages for a violation of this subsection (e) if such person reasonably relied in good faith on the application of the exemption under this subsection relating to housing for older persons.
- a. For purposes of this subsection (9), a person claiming the good faith belief defense must have actual knowledge that the housing facility or community has, through an authorized representative, asserted in writing that it qualifies for a housing for older person's exemption.
  - b. Before the date on which the discrimination is claimed to have occurred, a community or facility, through its authorized representatives, must certify, in writing and under oath or affirmation, to the person subsequently claiming the defense that it complies with the requirements for such an exemption as housing for persons 55 years of age or older in order for such person to claim the defense.
  - c. For purposes of this subsection (9), an authorized representative of a housing facility or community means the individual, committee, management company, owner, or other entity having the responsibility for adherence to the requirements established by this subsection (e).
  - d. For purposes of this subsection (9), a person means a natural person.
  - e. A person shall not be entitled to the good faith defense if the person has actual knowledge that the housing facility or community does not, or will not, qualify as housing for persons 55 years of age or older. Such a person will be ineligible for the good faith defense regardless of whether the person received the written assurance described in this subsection (9).
- (10) A facility or community claiming an exemption under this subsection (e) shall register with the FCHR in accordance with F.S. (2009) § 760.29(4)(e), or as that section may thereafter be amended. The information provided to the FCHR will be available to the public in accordance with the provisions of F.S. (2009) § 760.29(4)(e), or as that section may thereafter be amended. The registration and documentation required by this subsection shall not substitute for proof of compliance with the requirements of this subsection. Failure to comply with the requirements of this subsection shall not disqualify a facility or community that otherwise qualifies for the exemption provided in this subsection.
- (f) Nothing in this article:

- (1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, or sexual orientation.
- (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling.
- (3) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (4) Prohibits conduct against a individual because such individual has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined under F.S. (2009) ch. 893, or as that chapter may thereafter be amended.

(Ord. No. 10-15, § 4, 5-11-10)

#### ARTICLE V. - DOMESTIC PARTNERSHIP REGISTRY

##### Sec. 9-56. - Purpose and intent.

- (a) The general purpose of this article is to afford adult couples, who are not currently married under Florida law, the ability to register their committed domestic partnership relationship, and to be extended certain legal rights with respect to healthcare decisions, funeral and burial decisions, preneed guardian designations, participation in the education of a child, notification in emergencies, and, where appropriate, healthcare and correctional facilities visitations.
- (b) The provisions of this article shall be liberally construed to promote the public safety, health and general welfare of the residents of Leon County and to further the general policies and purposes stated herein. However, this article shall not be construed to supersede, alter, affect, or contravene any federal or state laws or regulations. Nothing in this article shall be construed as recognizing or treating a registered domestic partnership as a marriage.

(Ord. No. 13-09, § 1, 3-12-13)

##### Sec. 9-57. - Definitions.

The following words, terms and phrases, when used in this article, shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit means a sworn affidavit, signed and sealed by the county clerk or his or her designee, unless otherwise provided herein, which requires the affiant to swear or affirm under oath, with penalty of perjury, that the statements and information provided within the affidavit are true and correct.

Affidavit of domestic partnership means an affidavit which certifies that the two domestic partners meet the requirements of a domestic partnership relationship.

Certificate of registration means the certificate provided by the county clerk's office recognizing a registered domestic partnership.

Correctional facility means holding cells, jails, and juvenile correction centers of any kind, located within or under the jurisdiction of Leon County.

County clerk means the Clerk of the Court of Leon County, or his or her designee.

Dependent means an individual who resides within the household of a registered domestic partnership and is:

- (1) A biological, adopted or foster child of a registered domestic partner; or
- (2) A dependent of a registered domestic partner as defined under IRS regulations; or
- (3) A ward of a registered domestic partner as determined in a guardianship or other legal proceeding.

Domestic partner means one of two individuals who are parties to a domestic partnership.

Domestic partnership means a committed domestic relationship between two individuals that meets all of the criteria described in subparagraphs (1), (2), (3), (4), (5), (6), (7) and (8) of section 9-59(b) of this article.

Healthcare facility includes, but is not limited to, hospitals, convalescent facilities, nursing homes, walk-in clinics, doctor's offices, mental health care facilities and other short-term and long-term facilities located within, or under the jurisdiction of, Leon County.

Individual means a single human being as distinguished from a group, class, partnership, corporation, or association.

Jointly responsible means each domestic partner mutually agrees to provide for the other domestic partner's basic food, shelter, and common necessities of life while the domestic partnership is in effect, except that such domestic partners need not contribute equally or jointly to said basic food, shelter and common necessities of life.

Recorded means the county clerk's office has recorded a document in the official records of Leon County, Florida.

Recording means having the county clerk's office's record a document in the official records of Leon County, Florida.

Registered domestic partner means one of two domestic partners who are parties to a registered domestic partnership.

Registered domestic partnership means a domestic partnership which has been effectively registered in accordance with the provisions of this article; provided, however, that upon termination of such registered domestic partnership, pursuant to this article, the registered domestic partnership shall be deemed to be dissolved.

(Ord. No. 13-09, § 1, 3-12-13)

Sec. 9-58. - Establishment of domestic partnership registry.

There is hereby created in the Leon County a domestic partnership registry, which shall be maintained by the county clerk in accordance with the provisions of this article.

(Ord. No. 13-09, § 1, 3-12-13)

Sec. 9-59. - Registration of domestic partnership.

- (a) Registration. Domestic partners may register their domestic partnership by duly executing and recording an affidavit of domestic partnership. The affidavit of domestic partnership shall comply with all requirements for establishing a registered domestic partnership as described in this article. Upon payment of any required fees, the county clerk's office shall record the affidavit of domestic partnership as an official record of Leon County, issue the registered domestic partners a certificate of registration and the original recorded affidavit of domestic partnership, and issue each registered domestic partner a laminated card recognizing the registered domestic partnership in Leon County.

- (b) Affidavit. An affidavit of domestic partnership shall contain the name and address of each domestic partner, the signature of each domestic partner, the signatures of two witnesses who are not related by blood to either domestic partner, and each domestic partner shall swear or affirm, in the presence of the county clerk or his or her designee, under oath, with penalty of perjury, that they:
- (1) Are at least 18 years old and competent to contract;
  - (2) Are not currently married under Florida law;
  - (3) Are not currently a partner in a domestic partnership relationship or a member of civil union with anyone other than the co-applicant;
  - (4) Are not blood relatives where one domestic partner is the direct ascendant or direct descendant of the other domestic partner (such as son, daughter, parent, or grandparent), and are not blood relatives where one domestic partner is a sister, brother, aunt, uncle, niece or nephew of the other domestic partner;
  - (5) Consent to the domestic partnership and to registering the domestic partnership with the county clerk's office without force, duress, or fraud;
  - (6) Agree to be jointly responsible in the support of the domestic partnership as defined in this article;
  - (7) Expressly declare his or her desire and intent to designate their domestic partner as their healthcare surrogate and as their agent to direct the disposition of their body for funeral and burial; and
  - (8) Consider himself or herself to be in a committed domestic relationship with the other domestic partner, and consider himself or herself to be a member of the immediate family of the other domestic partner.
- (c) Documentation. As evidence of identity, each of the domestic partners shall present one of the following documents for review by the county clerk or his or her designee, along with the affidavit of domestic partnership: A Florida driver's license, a Florida Identification Card, a United States Passport, or any other document listed in the Florida Governor's Reference Manual for Notaries as satisfactory evidence. The county clerk's office shall identify on the face of the affidavits of domestic partnership what types of documents were presented as evidence of identity; however such documents of evidence of identify shall not be recorded.
- (d) Affidavit of amendment. Registered domestic partners may amend a registered domestic partnership to reflect a change in either registered domestic partner's legal name by presenting a certified copy of the court order granting the legal name change, for review by the county clerk or his or her designee, and recording an affidavit of amendment of registered domestic partnership ("affidavit of amendment") with the county clerk's office; however such court order shall not be recorded. Affidavits of amendment shall be signed by both registered domestic partners in the presence of the county clerk or his or her designee, and each domestic partner shall swear and affirm, in the presence of the county clerk or his or her designee, under oath, with penalty of perjury, that the statements and information provided in the affidavit of amendment are true and correct.

(Ord. No. 13-09, § 1, 3-12-13)

Sec. 9-60. - Termination of registered domestic partnership.

- (a) Obligation to notify county clerk. Registered domestic partners shall be required to notify the county clerk's office, by duly executing and recording an affidavit of termination of registered domestic partnership ("affidavit of termination"), if one or more of the domestic partners wishes to terminate the registered domestic partnership or if the registered domestic partnership automatically terminates pursuant to subsection (d).

- (b) Affidavit of termination. Either registered domestic partner may terminate a registered domestic partnership by duly executing and recording an affidavit of termination. Affidavits of termination shall be signed by one or both registered domestic partners, in the presence of the county clerk or his or her designee, who shall swear or affirm, with penalty of perjury, that:
  - (1) The registered domestic partnership is to be terminated;
  - (2) That the statements and information provided in the affidavit of termination are true and correct; and
  - (3) If the affidavit of termination is not signed by both registered domestic partners, then the registered domestic partner who is duly executing and recording the affidavit of termination shall provide the county clerk's office with their former domestic partner's last known mailing address. The county clerk's office shall send a copy of the certificate of termination of domestic partnership to the former domestic partner at the address provided.
- (c) Effective date of termination. Unless automatically terminated, pursuant to subsection (d), the termination of the registered domestic partnership shall become effective on the date the affidavit of termination was recorded ("date of termination"). As of the date of termination, the parties to the terminated registered domestic partnership shall no longer be considered registered domestic partners, and the registered domestic partnership shall be deemed dissolved.
- (d) Automatic termination. A registered domestic partnership shall automatically terminate in the event that:
  - (1) One (or both) of the registered domestic partners becomes married under Florida law;
  - (2) One of the registered domestic partners dies; provided, however, the provisions provided in this article relating to funeral and burial decisions shall survive; or
  - (3) One of the registered domestic partners enters into a civil union or registered domestic partnership with someone other than his or her registered domestic partner.

The marrying, surviving or re-registering partner(s) shall be responsible for duly executing and recording an affidavit of termination within ten days of one of the occurrences listed in [subsection] (d)(1)—(3) above; provided, however, the date of termination shall be deemed to be the date upon which such occurrence occurred. It shall not be the duty of the county clerk, or any agent or employee of Leon County or of the county clerk, to monitor or verify the continuing legal validity of a registered domestic partnership.

(Ord. No. 13-09, § 1, 3-12-13)

Sec. 9-61. - Administration of the domestic partnership registry.

- (a) The county clerk is authorized to collect the following fees, which may be adjusted by resolution of the board:
  - (1) For recording and administering the affidavits of domestic partnership, for providing the registered domestic partners with a certificate of registration and the original recorded affidavit of domestic partnership at the time of recording, and for providing each registered domestic partner with a laminated card recognizing the registered domestic partnership in Leon County .....\$50.00
  - (2) For recording and administering affidavits of amendment .....\$20.00
  - (3) For recording and administering affidavits of termination, and for sending the prior domestic partner a certificate of termination of domestic partnership when only one registered domestic partner duly executes and has an affidavit of termination recorded .....\$20.00
  - (4) For certified copies of an affidavit of domestic partnership .....\$6.00

- (5) For an additional copy of the certificate of registration, or an additional laminated card recognizing the registered domestic partnership in Leon County .....\$5.00
- (b) The county clerk shall collect a fee in the amount established pursuant to state public records law for copies of documents related to domestic partnerships.
- (c) The county clerk shall keep and maintain, or arrange for the maintenance of, an online searchable computer database record of all of the affidavits of domestic partnerships, affidavits of amendment, and affidavits of termination which have been recorded with Leon County.
- (d) The county clerk shall provide the forms for the affidavit of domestic partnership, affidavit of termination, and affidavit of amendment to individuals requesting them. This provision may be satisfied by posting the forms online in a printable format.

(Ord. No. 13-09, § 1, 3-12-13)

Sec. 9-62. - Rights of registered domestic partners.

To the extent not superseded or pre-empted by federal laws, state laws, or other Leon County law or ordinance, or contrary to rights conferred by contract or separate legal instrument, registered domestic partners shall have the following rights:

- (1) Healthcare facility visitation. All healthcare facilities operating within Leon County or under the jurisdiction of Leon County shall honor the registered domestic partnership documentation issued pursuant to this article as evidence of the registered domestic partnership and shall allow visitation rights as provided under federal law to the following: A patient's registered domestic partner, and a patient's registered domestic partner's dependents, sons and daughters.
- (2) Healthcare decisions. This section pertains to decisions concerning both physical and mental health. Registry as a registered domestic partner shall be considered to be written direction by each registered domestic partner designating the other to make health care decisions for their incapacitated registered domestic partner, and shall authorize each registered domestic partner to act as the other's healthcare surrogate as provided in F.S. ch. 765, and otherwise as provided by federal law. Further, no individual designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon his or her status as the registered domestic partner of his or her incapacitated registered domestic partner on whose behalf health care decisions are to be made. If any health care surrogate designation forms are properly executed after the date the domestic partners' affidavit of domestic partnership was recorded, and such forms contain conflicting designations, the later dated authorization and direction shall control.
- (3) Funeral and burial decisions. Registry as registered domestic partners shall be considered to be written direction by the decedent registered domestic partner ("decedent") of his or her intention to have his or her registered domestic partner direct the disposition of the decedent's body for funeral and burial purposes as provided in F.S. ch. 497, unless the decedent provides conflicting, written inter vivos authorization and directions that are dated after the date the domestic partner's affidavit of domestic partnership was recorded, in which case the later dated authorization and directions shall control.
- (4) Notification of family members. In any situation providing for mandatory or permissible notification of family members, including, but not limited to, notification of family members in an emergency, or when permission is granted to inmates to contact family members, such notification shall include a registered domestic partner.
- (5) Preneed guardian designation. An individual who is a registered domestic partner shall have the same right as any other individual to be designated as a preneed guardian pursuant to F.S. ch. 744, and to serve in such capacity in the event of his or her registered domestic partner's incapacity. A registered domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of his or her registered domestic partner or of his or her

registered domestic partner's property under the provisions of F.S. ch. 744, to the extent that the incapacitated registered domestic partner has not executed a valid preneed guardian designation, based solely upon his or her status as the registered domestic partner of his or her incapacitated registered domestic partner.

- (6) Correctional facility visitation rights. Any registered domestic partner shall be entitled to visit his or her registered domestic partner, or other family member of his or her registered domestic partner, who is an inmate at a Leon County Correctional Facility under the same terms and conditions which such visitation is afforded to spouses, sons, daughters, and parents of inmates. Visitation rights provided by this section shall extend to an inmate's registered domestic partner, and an inmate's registered domestic partner's dependents, sons, daughters, and parents. Leon County Correctional Facilities shall honor the registered domestic partnership documentation issued pursuant to this article as evidence of domestic partnership.
- (7) Participation in education. All educational facilities operating within Leon County or under the jurisdiction of Leon County shall honor the registered domestic partnership documentation issued pursuant to this article as evidence of the registered domestic partnership and shall allow, to the extent allowed by federal and state law, a registered domestic partner to have the same rights to participate in the education of a dependent of the registered domestic partnership as a biological parent has to participate in the education of their child. However, if a biological parent of a minor dependent (whose parental rights have not been terminated) objects to a registered domestic partner (who is not a biological parent of such minor dependent) participating in education conferences or other dissemination of education information, then only the biological parents shall be allowed to participate.

(Ord. No. 13-09, § 1, 3-12-13)

#### Sec. 9-63. - Enforcement.

For the purpose of enforcing the provisions of this article:

- (1) A person, as defined in article I, section 9-2 of this chapter, who fails to grant within Leon County, Florida the rights conferred in this article shall be deemed to have committed a "discriminatory practice", as defined in article I, section 9-2 of this chapter; and
- (2) An aggrieved registered domestic partner who claims to have been injured by such discriminatory practice within Leon County, Florida shall be considered an "aggrieved individual", as defined in article I, section 9-2 of this chapter; and
- (3) Such registered domestic partner who is an aggrieved individual may commence a civil action in a court of competent jurisdiction in Leon County, Florida against the person alleged to have committed a discriminatory practice, in accordance with article I, section 9-4, private cause of action; remedies; provided, however, that the venue for all purposes shall be in Leon County, Florida.

(Ord. No. 13-09, § 1, 3-12-13)

#### Sec. 9-64. - Reciprocity.

All rights, privileges and benefits extended to registered domestic partnerships registered pursuant to this chapter shall also be extended to all individuals legally registered as a domestic partner under other domestic partnership laws within the State of Florida ("registered domestic partnership in other jurisdiction") to the extent allowed by law; provided, however the extension of such rights, privileges and benefits shall be:

- (1) Extended only for the time that such individuals are physically located within the geographical area of Leon County, Florida; and

- (2) Limited to only those rights, privileges and benefits provided in this article under section 9-62, rights of registered domestic partners.

Further, any person who has been asked to extend rights, privileges or benefits provided under section 9-62 to an individual under this section may request the individual to provide evidence of registered domestic partnership in other jurisdiction, and may require such evidence in advance of their extending the rights, privileges or benefits that have been sought, and an individual's failure to provide such evidence of registered domestic partnership in other jurisdiction voids such individual's claims under this chapter. If a conflict occurs between jurisdictions, this chapter shall govern in Leon County.

(Ord. No. 13-09, § 1, 3-12-13)