

ORDINANCE NO. 16-5178

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, AMENDING CHAPTER 18, "HUMAN RELATIONS," OF THE CITY OF SARASOTA CODE; AMENDING ARTICLE I, SECTION 18-1, "DECLARATION OF POLICY," TO CLARIFY INTENT; AMENDING SECTION 18-2, "DEFINITIONS," TO CONFORM TO CURRENT LAW AND PROHIBIT DISCRIMINATION BASED ON "FAMILIAL STATUS;" AMENDING ARTICLE II, "HUMAN RELATIONS BOARD," SECTION 18-17, "COMPOSITION; TERMS OF OFFICE; PROCEDURES," TO ALLOW BOARD TO ISSUE ITS OWN RULES OF PROCEDURE; AMENDING SECTION 18-20, "PROCEDURES, INITIATION OF PROCEEDINGS," TO CLARIFY PROCEDURES OF BOARD AND ITS STAFF AND REMOVE CONCILIATION PROVISIONS; ADDING A NEW SECTION THAT CLARIFIES RULES FOR PUBLIC AND PRIVATE CONCILIATIONS; AMENDING SECTION 18-21, "HEARING PROCEDURES," TO CLARIFY RULES FOR SCHEDULING AND NOTICING HEARINGS, TAKING TESTIMONY AND EVIDENCE, AND ISSUING FINAL ORDERS; AMENDING SECTION 18-23, "VIOLATION OF CONCILIATION AGREEMENT," TO PROVIDE FOR PRIVATE REMEDIES FOR BREACH; AMENDING SECTION 18-25, "ENFORCEMENT," TO CLARIFY REQUIREMENTS FOR CIVIL ACTIONS AND RIGHT TO ATTORNEY'S FEES; AMENDING ARTICLE III, "EMPLOYMENT DISCRIMINATION," SECTION 18-36, "GENERALLY," TO REFERENCE ADDITIONAL FEDERAL ANTI-DISCRIMINATION LAWS; AMENDING SECTION 18-37 AND ARTICLE IV, "FAIR HOUSING," SECTION 18-40, TO DELETE DEFINITIONS; AMENDING ARTICLE VI, "AMERICANS WITH DISABILITIES ACT," TO GIVE CHAPTER 18 SUPERIORITY AND TO CLARIFY THE DEFINITION OF "EMPLOYER;" RENUMBERING SECTIONS THROUGHOUT; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 18 of the City Code was amended in 2003 to implement Article I, Section 5 of the City Charter, which secures for all individuals within the city freedom from discrimination based on age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status; and

WHEREAS, since 2003, the City has directed its efforts and resources toward eliminating discriminatory practices that exist within the city in the areas of employment, housing and public accommodations; and

WHEREAS, the City's anti-discrimination policies protect basic human rights and privileges, encourage personal dignity and self-worth and strive to create a diverse and tolerant community; and

WHEREAS, the City Commission wishes to amend Chapter 18 to make the language of the ordinance consistent with current federal and state law; and to ensure consistency between the ordinance and the Human Relations Board Rules of Procedure; and

WHEREAS, the City Commission also wishes to clarify: 1) the role and duties of the board, its chairperson and the board secretary; 2) the process for filing and answering complaints; 3) the process of public or private conciliations; 4) the rules governing the final public hearing; 5) and the requirements for filing of a complaint in court following receipt of a right to sue letter; and

WHEREAS, the City Commission also intends through this ordinance to eliminate potential legal ambiguities and conflicts within the ordinance, including those caused by the prior adoption of the Americans with Disabilities Act in its entirety, which contains a 15-employee threshold instead of a 5-employee threshold for discrimination complaints; and

WHEREAS, the City Commission specifically wishes to ensure that families with children are included in the definition of "marital status" so that such families are protected against "familial status" housing discrimination in the same way they are protected under state and federal laws; and

WHEREAS, these revisions also provide more discretion to the Human Relations Board and its administrative staff by eliminating strict deadlines (except for the 90-day deadline for filing a discrimination complaint) for the board or board secretary to act; and

WHEREAS, these amendments to Chapter 18 of the City Code are not intended to limit the scope or purpose of said Chapter.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1: The Sarasota City Code, Chapter 18, "Human Relations," Article I, "In General," Section 18-2, "Definitions," is hereby amended to read as follows: (New text is indicated by underline. Deleted text is indicated by ~~strike through~~.)

"Chapter 18 - HUMAN RELATIONS

ARTICLE I. IN GENERAL

Sec. 18-1. Declaration of policy.

- (a) It is the desire of the City Commission to foster and encourage the growth and development of the city in a manner that will assure all persons an equal opportunity to live free of discrimination imposed by age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status. Discriminatory practices are contrary to the public policy of the city and are a menace to the public peace and welfare of our citizens. The city shall direct its efforts and resources toward eliminating discriminatory practices within the city in the areas of housing, employment and public accommodations where they exist.
- (b) The general purpose of this chapter is to implement article I, section 5 of the City Charter so as to secure for all individuals within the city freedom from discrimination because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status and thereby to protect their interest in personal dignity, to make available to the city their full productive capacities, to secure the city against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the city.
- (c) This chapter shall be construed in accordance with decisions interpreting similar provisions of federal and state law and according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved. This chapter is intended to provide equal or greater protection against discrimination than is afforded by state or federal law.

Sec. 18-2. Definitions.

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

Age in the context of employment discrimination means discrimination against individuals who are 40 years of age or older. For discrimination in the area of housing and public accommodations, any prohibitions related to age are as set forth herein. ~~that prohibitions on discriminatory practices with regard to age shall be limited to persons who have attained the age of majority.~~

~~Aggrieved person means any person who files a complaint with the Human Relations Board.~~

Board means the City of Sarasota Human Relations Board created by this chapter.

Color means pigmentation, complexion, or skin shade or tone. Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person.

Complainant means an aggrieved person who files a complaint with the Human Relations Board.

Conciliation means the attempted resolution of issues raised by a complaint, ~~or by the investigation of such complaint,~~ through informal negotiations involving the aggrieved person complainant, the respondent, and ~~the city~~ a neutral third-party conciliator.

Disability means a physical or mental impairment that substantially limits one or more major life activities of an individual; having a record of such impairment; or being regarded as having such impairment, ~~disabled person is used interchangeably with the term handicapped or handicapped person and means a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities; has a record of such impairment; or is regarded as having such an impairment,~~ but such term shall not include current, illegal use of or addiction to a controlled substance as defined in federal law (section 802 of title 21) or state law (F.S. ch. 893). A disabled person does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of employment, or whose employment, by reason of such current alcohol or drug abuse would constitute a direct threat to property or the safety of others. For purposes of this chapter, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use; nor shall it include an individual who poses a direct threat to the health or safety of other individuals in the workplace.

Discriminatory practice means any practice made unlawful by this chapter.

Entity means employee, employer, employment agency, financial institution, labor organization, mortgage broker, owner, person, real estate broker, real estate sales agent or joint labor-management committee as used or defined in this chapter.

Gender is used interchangeably with sex and means the state of being male, female, or transgender. The term encompasses gender-related identity (self-identification as any or no particular gender) and gender expression (through one's appearance or behavior) regardless of an individual's assigned sex at birth.

Marital status means the state of being unmarried, married, or separated, as defined by state law. The term "unmarried" includes persons who are single, divorced or widowed. In this chapter, the term "marital status" encompasses the term "familial status," which means having a child or children under the age of 18 in the household, whether living with a parent, a legal guardian, or a designee. It also covers a woman who is pregnant, and people in the process of adopting or gaining custody of a child or children.

Member means a member of the board.

National origin ~~includes ancestry~~ means an individual's, or his or her ancestor's, place of origin; or the physical, cultural or linguistic characteristics of a national origin group.

Person includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, or unincorporated organization; any other legal or commercial entity; the state; or any governmental entity or agency.

Prevailing party ~~shall have the same meaning as such term has in 42 U.S.C. § 1988~~ means the party that who prevails in a Florida Circuit Court case or an appeal from a Circuit Court decision, filed by a complainant against a respondent pursuant to a right to sue letter, as described in this Chapter.

Race ~~means a large group of persons related by common descent, blood, or heredity~~ a group of people identified as distinct from other groups because of supposed physical or genetic traits shared by the group. Race discrimination includes discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race.

Reasonable cause means a suspicion founded upon circumstances sufficiently strong to warrant a reasonable person to believe that the charge is true.

Religion ~~means all aspects of religious observance, practice, and belief.~~ sincerely held beliefs or practices that concern ultimate issues of life, purpose and death. In the context of discrimination, the term includes observance and practices of traditional and

non-traditional religions. Protection against discrimination based on religion also extends to those of no religious belief.

Respondent means the person or other entity accused in a complaint of an act of discrimination prohibited by this chapter.

Rules of Procedure means the rules of procedure adopted by the Human Relations Board.

Sexual orientation means having an orientation, or being identified as having an orientation, for male or female homosexuality, heterosexuality, or bisexuality.

Unlawful discriminatory practice means a practice prohibited under the provisions of this chapter.

Veterans status means the status of being a person who has served in the active military, naval, or air service and who was has been discharged or released there from under conditions other than dishonorable. honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

Secs. 18-3—18-15. Reserved.

ARTICLE II. HUMAN RELATIONS BOARD

Sec. 18-16. Established.

A Human Relations Board is hereby established.

Sec. 18-17. Composition; terms of office; procedures.

The board shall consist of five (5) members who shall be appointed by the City Commission. The membership qualifications, appointment procedures and terms of office of the members of the board shall be as set forth in Chapter 2, Article V, Division 1 of this Code. All appointees to the board shall serve for a term of three (3) years. The board shall adopt rules of procedure. ~~which shall be subject to review and approval by the City Commission.~~

Sec. 18-18. Function of Board.

The purpose of the board shall be to promote and encourage fair treatment and equal opportunity for all persons and shall promote mutual understanding and respect among all economic, social, racial, religious and ethnics groups and their members. In furtherance of this purpose, the board shall have the following functions:

- (1) To foster mutual understanding and respect among all groups within the city;
- (2) To encourage equality of treatment for, and prevent discrimination against any group or its members;
- (3) Subject to the approval of the City Commission, to cooperate with governmental and nongovernmental agencies and organizations having similar functions;
- (4) Subject to the approval of the City Commission, to make such investigations and studies in the field of human relations as in the judgment of the board will aid in effectuating its general purposes;
- (5) Subject to the approval of the City Commission, to assist various groups and agencies of the community to cooperate in educational campaigns devoted to the elimination of group prejudices, racial tensions, intolerance or discrimination;
- (6) To recommend to the City Commission such ordinances or policies as will aid in carrying out the purpose of this chapter;
- (7) Subject to the approval of the City Commission, to solicit and accept grants and donations on behalf of the city from foundations and others for the purpose of carrying out the above listed functions, subject to the approval of the City Commission;
- (8) To receive, process and hear and ~~investigate~~ complaints of unlawful discriminatory practices;
- (9) Subject to the approval of the City Commission, to initiate its own investigations into unlawful discriminatory practices.

Sec. 18-19. Jurisdiction.

~~The board shall hear all complaints alleging that a violation of this chapter has occurred.~~ The board shall have the following powers and duties:

- (1) To receive, process and hear ~~initiate and investigate~~ written complaints as provided by this chapter and board rules of procedure relative to alleged unlawful discriminatory practices;
- (2) To hold hearings, require conciliation conferences and to compel the attendance of witnesses, administer oaths and take the testimony of any person under oath;

- (3) To issue subpoenas and order discovery in aid of investigations and hearings as required under the provisions of this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as subpoenas and discovery in a civil action under the Florida Rules of Civil Procedure;
- (4) To endeavor to resolve complaints, filed pursuant to this chapter, through conciliation;
- (5) Upon the failure of conciliation, to review whether the evidence supports a decision to find "reasonable cause" that an unlawful discriminatory practice has occurred and in the event of such finding, to issue an authorization permitting the complainant to proceed with any civil remedy provided by this chapter;
- (6) ~~Subject to review and authorization by the City Commission, to~~ adopt, promulgate, amend and rescind rules of procedure ~~rules and regulations~~ for the operation of the board and to effectuate the policies of this chapter; and
- (7) Any other powers and duties provided elsewhere in this chapter.

Sec. 18-20. Procedures; initiation of proceedings; Human Relations Board Rules of Procedure.

- (a) ~~Any person alleging subjection to an unlawful discriminatory practice may file with the board a complaint in writing, sworn to or affirmed, which shall state the name and address of the complainant and the person or persons against whom the complaint is made. It shall also state, in detail, the alleged facts surrounding the alleged unlawful discriminatory practice and be in a form as prescribed by the board. A complaint may be amended at any time. A complaint shall be filed with the board within ninety (90) days after the date of the alleged unlawful discriminatory practice in order to be received under this chapter. The board shall assist complainants or respondents where necessary in the preparation and filing of complaints and answers.~~ An individual who is subjected to unlawful discrimination on the basis of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status may file a complaint with the board in the time, form and manner set forth in the Human Relations Board Rules of Procedure.
- (b) A complaint shall be filed with the board within ninety (90) days after the date of the alleged unlawful discriminatory practice in order to be received under this chapter. The board secretary or his/her designee may assist complainants or respondents in the preparation and filing of complaints and answers.

- (bc) The board may join a person not named in the complaint as an additional respondent if in the course of its investigation hearing process it determines that the person should be accused of an unlawful discriminatory practice.
- (ed) Within ten (10) days after the filing of a complaint, or as soon as practicable thereafter, following a determination by the board secretary that a complaint is complete and sufficient pursuant to the Rules of Procedure, the board secretary shall serve on the respondent a notice and digital or hard copy of the complaint. as well as a copy of the complaint. The respondent shall file an answer to the complaint in the time, form and manner set forth in the Rules of Procedure. Not later than the tenth day after receipt of the notice and a copy of the complaint, the respondent shall file an answer. The answer must be in writing, under oath and in a form prescribed by the board. An answer may be amended at any time.
- (e) A complaint and answer may be amended pursuant to the Rules of Procedure.
- (df) All parties to a complaint may appear with counsel or without counsel at all stages of the complaint procedure, including, but not limited to, the final public hearing.
- (e) ~~Within thirty (30) days of receiving a complaint, the board shall commence such actions as may be necessary to fully investigate the allegations of the complaint.~~
- (f) Conciliation:
- (1) ~~Within thirty (30) days of receiving a complaint, the board shall issue an order to all parties to engage in conciliation. All parties shall be required to engage in such conciliation in good faith. All conciliation conferences shall be informal.~~
 - (2) ~~A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the board. Any conciliation agreement approved by the board shall constitute a final order of the board.~~
 - (3) ~~A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from the conciliation agreement may award appropriate relief, including monetary relief.~~
 - (4) ~~Each conciliation agreement shall be made public pursuant to the requirements of F.S. ch. 119.~~
 - (5) ~~Nothing said or done in the course of conciliation under this article may be made public or used as evidence in a subsequent proceeding under this chapter or in any subsequent civil action without the written consent of all persons who participated in the conciliation.~~

- ~~(6) The provisions of this section notwithstanding, the complainant and the respondent may elect to engage in private settlement negotiations, with or without a mediator, and enter into a confidential settlement agreement which shall not become a public record unless it is filed with the city or the board.~~
- (g) Whenever a complaint is filed and the board concludes on the basis of a preliminary investigation or other inquiry that prompt judicial action is necessary to carry out the purpose of this chapter, the board may request the City Commission to immediately commence and maintain an action for appropriate temporary or preliminary relief pending final disposition of the complaint.
- (h) All complaints filed with the board pursuant to this chapter, and all records and documents in the custody of the board shall be public records as provided for in F.S. ch. 119. Documents containing information that is statutorily exempt may be redacted prior to release.
- ~~(i) Except as provided for in section 18-20, when any act is required or allowed to be done at or within a specified time by this chapter, for cause shown, the board, at any time in its discretion, may order the period enlarged or may permit the act to be done when failure to act was the result of excusable neglect. The board retains discretion to extend time periods contained in this ordinance, except for the 90-day time period for filing a discrimination complaint set forth in Section 18-20(b).~~
- (j) A complaint may be voluntarily dismissed by a complainant at any time. Upon the filing of a voluntary dismissal, the board's jurisdiction over the complaint shall terminate.

Sec. 18-21. Conciliation.

- (a) Within thirty (30) days of receiving a complaint, or as soon as practicable thereafter, the board secretary shall issue an order to all parties to engage in conciliation. All parties shall be required to engage in such conciliation in good faith. All conciliation conferences shall be informal. The conciliation shall be scheduled and held in the time, form and manner set forth in the board Rules of Procedure.
- (b) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant. If the two parties reach an agreement that resolves the dispute, they may choose to submit the agreement to the board for approval, in which case it would become a final order of the board.
- (c) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint.

- (d) Conciliation agreements that are submitted to the board are subject to the public records law, Ch. 119, F.S.
- (e) Nothing said or done in the course of conciliation under this article may be used as evidence in a subsequent proceeding under this chapter or in any subsequent civil action without the written consent of all persons who participated in the conciliation.
- (f) The provisions of this section notwithstanding, the complainant and the respondent may elect to engage in private settlement negotiations, with or without a mediator or conciliator, and enter into a confidential settlement agreement which shall not become a public record unless it is filed with the conciliator, the city or the board.

Sec. 18-2422. Hearing procedures.

- (a) The board shall hold meetings as necessary to hear and dispose of pending matters. The board secretary shall provide notice of the time and place of all such meetings to all board members, all parties involved in complaints to be acted upon, and to the public as required by Chapter 286, F.S. The board shall be provided with such professional assistance and staff as may be deemed necessary by the City Commission to enable the board to perform its functions as assigned in this chapter.
- (b) ~~In the event that the board determines that a complaint is not capable of being resolved by conciliation, the board secretary it shall hold schedule a final public hearing to be held in accordance with the board Rules of Procedure, not earlier than sixty (60) days after the filing of a complaint nor later than one hundred eighty (180) days after the time of filing. The board secretary shall serve upon all interested parties a notice of time and place of the hearing. The complainant and respondent or their respective counsel may file such statements with the board prior to the hearing as they deem necessary in support of their case. The hearing shall be open to the public and parties may appear without or without counsel. The parties may present direct testimony and may cross-examine the witnesses of the opposing party. the right to cross-examination shall be preserved. All testimony and evidence shall be under oath or by affirmation administered by the board. The board shall not be bound by the strict rules of evidence contained in the Florida Statutes. Subject to review and approval by the City Commission, the board may adopt such additional rules of procedure for conducting its hearings and to effectuate the policies of this chapter.~~
- (c) If by a majority vote the board determines, upon completion of ~~an investigation and a final public hearing~~, determines that no reasonable cause exists to believe that a violation of this chapter has occurred or is occurring, the board shall issue a final order dismissing the complaint and promptly notify the complainant and respondent of the board's action. Upon dismissal, the complainant shall have no further remedy pursuant to this chapter except as provided in section 18-2425.

- (d) ~~If by a majority vote the board determines, upon completion of an investigation and a final public hearing, that reasonable cause exists to believe that a violation of this chapter has occurred or is occurring, and has been unable to obtain successful conciliation of the complaint, the complainant may request that the board shall issue and serve on the parties a final order that includes a notice of right to sue, on the complaint be issued. Upon such request, the board shall promptly issue such notice to all parties. Upon issuance of a notice of right to sue, the complainant may avail himself of any legal remedies available pursuant to this chapter.~~
- (e) The notice of right to sue shall include an authorization to the complainant to bring a civil action pursuant to this chapter in court within ninety (90) days from receipt of such authorization. After such time, said authorization shall become null and void.
- (f) ~~The board shall make a written finding of fact and conclusions of law following any hearing and enter its decision into the public record. The decision shall be executed by the chairperson. The board's final order shall include written findings of fact and conclusions of law. It shall be signed by the chairperson and submitted to the City Auditor and Clerk for inclusion in the City's official records. The date stamped as "received" by the City Auditor and Clerk shall be the date the order was "rendered" for purposes of an appeal.~~

Sec. 18-2223. Exclusivity.

- (a) Any complaint filed with the board based upon an incident which is or has been the basis of a charge of a unlawful discriminatory practice filed with a county, state or federal government or any of its agencies or of a charge of an unlawful discriminatory practice filed in any court shall be dismissed by the board and not pursued further unless the agency in which the other complaint is pending refers said complaint to the board for investigation and disposition under this chapter.
- (b) If at any time during the processing of a complaint, the complainant files a similar allegation of an unlawful discriminatory practice with a county, state or federal government, or any of their agencies or a complaint alleging an unlawful discriminatory practice in any court based upon the same incident that is the basis of a charge filed with the board, all proceedings concerning the processing of the complaint under this chapter shall be dismissed without prejudice and the board shall enter an order of dismissal accordingly.

Sec. 18-2324. Violation of conciliation agreement.

~~It shall be an unlawful discriminatory practice for any party to a conciliation agreement entered into pursuant to this chapter to violate the terms of such agreement. Conciliation agreements may provide for legally enforceable remedies in the event of a breach that would allow a party to seek redress in a court of law.~~

Sec. 18-2425. Appeal.

Appeal from any final order, ~~after hearing, by~~ of the board shall be by writ of certiorari to the circuit court, Twelfth Judicial Circuit.

Sec. 18-2526. Enforcement in court.

(a) A court of competent jurisdiction may hear and decide a civil complaint of discrimination brought pursuant to a board-issued right to sue letter, as further set forth in this Section.

(ab) ~~Except as provided elsewhere in this chapter, no civil action~~ No complaint of discrimination may be commenced in court pursuant to this chapter without the plaintiff in any such action having exhausted all of his or her administrative remedies as provided for in this chapter and having received and delivered to the court a notice of right to sue as provided for in section 18-242.

(bc) Whenever a complaint is filed and the board concludes on the basis of an investigation or other inquiry that prompt judicial action is necessary to carry out the purpose of this chapter, the board may request the City Commission to immediately commence and maintain, an action for appropriate temporary or preliminary relief pending final disposition of the complaint by the board.

(ed) Whenever the board has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this chapter, and that the pattern or practice is of such a nature as to deny the full exercise of the rights afforded by this chapter, or a person has been denied any right granted by this chapter and that denial raises an issue of general public importance, the board may request the City Commission bring an appropriate civil action in a court of competent jurisdiction.

(de) In any a civil action brought by the complainant pursuant to this chapter a right to sue letter, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice. The court may also award compensatory damages, including but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. However, the judgment for the total amount of compensatory damages for a violation of section 18-38 by an employer employing between five (5) and fourteen (14) employees shall not exceed one hundred thousand dollars (\$100,000.00). The judgment for the total amount of punitive damages awarded under this section to an aggrieved person shall not exceed one hundred thousand dollars (\$100,000.00). In any action or proceeding under this section, the court, in its discretion may allow the prevailing party a reasonable attorney's fee as part of the cost. It is the intent of this section that this provision for attorney's fees be interpreted in a manner consistent with federal and state case law involving a title VII action. The right to trial by jury is preserved in any civil action filed pursuant to

~~this chapter and any party may demand a trial by jury. Neither the board's determination of reasonable cause, or any testimony arising there from, shall be admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private cause of action or for impeachment purposes. The commencement of any private cause of action pursuant to this section shall divest the board of jurisdiction over the complaint, except that the city may intervene in the civil action as a matter of right. Notwithstanding the aforesaid, neither the state, or its agencies and subdivisions, including the city, county, airport authority or school board shall be liable for punitive damages and the total amount of recovery against the state, or its agencies and subdivisions, including the city, county, airport authority or school board shall not exceed the limitation as set forth in F.S. § 768.28(5). Notwithstanding the above, the state and its agencies and subdivisions, including but not limited to the city, county, airport authority and school board, shall not be liable for punitive damages, and the total amount of recovery against these and other governmental entities shall not exceed the limitation set forth in Section 768.28, F.S.~~

- (f) A court may, in its discretion, award attorneys' fees to the prevailing party in a civil discrimination action filed pursuant to a right to sue letter. Petitioner and respondent are not entitled to attorneys' fees in an appeal filed pursuant to Section 18-25 (a petition for writ of certiorari action challenging the action of the board).
- (g) It is the intent of this section that court decisions made pursuant to this action be interpreted in a manner consistent with federal and state discrimination case law. The right to trial by jury is preserved in any civil action filed pursuant to this chapter and any party may demand a trial by jury. Neither the board's determination of reasonable cause, nor any testimony arising therefrom, shall be admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private cause of action or for impeachment purposes.
- (h) The commencement in court of a civil action pursuant to a right to sue letter shall divest the board of jurisdiction over the complaint, except that the city may intervene in the civil action as a matter of right.
- (e) A final order of the board may be enforced by any court of competent jurisdiction.

Secs. 18-2627—18-35. Reserved.

ARTICLE III. EMPLOYMENT DISCRIMINATION

Sec. 18-36. Generally.

The general purposes of this part are:

- (1) To provide for execution within the city the policies embodied in ~~29 U.S.C. § 621-634 prohibiting age discrimination in employment, 42 U.S.C. §§ 2000e-2000e-17 (the Federal Civil Rights Act of 1964, as amended) providing for equal employment opportunities and F.S. §§ 760.01-760.11, 509.092 (The Florida Civil Rights Act); and state and federal laws that prohibit discrimination in the workplace. These include, but are not limited to, Title VII of the Civil Rights Act of 1964; the Florida Civil Rights Act; the Americans with Disabilities Act (ADA) of 1990 and the ADA Amendments Act of 2008; the Age Discrimination in Employment Act of 1967; the Equal Pay Act of 1963; the Pregnancy Discrimination Act of 1978; and the Lilly Ledbetter Fair Pay Act of 2009; and~~
- (2) To secure for all individuals within the city the freedom from discrimination because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in connection with employment, and thereby to promote the interests, rights and privileges of individuals within the city.

Sec. 18-37. Definitions.

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

Because of sex or on the basis of sex include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 18-38(h) of this chapter shall be interpreted to permit otherwise.

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

Employee means an individual employed by an employer, but shall not include an immediate family member of the employer. *Employer* means any person employing five (5) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

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

Immediate family member means a spouse, father, stepfather, mother, stepmother, son, stepson, daughter, stepdaughter, brother, stepbrother, sister, stepsister, grandparent, step grandparent, grandchild, or step grandchild, natural or by adoption.

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

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

Sec. 18-38. Unlawful employment practices.

- (a) It is an unlawful employment practice for an employer:
 - (1) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
 - (2) To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee, because of such individual's age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (b) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status or to classify or refer for employment any individual on the basis of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (c) It is an unlawful employment practice for a labor organization:
 - (1) To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.

- (2) To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee or as an applicant for employment, because of such individual's age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.
- (d) It is an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in admission to, or employment in, any program established to provide apprenticeship or other training.
- (e) Whenever, in order to engage in a profession, occupation, or trade, it is required that a person receive a license, certification, or other credential, become a member or an associate of any club, association, or other organization, or pass any examination, it is an unlawful employment practice for any person to discriminate against any other person seeking such license, certification, or other credential, seeking to become a member or associate of such club, association, or other organization, or seeking to take or pass such examination, because of such other person's age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (f) It is an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee to print, or cause to be printed or published, any notice or advertisement relating to employment, membership, classification, referral for employment, or apprenticeship or other training, indicating any preference, limitation, specification, or discrimination, based on age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (g) It is an unlawful employment practice for an employer, an employment agency, a joint labor-management committee, or a labor organization to discriminate against any person because that person has opposed any practice which is an unlawful employment practice under this section, or because that person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.
- (h) Notwithstanding any other provision of this section, it is not an unlawful employment practice under this section for an employer, employment agency, labor organization, or joint labor-management committee to:

- (1) Take or fail to take any action on the basis of religion, gender, national origin, age, disability, or marital status in those certain instances in which religion, gender, national origin, age, absence of a particular disability, or marital status 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 section. 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 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 (2) years after October 1, 1981, whichever occurs first,~~ nor shall this act 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) 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 persons of a particular age group.
 - (4) Take or fail to take any action on the basis of marital status if that status is prohibited under its anti-nepotism policy.
- (i) This section shall not apply to any religious corporation, association, educational institution, or society which conditions opportunities in the area of employment or public accommodation to members of that religious corporation, association, educational institution, or society or to persons who subscribe to its tenets or beliefs. This section shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporations, associations, educational institutions, or societies of its various activities.
 - (j) Notwithstanding any other provision of this section, it is not an unlawful employment practice under this section for a school, college, university, or other

educational institution or institution of learning to hire and employ employees 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 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.

- (k) Notwithstanding any other provision of this section, it is not an unlawful employment practice under this section for an employer to fail or refuse to hire and employ an individual for any position, for an employer to discharge an individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position:
 - (1) If the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed, is subject to any requirement imposed in the interest of national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any executive order of the President; and
 - (2) If such individual has to fulfilled or has ceased to fulfill that requirement.
- (l) Nothing contained in this article shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this article to grant preferential treatment to any individual or any group because of the age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status of such individual or group, on account of an imbalance which may exist with respect to the total number or percentage of persons of any age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in any community, state, section or any other area, or in the available work force in any community, state, section or other area.
- (m) The provisions in this article relating to sexual orientation shall not apply to any religious organization, association, society or nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

ARTICLE IV. FAIR HOUSING

Sec. 18-39. Generally.

- (a) It is the policy of this city to provide, within constitutional limitations, for fair housing throughout the city.
- (b) The general purposes of this part are:
 - (1) To provide for execution within the city the policies embodied in Title VIII of the Federal Civil Rights Act of 1986, as amended by the Fair Housing Amendments Act of 1988 (the Fair Housing Act); and F.S. §§ 760.20—760.37 (the Florida Fair Housing Act); and
 - (2) To secure for all individuals within the city the freedom from discrimination because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in connection with housing, and thereby to promote the interests, rights and privileges of individual within the city.

Sec. 18-40. Definitions.

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

Commission means the Florida Commission on Human Relations.

Covered multifamily dwelling means:

- (1) A building which consists of four or more units and has an elevator; or
- (2) The ground floor units of a building which consists of four (4) or more units and does not have an elevator.

Discriminatory housing practice means an act that is unlawful under the terms of this article.

Dwelling means any building or structure, or portion thereof, which is occupied as, or designed or intended for occupancy as, a residence by one (1) 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.

~~*Familial status* is established when an individual who has not attained the age of eighteen (18) years is domiciled with:~~

- ~~(1) A parent or other person having legal custody of such individual; or~~

- ~~(2) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.~~

~~Family includes a single individual.~~

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

Sec. 18-41. Discrimination in the sale or rental of housing and other prohibited practices.

- (a) It is 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 person because of age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (b) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (c) It is 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 on age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status or an intention to make any such preference, limitation, or discrimination.
- (d) It is unlawful to represent to any person because of age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (e) It is unlawful, for profit, to induce or attempt to induce any person to sell or rent any dwelling by a representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (f) The protections afforded under this article against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
- (g) It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

- (1) That buyer or renter;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - (3) Any person associated with the buyer or renter.
- (h) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
- (1) That buyer or renter;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - (3) Any person associated with the buyer or renter.
- (i) For purposes of subsections (g) and (h), discrimination includes:
- (1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or
 - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
- (j) 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 commission 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 persons.
 - (2) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a 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) ~~Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities, providing accessibility and usability for physically disabled people, commonly cited as ANSI A117.1-1986, suffices to satisfy the requirements of paragraph (3).~~

Paragraph 3 shall be considered satisfied if the Respondent has complied with the accessible design and construction requirements of the Fair Housing Act, 42 U.S.C. § 3604(f)(4-5).

Sec. 18-42. Discrimination in the provision of brokerage services.

It is unlawful to deny any person 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 account of age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status.

Sec. 18-43. Discrimination in the financing of housing or in residential real estate transactions.

- (a) It is 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 a person 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, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status of such person or of any person 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, color,

disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status 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) (1) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
- (2) As used in this subsection, the term "*residential real estate transaction*" means any of the following:
 - a. The making or purchasing of loans or providing other financial assistance:
 - 1. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - 2. Secured by residential real estate.
 - b. The selling, brokering, or appraising of residential real property.

Sec. 18-44. Prohibited discrimination in land use decisions and in permitting of development.

It is unlawful to discriminate in land use decisions or in the permitting of development based on age, color, disability, ~~familial status~~, gender, marital status, national origin, race, religion, sexual orientation or veterans status, or, except as otherwise provided by law, the source of financing of a development or proposed development.

Sec. 18-45. Exemptions.

- (a) (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 paragraph 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 broker, agent, or salesperson 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 broker, agent, salesperson, or person; and
2. Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of section 18-41(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 (4) 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 paragraph (1), a person is deemed to be in the business of selling or renting dwellings if the person:

- a. Has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or interest therein;
- b. Has, within the preceding twelve (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 (2) 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 (5) or more families.

- (b) Nothing in this article prohibits a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other

than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nothing in this article prohibits a private club that is 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 purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

- (c) Nothing in this article requires any person renting or selling a dwelling constructed for first occupancy before March 13, 1991, to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.
- (d) (1) "Housing for older persons" as defined herein, is exempt from compliance with familial status requirements. Any provision of this article regarding familial status does not apply with respect to housing for older persons.
- (2) As used in this subsection, the term "*housing for older persons*" means housing:
 - a. Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;
 - b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
 - c. Intended and operated for occupancy by persons fifty-five (55) years of age or older that meets the following requirements:
 - 1. At least eighty (80) percent of the occupied units are occupied by at least one person fifty-five (55) years of age or older.
 - 2. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph. If the housing facility or community meets the requirements of sub-subparagraphs 1. and 3. 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 fifty-five (55) years of age or older. If those documents further provide a prohibition against residents sixteen (16) years of age or younger, that provision shall be construed, for purposes of this article, to only apply

to residents eighteen 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 (1) 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.

3. 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 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 subparagraph b. Such surveys and affidavits are admissible in administrative and judicial proceedings for the purposes of such verification.

- (3) Housing shall not fail to be considered housing for older persons if:
 - a. A person who resides in such housing on or after October 1, 1989, does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or
 - b. One (1) or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.
- (4) A person shall not be personally liable for monetary damages for a violation of this subsection if such person reasonably relied in good faith on the application of the exemption under this subsection relating to housing for older persons. For purposes of this paragraph, a person may show good faith reliance on the application of the exemption only by showing that:
 - a. The person has no actual knowledge that the facility or the community is ineligible, or will become ineligible, for such exemption; and
 - b. The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.
- (5) A facility or community claiming an exemption under this subsection shall register with the commission and submit a letter to the commission stating that the facility or community complies with the requirements of subparagraph (2)a, subparagraph (2)b, or subparagraph (2)c. The letter

shall be submitted on the letterhead of the facility or community and shall be signed by the president of the facility or community. This registration and documentation shall be renewed biennially from the date of original filing. The registration and documentation required by this paragraph shall not substitute for proof of compliance with the requirements of this subsection. Failure to comply with the requirements of this paragraph shall not disqualify a facility or community that otherwise qualifies for the exemption provided in this subsection.

- (e) Nothing in this article:
- (1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status.
 - (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling.
 - (3) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
 - (4) Prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined under F.S. ch. 893.

ARTICLE V. PUBLIC ACCOMMODATIONS

Sec. 18-46. Generally.

The general purposes of this part are:

- (1) To provide for execution within the city the policies embodied in 42 U.S.C. §§ 2000 and 2000a-1—2000a-6 (Title VIII of the Federal Civil Rights Act of 1968, as amended) and F.S. § 760.07, prohibiting discrimination in public accommodations.
- (2) To secure for all individuals within the city the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination because of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status and thereby promoting the interests, rights and privileges of all individuals within the city.

Sec. 18-47. Definitions.

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

Place of public accommodation means establishments which serve the public, including but shall not be limited to the following:

- (1) Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located in a building which contains not more than two (2) units for rent or hire and which is actually occupied by the owner of such establishment as the owner's residence.
- (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain 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 bar, lounge, nightclub or other facility principally engaged in selling alcoholic beverages for consumption on the premises, or any facility principally engaged in selling both food and alcoholic beverages for consumption on the premises.
- (4) Any motion picture house, theater, concert hall, sports arena, stadium, convention hall or other place of exhibition or entertainment.
- (5) Any library or educational facility supported in part or whole by public funds, public conveyance (to include taxis, limousines, and buses), bakery, barber and beauty shop, clothing store, grocery store, hardware store, hospital, laundry, laundromat, dry cleaner, bank, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, shopping center, other sales or rental establishment or other service establishment, swimming pool, nursery, kindergarten or day care center.
- (6) A terminal, depot, or other station used for public transportation.
- (7) A museum, gallery, or other place of public display or collection.
- (8) A park, zoo, amusement park, or other place of recreation.
- (9) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service establishment.
- (10) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

- (11) Any establishment which is physically located within the premises of any establishment otherwise covered by this article.
- (12) Any establishment within the premises of which is physically located any covered establishment, and which holds itself out as serving patrons of the covered establishment.

Sec. 18-48. Discrimination prohibited.

It is unlawful to discriminate or separate on the basis of age, color, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in any place of public accommodation in the city.

Sec. 18-49. Exemptions.

- (a) Nothing in this article shall be applied to:
 - (1) Discrimination or separation on the basis of gender in restrooms, shower rooms, bath houses, health spas, or similar facilities which are by their nature distinctly private, or dormitory-lodging facilities.
 - (2) A religious organization, association or society, or any nonprofit institution or organization, operating, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting facilities and accommodations which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. However, this exception shall not apply if such religious organization, association, society, or any nonprofit, charitable, or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, restricts membership in its organization on the basis of race, color or national origin.
- (b) Nothing in this article shall prohibit the limiting of the use of kindergartens, nurseries, day care centers, theaters and motion picture houses to persons of a particular age group.
- (c) The provisions of this article shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of such establishment within the scope of section 18-47.
- (d) Nothing in this article shall require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of that public accommodations when the individual poses a direct threat to the health or safety of other individuals.

ARTICLE VI. AMERICANS WITH DISABILITIES ACT

Sec. 18-50. – Guidance from Americans with Disabilities Act ; adopted by reference.

- (a) ~~42 U.S.C. § 12101—12161, (the Americans with Disabilities Act of 1990) and the regulations adopted thereunder, as amended, except as provided for in Section 553.504, Florida Statutes, as amended, are hereby adopted by reference, as if more fully set forth herein.~~

The statutes and rules embodied in the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, 42 USC 12101, et seq., as amended, and the regulations adopted thereunder, including but not limited to the Americans with Disabilities Act 2010 Standards for Accessible Design, 28 CFR parts 35-36, as amended, shall serve as guidance to the board in its determinations of disability discrimination pursuant to this chapter.

- (b) ~~F.S. §§ 553.501—553.513, (the Florida Americans With Disabilities Accessibility Implementation Act), as amended, are hereby adopted by reference as if more fully set forth herein. Notwithstanding the above, if any provision of this chapter provides greater rights to a disabled individual than do federal or state laws, the city's Chapter 18 shall prevail. In the area of employment discrimination, the definition of "employer" shall be the definition contained in Chapter 18.~~

- (c) ~~Nothing in this chapter shall be construed to expand or diminish those rights or responsibilities or remedies as set in those federal or state laws and regulations adopted by reference in paragraphs (a) and (b). To the extent any provision of this chapter conflicts with such federal or state laws, such federal and state laws shall prevail.~~

- (d) ~~It shall be an unlawful discriminatory practice to violate any provision of those federal and state laws and regulations adopted by reference in paragraphs (a) and (b).~~

ARTICLE VII. UNLAWFUL DISCRIMINATORY PRACTICES

Sec. 18-51. Prohibited acts.

- (a) It is unlawful for a person to discriminate against any individual because of age above the age of twenty-one (21), race, color, gender, religion, national origin, disability, veterans status, marital status or sexual orientation in evaluating an application for membership in a club that has more than two hundred (200) members, that provides regular meal service, and that regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from nonmembers for business purposes. It is unlawful for a person, on behalf of such a club, to publish, circulate, issue, display, post, or mail any

advertisement, notice, or solicitation that contains a statement to the effect that the accommodations, advantages, facilities, membership, or privileges of the club are denied to any individual because of age above the age of twenty-one (21), race, color, gender, religion, national origin, disability, veterans status, marital status or sexual orientation. This subsection does not apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations where business activity is not prevalent.

- (b) It shall be unlawful for a person to retaliate or discriminate in any manner against a person because such person opposed a practice prohibited by this chapter or prohibited by existing federal or state law prohibiting discrimination; or to retaliate or discriminate in any manner against a person because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceedings, hearing or conference under this chapter or under any federal or state law prohibiting discrimination.
- (c) It shall be unlawful for a person to aid, abet, incite, compel or coerce any entity to engage in any of the practices prohibited by this chapter or prohibited by any existing federal or state law prohibiting discrimination; or to obstruct or prevent any entity from complying with the provisions of this chapter or the provisions of any existing federal or Florida law prohibiting discrimination.
- (d) It shall be unlawful for a person to violate any of the provisions of a final order of the board.”

Section 2: Should any section, sentence, clause, part or provision of this Ordinance be declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole, or any part hereof other than the part declared to be invalid. Said provision declared to be invalid shall be deemed severed from the remaining provisions of this Ordinance.

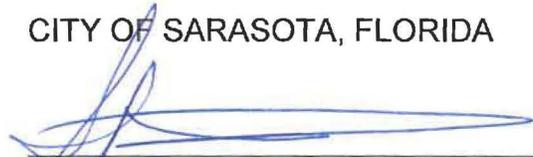
Section 3: Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 1st day of May, 2017.

PASSED on second reading and finally adopted this 15th day of May, 2017.

CITY OF SARASOTA, FLORIDA



Shelli Freeland Eddie, Mayor



ATTEST



Pamela M. Nadalini, MBA, CMC
City Auditor & Clerk

Yes Mayor Shelli Freeland Eddie

Yes Vice Mayor Liz Alpert

Yes Commissioner Jen Ahearn-Koch

Yes Commissioner Hagan Brody

Yes Commissioner Willie Charles Shaw