

ARTICLE II. FAIR HOUSING*

***State law references:** Fair housing, F.S. § 720.20 et seq.

DIVISION 1. GENERALLY

Sec. 11-31. Definitions.

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

Administrator means the person or his designee appointed by the city manager who shall act and undertake the responsibilities pursuant to section 11-51.

Age means, unless the context clearly indicates otherwise, and shall refer exclusively to persons who are 18 years of age or older.

Aggrieved person means:

- (1) Any person who claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

Complainant means a person (including the administrator) who files a complaint under section 11-52.

Conciliation means attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the administrator.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

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 or more units and does not have an elevator.

Discriminatory housing practice means an act that is unlawful under section 11-34.

Familial status is established when an individual who has not attained the age of 18 years is domiciled with:

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

Family means one or more persons living together as a single housekeeping unit in a dwelling.

Handicap means:

- (1) A person having a physical or mental impairment which substantially limits one or more major life activity, or who has a record of having, or is regarded as having, such a physical or mental impairment; or
- (2) A person having a development disability which is defined as follows: "A disorder or syndrome which is attributable to retardation, cerebral palsy, autism, or spina bifida,

and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely." For the purposes of this definition, cerebral palsy does not include individuals who are victims of strokes.

Housing or housing accommodation means any building, structure or portion thereof, mobile home or trailer, or other facility 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 thereon of any such building, structure, or portion thereof, mobile home or trailer or other facility.

Lending institution means any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money, guaranteeing loans, or sources of credit information, including but not limited to credit bureaus.

Owner means any person, including but not limited to a lessee, sublessee, assignee, manager, or agent, and also including the city and its departments or other subunits, having the right of ownership or possession or the authority to sell or lease any housing accommodation.

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, joint stock companies, trusts, unincorporated organizations, or public corporations, including but not limited to the city or any department or subunit thereof.

Prevailing party has the same meaning the term has in section 722 of the Revised Statutes of the United States (42 USC 1988).

Real estate agent means any real estate broker, any real estate salesman, or any other person, employee, agent, or otherwise, engaged in the management or operation of any real property.

Real estate broker or salesman means a person whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

Real estate transaction includes the sale, purchase, exchange, rental or lease of real property, and any contract pertaining thereto.

Reasonable cause means a determination based upon sufficiently trustworthy information which would lead an impartial observer to a belief that a discriminatory housing practice has occurred or is likely to occur.

Rent means lease, sublease, assignment and/or rental, including any contract to do any of the foregoing, or otherwise granting for a consideration the right to occupy premises that are not owned by the occupant.

Respondent means any person against whom a complaint is filed pursuant to this article.

Sale means any contract to sell, exchange, or to convey, transfer, or assign legal or equitable title to, or a beneficial interest in, real property.

(Code 1984, § 12-13; Ord. No. 80-O-1821, § 1(21A-3), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Cross references: Definitions generally, § 1-2.

Sec. 11-32. Declaration of policy.

It is the policy of the city in keeping with the laws of the United States of America and the spirit of the Constitution of the state to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain housing of his choice in this city without regard to race, color, national origin, religion, sex, marital status, age, ethnic background, familial status, and handicap and, to that end, to prohibit discrimination in housing by any person.

(Code 1984, § 12-12; Ord. No. 80-O-1821, § 1(21A-2), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-33. Untruthful complaints or testimony.

It shall be a violation of this article for any person knowingly and willfully to make false or untrue statements, accusations or allegations in his complaint or to give false testimony concerning violations of this article.

(Code 1984, § 12-26; Ord. No. 80-O-1821, § 1(21A-11), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-34. Unlawful housing practices; sale or rental.

Except as provided in section 11-60, it shall be unlawful and a discriminatory housing practice for an owner, or any other person engaging in a real estate transaction, or for a real estate broker, as defined in this article, because of race, color, national origin, religion, sex, marital status, age, ethnic background, handicap, or familial status to:

- (1) Refuse to engage in a real estate transaction with a person or otherwise make unavailable or deny housing to any person because of race, color, national origin, religion, sex, marital status, age, ethnic background, handicap or familial status.
- (2) Discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith, or because of his exercise of his right to free association.
- (3) Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person because of race, color, national origin, religion, sex, marital status, age, ethnic background, handicap or familial status.
- (4) Refuse to negotiate for a real estate transaction with a person because of race, color, national origin, religion, sex, marital status, age, ethnic background, handicap or familial status.
- (5) Represent to a person that housing is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect the housing.
- (6) Steer any person away from or to any housing for any reason which is considered a discriminatory housing practice.
- (7) Make, print, publish, circulate, post or mail, or cause to be made, printed, published or circulated, any notice, statement, advertisement or sign, or to use a form of application or photograph for a real estate transaction or, except in connection with a written affirmative action plan, to make a record or oral or written inquiry in connection with a prospective real estate transaction, which indicates any preference directly or indirectly or an intent to make a limitation, specification or discrimination based on race, color,

national origin, religion, sex, marital status, age, ethnic background, handicap or familial status, or an intention to make any such preference, limitation, or discrimination.

(8) Offer, solicit, accept, use or retain a listing of housing with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(9) Induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of housing owned, used or occupied by any person protected by the terms of this article.

(10) Make any misrepresentations concerning the listing for sale or rental, or the anticipated listing for sale or rental, or the sale or rental of any housing in any area in the city for the purpose of inducing or attempting to induce any such listing or any of the above transactions.

(11) Retaliate or discriminate in any manner against any person because of his opposing a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under this article.

(12) Aid, abet, incite, compel or coerce any person to engage in any, of the practices prohibited by the provisions of this article, or to obstruct or prevent any person from complying with the provisions of this article, or any conciliation agreement entered into thereunder.

(13) By canvassing to compel any unlawful practices prohibited by the provisions of this article.

(14) Otherwise deny or withhold, any housing accommodations from a person based on a discriminatory housing practice as defined in this article.

(15) Promote, induce, influence or attempt to promote, induce or influence by the use of postal cards, letters, circulars, telephone, visitation or any other means, directly or indirectly, a property owner, occupant or tenant to list for sale, sell, remove from, lease, assign, transfer, or otherwise dispose of any housing by referring as a part of a process or pattern of inciting neighborhood unrest, community tension, or fear of racial, color, religious, nationality or ethnic change in any street, block, neighborhood, or any other area, based on the race, color, religion, national origin, ethnic background, handicap, or familial status of actual or anticipated neighbors, tenants or other prospective buyers of any housing.

(16) Cause to be made any untrue or intentionally misleading statement or advertisement, or, in any other manner, attempt as part of a process or pattern of inciting neighborhood unrest, community tension or fear of persons because of, race, color, religion, national origin, familial status, handicap or ethnic change in any street, block, neighborhood, or any other area, to obtain a listing of any housing for sale, rental, assignment, transfer or other disposition, where such statement, advertisement or other representation is false or materially misleading, or where there is insufficient basis to judge its truth or falsity to warrant making the statement, or to make any other material misrepresentations in order to obtain such listing, sale, removal from, lease, assignment, transfer or other disposition of such housing.

(17) Place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer or other disposition or tending to lead to the belief that a bona fide

offer is being made to sell, lease, assign, transfer or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer or other disposition.

(18) Induce a real estate transaction for which he may benefit financially.

(19) Represent that a change has occurred or will or may occur in the composition, with respect to race, color, ancestry, national origin, religion, sex, marital status, age, handicap, or familial status of the owners or occupants in the block, neighborhood, or area in which the housing accommodation is located.

(20) Represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the housing accommodation is located.

(21) Make, as part of a process or pattern of discouraging the purchase, rental, occupancy or otherwise of any housing in a particular block, neighborhood or area, any representation to a person known to be a prospective purchaser, that such block or neighborhood, or area may undergo, is undergoing, or has undergone a change with respect to racial, color, religious, nationality or ethnic composition of such block or neighborhood or area.

(22) Engage in or hire to be done, or to conspire with others to commit actions or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease or the listing for any of the above, of any housing accommodation.

(23) Induce or attempt to induce any person to sell or not sell or rent or not rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons protected by the provisions of this article.

(24) Assist or cause a lending institution to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, national origin, religion, sex, marital status, age, handicap or familial status, of such person or of any person associated with him in connection with such loan or other financial assistance, or the purposes of such loan or other assistance, or of the present or prospective owners, lessees, tenants or occupants of the housing in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this subsection shall impair the scope or effectiveness of the exceptions contained in section 11-35.

(25) Assist any business which engages or associates with 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 race, color, national origin, religion, sex, marital status, age, ethnic background, handicap, or familial status. The term "residential real estate action" means any of the following:

- a. The making or purchasing of loans or providing other financial assistance;
- b. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- c. Secured by residential real estate.

(26) Offer brokerage services which deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility related to the business of selling or renting housing, or to

discriminate against such person in the terms or conditions of such access, membership or participation because of race, color, ancestry, national origin, familial status, handicap, religion, sex, marital status, or age.

(27) Discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter; a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or any person associated with the buyer or renter because of a handicap.

(28) The prohibition on discrimination because of a handicap, as provided for in these subsections are applicable although a nonhandicapped person may be acting as agent or representative for the handicapped person in the real estate transaction.

(29) For the purposes of these subsections, discrimination includes:

a. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises;

b. 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; or

c. In connection with the design and construction of covered multifamily dwellings for first occupancy on or after March 12, 1991, a failure to design and construct those dwellings in such a manner that:

1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped 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:

i. An accessible route into and through the dwelling.

ii. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

iii. Reinforcements in bathroom walls to allow later installation of grab bars.

iv. Useable kitchen and bathrooms such that a person in a wheelchair can maneuver about the space.

d. 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, suffices to satisfy the requirements of subsection (29)c.3 of this section. 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 this subsection.

e. For the purposes of subsection (29)a of this section, in the case of a rental, a 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. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest-bearing

escrow account, over a reasonable period, a reasonable amount of money, not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications, as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

f. It is an unlawful discriminatory practice for a person to:

1. Retaliate or discriminate against a person because such person has opposed a discriminatory practice, or because such person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceedings, or hearing under this article; or
2. Aid, abet, incite, or coerce a person to engage in an unlawful discriminatory practice; or
3. Willfully interfere with the performance of a duty or the exercise of a power by the administrator, board, or one of its staff members or representatives; or
4. Willfully obstruct or prevent a person from complying with the provisions of this article or an order issued thereunder. The protection afforded under subsections dealing with 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 18 years.

(Code 1984, § 12-14; Ord. No. 80-O-1821, § 1(21A-4), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-35. Exemptions and exceptions.

(a) Nothing in section 11-34 shall prohibit a religious organization, association or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, nor shall anything in this article prohibit 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 purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members unless membership in such private club is restricted on account of race, color, national origin, sex, marital status, ethnic background, age, handicap, or familial status. Nothing in this section requires any person renting or selling a dwelling constructed for first occupancy before March 12, 1991, to modify, alter, or adjust the dwelling in order to provide physical accessibility, except as otherwise required by law.

(b) Any provision of this article regarding familial status does not apply with respect to housing for older persons. As used in this subsection, the term "housing for older person" means housing:

- (1) Provided under any local, state, or federal program that the administrator determines is specifically designed and operated to assist elderly persons, as defined in the local, state, or federal program;
- (2) Intended for, and solely occupied by, persons 62 years of age or older; or

(3) Intended and operated for occupancy by at least one person 55 years of age or older per unit in 80 percent of the units.

(c) Housing shall not fail to be considered housing for older persons if:

(1) 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

(2) One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

(d) Nothing in section 11-34, other than subsection 11-34(7) shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided, further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any rights to all or, a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided, further, that the owner sells or rents such housing:

a. 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 of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson or person; and

b. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection 11-34(7);

but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer the title; or

(2) Rooms or units in housing 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 residence, provided that the owner sells or rents such rooms or units:

a. 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 of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson or person; and

b. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection 11-34(7),

but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer the title.

c. For the purposes of subsection (d)(1)b of this section, a person shall be deemed to be in the business of selling or renting housing if:

1. He has, within the preceding 12 months, participated as principal other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental

services in three or more transactions involving the sale or rental of any housing or any interest therein;

2. He has, within the preceding 12 months, participated as agent other than in the sale of his 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 housing or any interest therein; or

3. He is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

d. Nothing in section 11-34 shall be construed to:

1. Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.

2. Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

3. Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex.

4. Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied exclusively by, unmarried individuals to unmarried individuals only.

5. Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for married couples without children or from segregating families with children to special units of housing.

e. Nothing in section 11-34:

1. Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, ethnic background, national origin, sex, handicap, familial status, marital status, age, or religion.

2. Limits the applicability of any reasonably 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 discrimination 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.

5. Makes it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

(Code 1984, § 12-15; Ord. No. 80-O-1821, § 1(21A-5), 12-9-1980; Ord. No. 82-O-2023, § 1, 9-29-1982; Ord. No. 92-O-0019AA, 11-10-1992)

Secs. 11-36--11-50. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Administration, ch. 2.

Sec. 11-51. Administrator; authority and responsibility.

(a) The authority and responsibility for administering this article shall be vested in the city manager, who shall appoint an administrator.

(b) The administrator shall:

(1) Have authority to employ staff to carry out the functions, duties and powers with respect to investigating, conciliating, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this article.

(2) Receive written complaint as provided in section 11-52 relative to alleged unlawful acts under this chapter when a complainant seeks the administrator's good office to conciliate or for effecting a complaint.

(3) Upon receiving a written complaint, make such investigations as the administrator deems appropriate to ascertain facts and issues. In conducting an investigation, the administrator shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation.

(4) The administrator upon the filing of a complaint shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forum provided under the law.

(5) The administrator upon the filing of a complaint shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her procedural rights and obligations under the law or ordinance together with a copy of the complaint.

(6) Utilize methods of persuasion, conciliation, and mediation or information adjustment of complaints.

(7) Have the power to issue subpoenas, via city attorney's office, to compel attendance of witnesses and production of evidence to ascertain facts and issues in the investigation of information complaints filed with the office of fair housing.

(8) Cooperate with and render technical assistance to federal, state, local and other public and private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this article.

(9) Whenever the administrator determines that there is reasonable cause to believe that there has been a violation of the provisions of this article, he shall act in accordance with subsection 11-53(c).

(10) The administrator shall promulgate, publish and distribute the necessary forms, rules and regulations to implement the provisions of this article, including publishing and disseminating public information and educational materials relating to housing discrimination.

(11) The administrator shall request the city attorney's office apply to the circuit court for enforcement of any subpoena upon the refusal to answer, or produce the requested document or information wherein the circuit court shall determine the matter, seek prompt judicial action for appropriate temporary or preliminary relief pending final

disposition of a complaint in accordance with F.S. § 760.34(8) if the administrator determines that such action is necessary to carry out the purposes of this article.

(12) Conduct hearings as he may deem necessary for the purposes of determining reasonable cause.

(Code 1984, § 12-16; Ord. No. 80-O-1821, § 1(21A-6), 12-9-1980; Ord. No. 82-O-2023, § 2, 9-29-1982; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-52. Filing of complaints.

(a) A person who claims that another person has committed a discriminatory housing practice against him or that a discriminatory housing practice is likely to occur may report that offense to the administrator by filing a formal complaint not later than one year after the date the alleged discriminatory housing practice has occurred or terminated.

(b) The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as an informal complaint filed under subsection (a) of this section.

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

(1) Identity of the respondent.

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

(3) General statement of facts of the offense including the basis of the discrimination (race, color, familial status, national origin, handicap, religion, sex, marital status, or age).

(4) Name and signature of the complainant.

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

(e) The administrator may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation it determines that the person should be accused of a discriminatory housing practice. In addition to the information required in the notice under subsection (f) of this section, the administrator, or his designee, shall include in a notice to a respondent joined under this section as explanation of the basis for the determination that the person is properly joined as a respondent.

(f) Within 15 days after the filing of the formal complaint, the administrator shall transmit a copy of the complaint to each respondent named on such complaint by certified mail return receipt requested. Thereupon, the respondent may file a written, verified or affirmed formal answer to the formal complaint within ten days of the date of receipt of the formal complaint.

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

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

(i) The administrator shall investigate the allegations of the complaint and complete the investigation in not more than 100 days after receipt of the complaint, unless it is impracticable to do so; if the administrator is unable to do so he shall notify the complainant and respondent in writing of the reasons for not doing so.

(j) The administrator shall make a final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so; if the administrator is unable to do so he shall notify the complainant and respondent in writing of the reasons for not doing so.

(k) The administrator, upon making a final administrative decision when there is a finding of reasonable cause, shall impose the appropriate fine as provided in section 11-55.

(1) The final administrative decision shall take effect 45 days after the decision is rendered provided neither party seeks an appeal of the administrative decision.

(2) The administrator shall impose the applicable administrative penalties within 30 days of receipt of the administrative decision.

(3) All penalties shall be paid to the City of Tallahassee c/o Treasurer-Clerk's Office located at City Hall, 300 South Adams Street, Tallahassee, Florida 32301.

(4) The administrative penalties shall be used in a manner consistent with promoting fair housing in Tallahassee.

(Code 1984, § 12-17; Ord. No. 80-O-1821, § 1(21A-7), 12-9-1980; Ord. No. 82-O-2023, § 3, 9-29-1982; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-53. Processing the complaint.

(a) Within 30 days after the filing of an informal complaint the administrator shall make such investigation as he deems appropriate to ascertain facts and issues.

(1) The administrator shall prepare a final investigative report showing:

a. The names and dates of contacts with witnesses;

b. A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts;

c. A summary description of other pertinent records;

d. A summary of witness statements; and

e. Answers to interrogatories.

(2) A final report under this section may be amended if additional evidence is discovered.

(b) Upon initial receipt of the complaint, the administrator shall attempt to conciliate.

(1) If the administrator shall deem that there is reasonable cause to believe that a violation has occurred and can be resolved by conciliation, he shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them.

(2) Conciliation conferences shall be informal, and nothing said or done in the course of the informal conference with the individuals to resolve the dispute may be made public or used as evidence in a subsequent proceeding by either party without the written consent of both the complainant and the respondents. The administrator or any employee of the administrator who shall make public any information in violation of this provision shall be deemed guilty of a violation of a city ordinance and shall be subject to penalty as set forth in section 1-7.

(3) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator and must be signed and verified by the complainant and respondents and approved by the administrator. The conciliation agreement is for conciliation purposes only and does not constitute an admission by any

party that the law has been violated. Each conciliation agreement shall be made public unless otherwise agreed by the parties or the administrator determines that disclosure is not required to further the purposes of the law or ordinance.

(c) A reasonable cause determination determined by the administrator:

(1) Must consist of a short and plain statement of the facts on which the administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2) Must be based on the final investigative report;

(3) Need not be limited to the facts or grounds alleged in the complaint; and

(4) Shall be distributed by sending a copy of the decision not later than the 20th day after the administrator issues a reasonable cause finding. In addition, the administrator shall send information concerning the rights under this article to:

a. Each respondent, together with a notice of the opportunity for a hearing provided by section 11-54; and

b. Each complainant on whose behalf the complaint was filed.

(d) If the administrator deems that there is not reasonable cause to believe that a particular alleged discriminatory housing practice has been committed or is likely to occur, the administrator shall take no further action with respect to the alleged offense and dismiss the complaint.

(e) If the administrator, with respect to any matter, which involves a contravention of this article:

(1) Fails to conciliate a complaint after the parties, in good faith, have attempted such conciliation; or

(2) Determines that the violation alleged in the complaint cannot be resolved by conciliation.

The administrator shall notify both the complainant and the respondents within 30 days of the failure or the determination, and he shall proceed as provided in subsection 11-51(b).

(Code 1984, § 12-18; Ord. No. 80-O-1821, § 1(21A-198), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-54. Administrative hearing.

(a) If the complainant or the respondent does not agree with the decision of the administrator, he may appeal such decision by filing an appeal with department of administrative hearings.

(b) The complainant or respondent must file with the administrator a request for an administrative hearing within 30 days after the date of notice of the administrator's decision.

(1) The request for an administrative hearing shall set forth in detail the basis for the appeal.

(2) All expenses associated with the hearing officer appeal process, except attorney fees, shall be the responsibility of the nonprevailing party.

(3) The city shall accurately and completely preserve all testimony in the proceeding; and, on the request of any party, it shall make a full or partial transcript or existing hearing record available at no more than actual cost.

(4) In any case where a request for administrative hearing has been filed, the decision of the administrator shall be stayed pending the final determination of the case.

(5) Following the hearing, the hearing officer shall prepare the written findings and decision; copies of the findings and decision shall be mailed by the hearing officer to each party who requested the appeal on administrative hearing and to the administrator, with a copy provided to the city clerk.

(c) When the administrator receives a request for an administrative hearing, he shall arrange for the hearing to be conducted by a hearing officer from the state division of administrative hearings. The administrator shall transmit the complete record of the case to the department of administrative hearings.

(1) The administrative hearing provided in this article is designed to allow for an appeal of the administrator's decision through a full and complete hearing.

(2) If the department's record of their decision is full and complete, the hearing officer may determine that the record is the only evidence that is necessary. However, the hearing officer may determine that additional evidence and oral or written testimony, including whether cross examination is necessary to properly evaluate the administrator's decision and render a decision as to its validity. The hearing officer shall have the authority to determine the need for additional evidence and/or testimony.

(d) Conduct of the hearing before the hearing officer shall be as follows:

(1) The hearing officer shall set forth at the outset of the hearing the order of the proceedings and the rules under which the hearing will be conducted.

(2) The order of presentation at the hearing shall be as follows:

a. The receipt of the transcript minutes and exhibits from the administrator, if any.

b. Opening statements by the parties.

c. Appellant's case.

d. Respondent's case.

e. Rebuttal by appellant.

f. Summation by respondent.

g. Summation by appellant.

h. Conclusion of the hearing by the hearing officer.

(3) The record of the administrator's decision, including all exhibits, shall be received and constitute a part of the record.

(4) The hearing officer shall have the authority to determine the applicability and relevance of all materials, exhibits, and testimony and to exclude irrelevant, immaterial, or repetitious matter.

(5) The hearing officer is authorized to administer oaths to witnesses.

(6) A reasonable amount of cross examination of witnesses shall be permitted at the discretion of the hearing officer.

(7) The time for presentation of a case shall be determined by the hearing officer.

(8) The hearing officer may allow the parties to submit written findings of fact and conclusion of law following the hearing, and shall advise the parties of the timetable for so doing if allowed.

(e) The decision of the hearing officer shall be based upon the following criteria and rendered as follows:

(1) The hearing officer shall review the record and testimony presented to the administrator. Although additional evidence may be brought before the hearing officer,

the hearing shall not be deemed a "hearing de novo"; and the record before the administrator shall be incorporated into the record before the hearing officer, supplemented by such additional evidence as may be brought before the hearing officer. Any direct appeal from the administrator's decision shall be deemed a "hearing de novo."

(2) The hearing officer shall be guided by the previously adopted ordinance, state and federal law, and established case law.

(3) The burden shall be upon the appellant to show that the decision of the administrator cannot be sustained by a preponderance of evidence.

(4) The hearing officer's determination shall include appropriate findings of fact, conclusions of law, and decisions in the matter of the appeal. The hearing officer may affirm, affirm with conditions, or reverse the decision of the administrator.

(5) The hearing officer shall file his written determination on each administrative hearing with the administrator within 30 days of the date of the hearing; and a copy shall be provided to the city clerk, the complainant and respondent.

(6) The decision of the hearing officer shall be final, subject only to judicial review.

(f) A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person seeking relief with respect to that discriminatory housing practice.

(g) The city attorney shall provide legal representation for the complainant in such administrative hearings, unless the complainant desires to be represented by his own private counsel.

(Code 1984, § 12-19; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-55. Administrative penalties.

(a) If the hearing officer or the administrator determines at a hearing under section 11-54 that a respondent has engaged in or is about to engage in a discriminatory housing practice, the hearing officer may order the appropriate relief, including actual damages, reasonable attorney's fees, costs, and other injunctive or equitable relief.

(b) If the administrator determines that a respondent has engaged in or is about to engage in a discriminatory housing practice, the administrator may order the appropriate relief, including actual damages, reasonable attorney's fees, costs and other injunctive or equitable relief.

(c) To vindicate the public interest, the hearing officer or the administrator may assess a civil penalty against the respondent in an amount that does not exceed:

(1) Ten thousand dollars if the respondent has been adjudged by order of the administrator or hearing officer to have committed a prior discriminatory housing practice;

(2) Except as provided in subsection (d) of this section, \$25,000.00 if the respondent has been adjudged by order of the administrator or the hearing officer to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and

(3) Except as provided by subsection (d) of this section, \$50,000.00 if the respondent has been adjudged by order of the administrator or hearing officer to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.

(d) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the administrative penalties in subsection (c)(2) and (3) of this section may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(e) At the request of the administrator, the city attorney shall sue to recover an administrative penalty due under this section. Funds collected under this section shall be paid to the city and shall be used to offset expenses incurred by the administrator or city attorney in enforcing this article.

(f) The penalties provided for under this section are applicable regardless of whether the administrator or complainant initiated the investigation under this article.

(Code 1984, § 12-20; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-56. Exceptions to effect hearing officer's order.

An order from the hearing officer under section 11-54 does not affect a contract, sale, encumbrance, or lease that:

(1) Was consummated before the administrator issued the order; and

(2) Involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge filed under this article.

(Code 1984, § 12-21; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-57. Licensed or regulated business.

If the hearing officer issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, or its designee, shall, not later than the 30th day after the date of the issuance of the order:

(1) Send copies of the findings and the order to the governmental agency; and

(2) Recommend to the governmental agency appropriate disciplinary action.

(Code 1984, § 12-22; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-58. Land use law.

If the administrator determines that the matter involves the legality of a state or local zoning or other land use law or ordinance, the administrator may not issue a charge beyond the scope and the purposes of this article and shall immediately refer the matter to the city attorney for appropriate action.

(Code 1984, § 12-23; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-59. Additional remedies.

The procedures prescribed by this article do not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this article shall be deemed to modify, impair or otherwise affect any right or remedy conferred by the Constitution or laws of the United States or the state, and the provisions of this article shall be in addition to those provided by such other laws.

(Code 1984, § 12-24; Ord. No. 80-O-1821, § 1(21A-199), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)

Sec. 11-60. Education and public information.

The administrator may conduct educational and public informational activities that are designed to promote the policy of this article.

(Code 1984, § 12-25; Ord. No. 80-O-1821, § 1(21A-10), 12-9-1980; Ord. No. 92-O-0019AA, 11-10-1992)