

Chapter 10

DISCRIMINATION

Art. I. In General, §§ 10-1--10-20

Art. II. Fair Housing Regulations, §§ 10-21--10-34

ARTICLE I.

IN GENERAL

Secs. 10-1--10-20. Reserved.

ARTICLE II.

FAIR HOUSING REGULATIONS*

* **Editors Note:** Ord. No. 2002-98, § 2, adopted Dec. 3, 2002, amended Art. II, in its entirety, to read as herein set in §§ 10-21--10-34. Prior to inclusion of said ordinance, Art. II pertained to similar subject matter. See the Code Comparative Table.

Sec. 10-21. Title.

This article shall be known as the "Lake County Fair Housing Ordinance."
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-22. Declaration of policy.

It is hereby declared to be the policy of Lake County in the exercise of its police power for the public safety, public health and public welfare, to assure an equal opportunity for all persons in Lake County to obtain adequate housing, regardless of race, color, sex, religion, national origin, familial status, or handicap and to that end, eliminate discrimination in housing.
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-23. Definitions

When used herein the following shall mean:

Adult means any person herein defined as being at least eighteen (18) years of age.

Aggrieved person includes any person who:

- (1) 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.

Board means Board of County Commissioners of Lake County, Florida.

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, the respondent and the board, its appointed board or hearing officer.

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

Covered multifamily dwellings means buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and ground floor units in other buildings consisting of four (4) or more units.

Discriminatory housing practice means an act that is unlawful under sections 10-25, 10-26, 10-27 or 10-28 of this article or the existence or use of a policy or practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons to apply for or receive the benefits of assistance because of race, color, religion, sex or national origin, in the sale, rental or other disposition of residential property or related facilities (including land to be developed for residential use) or in the use or occupancy thereof.

Dwelling means any building, structure or portion thereof which is occupied as, or designated 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 thereon of any such building, structure or portion thereof.

Familial status refers to households which include one or more individuals who have not attained the age of eighteen (18) years being domiciled with (1) A parent or another person having legal custody of such individual or individuals; or (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody or any individual who has not attained the age of eighteen (18) years.

Family means one (1) or more individuals living on the premises as a single housekeeping unit.

Handicap means:

- (1) A mental or physical impairment that substantially limits a person in carrying out one (1) or more life activities. A person has a disability pursuant to this paragraph if he or she has such an impairment, if he or she has a record of having such impairment, or if he or she is regarded as having such impairment.
- (2) Such term does not include current, illegal use of or addiction to any drug or illegal or federally controlled substance.

- (3) A developmental disability as defined in Chapter 393, Florida Statutes, Section 393.063.
 - a. Major life activity means a function such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; and
 - b. Substantially limited means likely to experience difficulty in securing, retaining or advancing in employment opportunities because of a disability.

Person includes one (1) or more individuals, a corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.

Residential real estate transaction means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - b. Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

Respondent means:

- (1) The person or other entity accused in a complaint of an unfair housing practice; and
- (2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under sections 10-30 and 10-31.

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

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-24. Exemptions

- (a) Section 10-25 below does not:
 - (1) Prohibit a religious organization, association, or society, or any non-profit 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 dwellings 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 because of race, color or national origin;

- (2) Prohibit a private club, not in fact open to the public, which 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.
- (3) Limit the applicability of any reasonable local, State of Florida or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling; or
- (4) Prohibit conduct against a person because such person has been convicted by any court of competent jurisdictions of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) Nothing in this article regarding discrimination based upon familial status applies with respect to housing for older persons as outlined in 24 CFR, Part 100, Chapter 1, Subchapter A, Fair Housing, Subpart E, Housing for Older Persons.

- (1) In order for a housing facility or community to qualify as housing designed for persons who are 55 years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. The following factors, among others, are considered relevant in determining whether the housing facility or community has complied with this requirement:
 - a. The manner in which the housing facility or community is described to prospective residents;
 - b. Any advertising designed to attract prospective residents;
 - c. Lease provisions;
 - d. Written rules, regulations, covenants, deed or other restrictions;
 - e. The maintenance and consistent application of relevant procedures;
 - f. Actual practices of the housing facility or community; and
 - g. Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.
- (2) Phrases such as "adult living," "adult community," or similar statements in any written advertisement or prospectus are not consistent with the intent that the housing facility or community intends to operate as housing for persons fifty-five (55) years of age or older.
- (3) If there is language in deed or other community or facility documents which is inconsistent with the intent to provide housing for persons who are fifty-five (55) years of age or older, per 24 CFR 100.306(c), the United States Department of Housing and Urban Development shall consider

documented evidence of a good faith attempt to remove such language in determining whether the housing facility or community complies with the requirements of this section in conjunction with other evidence of intent.

(4) A housing facility or community may allow occupancy by families with children as long as it meets the requirements of 24 CFR 100.305 and 24 CFR 100.306(a).

(c) Nothing in this article, other than the prohibitions against discriminatory advertising in section 10-25(c) below applies to:

(1) The sale or rental of any single-family house by an owner, provided the following conditions are met:

a. The owner does not own or have any interest in more than three (3) single-family houses at any one (1) time.

b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any persons in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in paragraph (c)(1) of this section applies to only one (1) such sale in any twenty-four (24) hour period.

(2) 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 (1) of such living quarters as his or her residence.

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-25. Discrimination in the sale or rental of housing.

Except as exempted by section 10-24, it shall be unlawful:

(1) To refuse to sell or rent a dwelling after a bona fide offer has been made or to refuse to negotiate for the sale or rental of a dwelling or otherwise make unavailable or deny a dwelling to any person because of race, color, sex, religion, national origin, familial status or handicap.

(2) To discriminate against any person in the terms, conditions or privileges or sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, color, sex, religion, national origin, familial status or handicap.

(3) 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 upon race, color, sex, religion, national origin, familial status or handicap, or an intention to make any such preference, limitation or discrimination.

(4) To represent to any person because of race, color, sex, religion, national origin, familial status or

handicap that a dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

- (5) To engage in blockbusting practices or induce or attempt to induce any person to sell or rent any dwelling for profit by making representations regarding the entry into the neighborhood of a person or persons a particular race, color, sex, religion, national origin, familial status or handicap.
- (6) To engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, sex, religion, national origin, familial status or handicap.
- (7)
 - a. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap 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 that buyer or renter.
 - b. To discriminate against any person in 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 handicap of:
 1. That person; or
 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 that person.
 - c. For purposes of this subsection, discrimination includes:
 1. 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 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's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 2. A refusal to make reasonable accommodation 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

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty (30) months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:
 - i. The public use and common use portions of such dwellings are readily accessible and usable by handicapped persons;
 - ii. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - iii. 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; and
 - D. Usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

Nothing in this section 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.

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-26. Discrimination in residential real estate-related transactions.

In general it shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-27. Discrimination in the financing of housing.

It shall be unlawful for any bank, savings and loan association, mortgage company, insurance company or other corporation, association, firm or enterprise whose business includes in whole or in part the making of residential or commercial real estate loans, or both, to deny a loan of other financial assistance to a person

applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or dwellings to discriminate against him or her in the fixing of the amount, or financial assistance because of race, color, sex, religion, national origin, familial status or handicap of such person or any person associated with him or her in connection with such loan or other financial assistance 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; provided that nothing contained in this section shall impair the scope or effectiveness of the exemption contained in section 10-24.

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-28. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to membership or participation, or to discriminate against any person in his or her access to or membership or participation in any multiple listing service, real estate brokers' association, or other service organization or facility relating the business of selling or renting dwellings or in the terms or conditions or membership or participation because of race, color, religion, national origin, familial status or handicap.

(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-29. Administration.

- (a) The authority and responsibility for administering this article shall be with the board.
- (b) The board may; delegate its functions, duties and powers to an appointed board, or an appointed hearing officer, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any matter included in this article.
- (c) The board, its appointed board or hearing officer shall:
 - (1) Implement the provisions of this article and rules and regulations promulgated hereunder and all ordinances, Lake County Code provisions, rules and regulations pertaining to housing discrimination.
 - (2) Receive, initiate, and investigate any and all complaints alleging violations of this article, and take appropriate action to eliminate, conciliate, prevent, or initiate prosecution of any such violations.
 - (3) Provide assistance in all matters relating to equal housing opportunity.
 - (4) Publish and disseminate public information and educational materials relating to housing discrimination.
 - (5) Enter into written working agreements, as may be necessary to effectuate the purposes of this article, with federal, state and county agencies involved in reducing housing discrimination.
 - (6) Administer oaths and compel the attendance of witnesses and the production of evidence before

it by subpoenas issued by the board, its appointed board or hearing officer.

(7) Take informational, educational or persuasive actions to implement the purposes of this article. (Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-30. Procedure.

(a) Any person aggrieved by an unlawful practice prohibited by this article shall file a written complaint with the county manager or a designee or the county staff person assigned to the board's appointed board or hearing officer within forty-five (45) days after the alleged unlawful practice occurs.

(b) Upon receipt of a complaint the board, its appointed board or hearing officer shall serve upon the individual charged with a violation, hereinafter referred to as the respondent, the complaint and written resume setting forth the rights of both parties including, but not limited to, the right of the respondent to a hearing on the matter before any consideration by the board, its appointed board or hearing officer.

(c) The board, its appointed board or hearing officer shall immediately investigate the complaint. Within sixty (60) days from the date of receipt of the complaint, or as soon thereafter as feasible based upon the complexity of the complaint and schedule of meetings, the board, its appointed board or hearing officer shall issue a written report with findings of fact.

(d) Copies of the board's report, its appointed board's report or hearing officer's report shall be sent to the complainant and the respondent. Either may within fifteen (15) days after the date of such report, request a hearing before the board, the appointed board or hearing officer.

(e) When the complainant or the respondent requests a hearing by the board, its appointed board or hearing officer, or when the board, its appointed board or hearing officer determines that a hearing is desirable, the board, its appointed board or hearing officer shall schedule and conduct such hearing in accordance with section 10-31 below.

(f) The board, its appointed board or hearing officer shall implement the actions specified in its report, or if a hearing is held, shall implement the actions determined to be appropriate by the board, its appointed board or hearing officer in the hearing.

(g) The board, its appointed board or hearing officer in its review may determine:

(1) That the complaint lacks ground upon which to base action for violation of this article, or

(2) That the complaint has been adequately dealt with by conciliation of the parties, or

(3) That an order requiring compliance is deemed appropriate, and

(4) If the board's, appointed board's or hearing officer's order is not complied with that the case warrants filing charges against the offending party in the appropriate court.

(h) If the board, its appointed board or hearing officer issues an order to correct, adjust, conciliate, prevent or prohibit any unlawful act prohibited by this article, and the respondent refuses or fails to comply with or obey such adjudication, the board, its appointed board or hearing officer shall forthwith request that the state attorney file a complaint in the appropriate court. The board, its appointed board or hearing officer shall, at all times, provide the complainant with full and timely information as to all the alternatives available to him or her under county, state and federal law, including assistance to initiate judicial action if desired, under the circumstances.

(i) The provisions of the Florida Rules of Civil Procedure shall govern the computation of any period of time prescribed by this article.

(j) All papers or pleadings required to be served by this article may be served by certified mail or in accordance with the provisions of the Florida Rules of Civil Procedure.
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-31. Hearing.

(a) When a hearing is required before the board, its appointed board or hearing officer, as specified in section 10-30(e) above, the board, its appointed board or hearing officer shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice and the board's, its appointed board's or hearing officer's written report required by section 10-30(d) above.

(b) The parties or their authorized representatives, which may include counsel, may file such statements with the board, its appointed board or hearing officer prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the board, its appointed board or hearing officer in person or by duly constituted representatives and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The board, its appointed board or hearing officer shall not be bound by strict rules of evidence prevailing in courts of law or equity, but due process shall be observed. The board, its appointed board or hearing officer shall keep a full record of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings the board, its appointed board or hearing officer shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself or herself shall be scrupulously observed.

(c) The board, its appointed board or hearing officer shall make findings of fact and determine the action pursuant to section 10-30(g) above.

(d) The board, its appointed board or hearing officer may issue subpoenas for the production of records, documents, the appearance of individuals and production of other evidence or possible sources of evidence relative to the complaint at issue.

(e) Upon written application to the board, its appointed board or hearing officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the board, the appointed board or hearing officer and to the same extent and subject to the same limitations as subpoenas issued by the

board, its appointed board or hearing officer itself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(f) Witnesses summoned by subpoena of the board, its appointed board or hearing officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the state courts of Florida. Fees payable to a witness summoned by subpoena issued at the request of a respondent shall be paid by the respondent, unless he or she is indigent in which case the board shall bear the cost of such fees.

(g) Within fifteen (15) days after service of a subpoena upon any person, such person may petition the board, its appointed board or hearing officer to revoke or modify the subpoena. The board, its appointed board or hearing officer shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires the production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reasons.

(h) In case of refusal to obey a subpoena, the board, its appointed board or hearing officer or the person at whose request it was issued may petition for its enforcement in the appropriate court.
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-32. Other remedies.

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he or she might be otherwise entitled from the filing of any complaint with any other agency or court having proper jurisdiction over discriminatory housing practices.
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-33. Report to the real estate commission.

If a real estate broker, a real estate salesperson or an employee thereof has been found to have committed an unlawful practice in violation of this article or has failed to comply with an order issued by the board, its appointed board or hearing officer shall, in addition to the other procedures set forth herein, report the facts to the State of Florida Real Estate Commission.
(Ord. No. 2002-98, § 2, 12-3-02)

Sec. 10-34. Penalty.

Violations of the provisions of this article shall be prosecuted pursuant to Chapter 125, Florida Statutes, Section 125.69.
(Ord. No. 2002-98, § 2, 12-3-02)