

Chapter 15 - HUMAN RIGHTS^[1]

Footnotes:

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State Law reference— Home rule powers of chartered counties, Fla. Const., art. VIII, § 1(g); discrimination, F.S. § 760.01 et seq.

ARTICLE I. - IN GENERAL

Secs. 15-1—15-10. - Reserved.

ARTICLE II. - RESERVED^[2]

Footnotes:

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Editor's note—Ord. No. 95-27, § 1, adopted July 18, 1995, amended the Code by deleting Art. II, §§ 15-11—15-18. Former Art. II pertained to a commission on the status of women, and derived from Ord. No. 73-9, adopted June 19, 1973; Ord. No. 85-18, adopted July 2, 1985; and Ord. No. 91-6, adopted Jan. 22, 1991.

Secs. 15-11—15-35. - Reserved.

ARTICLE III. - HOUSING, PLACES OF PUBLIC ACCOMMODATION^[3]

Footnotes:

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Editor's note—Ord. No. 2014-019, adopted July 22, 2014, repealed Art. III and enacted a new article as set out herein. The former Art. III, §§ 15-36—15-64, pertained to similar subject matter and derived from Ord. No. 90-1, §§ 1—29, adopted Jan. 16, 1990; Ord. No. 95-42, §§ I—VII, IX—XXIII, adopted Oct. 17, 1995; Ord. No. 96-23, §§ I—VI, adopted Aug. 20, 1996; and Ord. No. 07-042, §§ 1—14, adopted Dec. 18, 2007.**State Law reference**— Home rule powers of chartered counties, Fla. Const., Art. VIII, § 1(g).

Sec. 15-36. - Purpose.

It is hereby declared to be the policy of the Board of County Commissioners, in the exercise of its police power for the public safety, public health, and general welfare, to assure, within constitutional limitations, equal opportunity to all persons to live in available housing facilities regardless of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression, and, to that end, to prohibit discrimination in housing by any person. It is also hereby declared to be the policy of the Board of County Commissioners, in the exercise of its police power for public safety, public health and general welfare, to assure, within constitutional limitations, equal opportunity to all persons, regardless of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression, to participate in the full and equal enjoyment of the goods, services, facilities, privileges, advantages and, to that end, to prohibit discrimination in places of public accommodation.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-37. - Definitions.

When used herein:

- (1) *Person* includes one (1) or more individuals, partnerships, associations, corporations, unincorporated organizations, legal representatives, trustees and trusts, trustees in bankruptcy, labor organizations, mutual companies, joint-stock companies, receivers, or fiduciaries.
- (2) The term *unlawful discriminatory practice* includes only those practices specified in sections 15-57 through 15-61 hereof.
- (3) The term *Board*, unless a different meaning clearly appears from the context, means the Fair

Housing Board, created by section 15-39.

- (4) Each of the following establishments which serve the public is a place of *public accommodation* within the meaning of this article:
- a. Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five (5) rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his/her residence;
 - b. 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;
 - c. Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and
 - d. Any establishment:
 - (i) 1. Which is physically located within the premises of any establishment otherwise covered by this subsection; or
 2. Within the premises of which is physically located any such covered establishment; and
 - (ii) Which holds itself out as serving patrons of such covered establishment. Such term shall not include any institution, club or place of accommodation which is in its nature distinctly private and not in fact open to the public.
- (5) *Dwelling* or *housing* means any real property, building, mobile home or trailer, structure or portion thereof which is used or occupied as, or is intended, arranged or designed to be used or occupied as, the home, residence or sleeping place of 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.
- (6) *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.
- (7) The term *family* includes the grandparents, parents, children, brothers and sisters, whether by marriage, legal adoption or blood, and their spouses and children, of either the property owner or spouse of the property owner; and the term "family" also includes a single individual.
- (8) The term *complainant* shall mean the person filing the complaint pursuant to this article.
- (9) The term *respondent* shall mean the person or other entity accused in the complaint of an unlawful discriminatory practice and any other person or entity identified in the course of investigation not named as a respondent in the initial complaint who may be joined as an additional or substitute respondent upon written notice.
- (10) *Disability* means with respect to a person:
- a. A physical or mental impairment which substantially limits one (1) or more of such person's major life activities.
 - b. A record of such an impairment; or
 - c. Being regarded as having such an impairment.
 - d. Disability does not include the current illegal use or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

- e. As used throughout this article, prohibitions against discrimination on the basis of disability includes disabilities of the patron, buyer or renter, or of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available or of any person associated with the buyer, or renter or patron.
- (11) *Familial status* means one (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with:
- a. A parent or another person having legal custody of such individual or individuals; or
 - b. 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 of any individual who has not attained the age of eighteen (18) years.
- (12) *Sexual orientation* means male or female homosexuality, heterosexuality or bisexuality, by preference or practice.
- (13) *Conciliation* means the attempted resolution of issues raised by the complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Office of Equal Opportunity.
- (14) *Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.
- (15) *Prevailing party* has the same meaning as such term has in Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).
- (16) *Multifamily dwelling* means:
- a. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and
 - b. Ground floor units in other buildings consisting of four (4) or more units.
- (17) *Residential real estate related transaction* means any of the following:
- a. The making or purchasing of loans or providing other financial assistance:
 - (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (ii) Secured by residential real estate.
 - b. The selling, brokering or appraising of residential real property.
 - c. Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
- (18) *Housing for older persons* means housing:
- a. Provided under any state or federal program that the OEO or the Board determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or
 - b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
 - c. Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit in eighty (80) percent of the units, provided that the occupancy of such housing can be verified in accordance with rules established by the U. S. Department of

Housing and Urban Development and provided that the housing facility publishes and adheres to policies and procedures that demonstrate the intent to provide housing for older persons.

- d. Housing shall not fail to be considered housing for older persons if:
 - (i) A person who resides in such housing on or after September 13, 1988, does not meet the age requirements of this subsection provided that any new occupant meets such age requirements; or
 - (ii) 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.
 - e. In determining whether housing meets the requirements of housing for older persons, the County will utilize current federal regulations regarding criteria for housing for older persons.
- (19) *Gender identity or expression* means a gender-related identity, appearance, expression or behavior of an individual, regardless of the individual's assigned sex at birth.
- (20) *OEO* means the Palm Beach County Office of Equal Opportunity.
- (21) *Director* means the director of the OEO.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-38. - Office of Equal Opportunity (OEO).

The County Administrator exercising his/her power of appointment shall employ a Director ("Director") of the OEO and such other personnel in the OEO as may be provided for in the budget approved by the Board of County Commissioners and for which an appropriation has been made. The staffing complement shall be referred to as the OEO. It shall be the responsibility of the Director and/or the Director's designee to investigate complaints of discrimination prohibited by this article, attempt to conciliate and mediate complaints of discrimination, and to perform such other duties of an administrative nature as may be assigned by the County Administrator.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-39. - Fair Housing Board (Board).

The Board is hereby created and established. The Board is to be comprised of nine (9) citizens of the county appointed by the Board of County Commissioners to serve for terms of three (3) years. There shall be a limit of three consecutive three-year terms. Terms shall begin on October 1st, and end on September 30th. All Board members must be residents of Palm Beach County at the time of appointment and while serving on the Board. Board appointments should reflect, to the greatest extent possible, the racial, gender and ethnic make-up of the community. Members of this Board shall be the same as members of the Equal Employment Board created by the Palm Beach County Equal Employment Ordinance as codified in Sections 2-261 through 2-313 of the Palm Beach County Code. Seven (7) of the appointments shall be made as district appointments and two (2) of the appointments shall be made at large by the Board of County Commissioners on the basis of community representation, integrity, experience and interest in the area of equal opportunities. In order that the terms of office of all members shall not expire at the same time, all current members of the Board shall serve the remainder of their respective terms, if they so elect. Any member who elects not to serve the remainder of their term shall be replaced by appointments made by the Board of County

Commissioners to serve the unexpired portion of the term. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term. Each member shall serve without compensation. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill Board member responsibilities when sufficient funds have been budgeted and are available as set forth in PPM CW-O-038. No other expenses are reimbursable except documented long distance phone calls to the OEO. Approval authority for pre-authorized Board member travel is designated to the County Administrator and Deputy County Administrator and shall be in accordance with Countywide Policy and Procedures Memoranda (PPM) CW-F-009. Each district appointee serves at the pleasure of the appointing Commissioner and may be removed without cause by the appointing Commissioner at any time, and at large appointees may be removed without cause by a majority vote of the Board of County Commissioners at any time. The maximum number of boards that an individual appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3), however, membership on the Equal Employment Board and this Board shall only be considered membership on one (1) advisory board. Members shall comply with the applicable provisions of the Palm Beach County Code of Ethics, as codified in Section 2-441 through 2-448 of the Palm Beach County Code and the State Code of Ethics. Abstention from voting due to a conflict of interest on more than three (3) separate matters during a calendar year shall result in automatic removal. Members shall be automatically removed for lack of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or failure to attend more than one-half ($\frac{1}{2}$) of the meetings scheduled during a calendar year. Participation for less than three-fourths ($\frac{3}{4}$) of a meeting shall be the same as failure to attend a meeting. Members removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall create a vacancy. Board members shall not be prohibited from qualifying as a candidate for elected office. County employees, other than Commissioners' Aides, may not be appointed to the Board. Former Board of County Commission members may not be appointed to the Board for at least two (2) years following their last day in office as a County Commissioner. Members of the Board shall appoint a chairperson and vice-chairperson, and the Board may promulgate rules and regulations for the conduct of its meetings and affairs.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-40. - Board terms, rules and regulations.

The following rules and regulations shall govern the operation of the Board:

- (1) The chairperson of the Board shall be elected by majority vote of the Board and shall serve for a term of one (1) year and have the following duties:
 - a. Call Board meetings and set the agenda for the same.
 - b. Preside at Board meetings.
 - c. Sign subpoenas.
 - d. Perform such other functions as the Board may assign by rule or order.
- (2) The vice-chairperson shall be elected by majority vote of the Board and shall serve for a term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in the chairperson's absence and such other duties as the chairperson may assign.
- (3)

If a vacancy occurs in the office of chairperson, the vice-chairperson shall become the chairperson for the unexpired term of the chairperson. If a vacancy occurs in the office of vice-chairperson, the Board will elect another member to fill the unexpired term of the vice-chairperson.

- (4) At least three (3) members of the Board or any other odd number shall constitute a hearing panel for the purpose of hearing discrimination complaints. A majority of members appointed shall constitute a quorum to hold a meeting for any other purpose. Board business shall be taken by a majority vote.
- (5) All meetings shall be governed by Robert's Rules of Order.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-41. - Board meetings.

The Board shall comply with the Sunshine Law. The Board shall meet on a regular basis and as necessary to conduct administrative hearings. Reasonable notice of the time and place of the meeting shall be given to all Board members and all parties scheduled to be heard, and shall be made public. All meetings of the Board shall be open to the public. The chairperson may call an unscheduled meeting upon not less than twenty-four (24) hours notice, and preferably at least seventy-two (72) hours reasonable notice to the public, and meetings may also be called by the Director upon the request of three (3) members of the Board. The County Administrator shall provide such staff as may reasonably be required in his/her discretion to assist the Board in the performance of its duties. The County Administrator shall provide a regular meeting place for the Board.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-42. - Objectives of the Board.

The objectives of the Board shall be:

- (1) To promote and encourage fair treatment and equal opportunity in housing and public accommodation for all persons regardless of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression; to promote and encourage mutual understanding and respect among such persons and to endeavor to eliminate discrimination in housing and public accommodation against and antagonism between such persons;
- (2) To cooperate with governmental and nongovernmental agencies and organizations having like or kindred functions;
- (3) To make such investigations and studies in the field of fair housing and public accommodation as in its judgment will aid in effectuating its general purposes;
- (4) To assist various groups and agencies of the community to cooperate in educational programs and campaigns devoted to the elimination of discrimination in housing and places of public accommodation;
- (5) To aid in permitting the County to benefit from the fullest realization of its housing and public accommodation resources;
- (6) To recommend to the Board of County Commissioners the acceptance of certain grants and contracts from foundations and other sources for the purposes of carrying out the purposes of this article; and

- (7) To recommend to the Board of County Commissioners methods for elimination of discrimination and intergroup tensions. The objectives set forth above are not to be construed as duties, and the Board of County Commissioners shall have the discretion to determine when each objective is implemented.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-43. - Powers and duties of the Board.

The powers and duties of the Board shall be:

- (1) To refer or accept referral of complaints when appropriate and to cause, through the OEO, investigations of:
 - a. Tension or prejudice in relation to all housing and public accommodation matters involving race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
 - b. Discrimination against any person by any person with regard to housing and public accommodation matters on the basis of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
- (2) To receive, initiate, seek to conciliate, hold hearings upon and adjudicate complaints alleging violations of this article; to recommend methods and alternatives for eliminating injustices occasioned thereby to carry out and enforce the purpose of this article.
- (3) To administer oaths, subpoena witnesses, and compel production of evidence pertaining to any hearing convened pursuant to the powers and duties authorized by this article.
- (4) To subpoena witnesses and compel production of evidence requested by the OEO relating to an investigation being conducted pursuant to this article.
- (5) To meet and exercise its power in any place within the county.
- (6) To issue remedial orders prohibiting violations of this article and providing affirmative relief from the effects of the violation as specified in section 15-55.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-44. - Powers and duties of the Director.

The powers and duties of the Director and/or the Director's designee shall be:

- (1) To investigate:
 - a. Tension or prejudice in relation to all housing and public accommodation matters involving race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
 - b. Discrimination against any person by any person with regard to housing and public accommodation matters on the basis of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
- (2) To have access during an investigation, at all reasonable times, to premises, and may examine records, documents, and other evidence or possible sources of evidence, and record the testimony or statements of such persons as are reasonably necessary for the furtherance of

the investigation provided that the Director and/or the Director's designee complies with the provisions of the federal and state constitutions relating to unreasonable searches and seizures.

- (3) To attempt to conciliate and mediate complaints of discrimination brought pursuant to this article.
- (4) To prepare conciliation agreements embodying any agreement reached by the parties relating to the complaint, and advise the Board of such agreement.
- (5) To dismiss complaints of discrimination upon a finding of no reasonable cause under this article.
- (6) To administer oaths.
- (7) To exercise all powers reasonable and necessary to fulfill the purposes of this article.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-45. - Filing of complaints.

Any person who claims to have been injured by an unlawful discriminatory practice or who believes that he/she will be injured by an unlawful discriminatory practice that is about to occur may file a sworn written complaint with the OEO, 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 the facts surrounding the alleged unlawful discriminatory practice and such other information as may be required by the OEO. The Director, with the Board's approval, may also file such a complaint. The complaint shall be filed not later than one (1) year after the date of the alleged unlawful discriminatory practice in order to be processed under this article. The complaint may be reasonably and fairly amended at any time.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-46. - Notice of complaint.

Upon the filing of the complaint, the Director shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this article. The Director or the Director's designee shall, not later than ten (10) days after such filing or the identification of an additional respondent, serve on the respondent a notice, by certified mail, identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this article, together with a copy of the original complaint. The respondent may file a sworn written answer to the complaint within ten (10) days of receipt of the complaint. Failure to file an answer by the respondent shall not result in any presumption of admission to the allegations in the complaint. Any subsequent amendment to the complaint or answer thereto shall be served by U.S. mail.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-47. - Processing complaints.

The OEO shall commence its investigation under this article within thirty (30) days of the receipt of a sworn written complaint. Within one hundred (100) days of the filing of the complaint as set forth in section 15-45, the staff of the OEO shall make such investigation as the Director deems appropriate to ascertain facts and issues. If the OEO is unable to complete the investigation within one hundred (100) days after the filing of the complaint, they shall notify the complainant and the respondent in writing of

the reasons for not doing so. In conducting an investigation to ascertain whether or not there has been a violation of this article, the Director and/or the Director's designee shall have access at all reasonable times to premises, and may examine records, documents, and other evidence, or possible sources of evidence, and may record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation provided that the OEO complies with the provisions of the federal and state constitutions relating to unreasonable searches and seizures. The Director, the Director's designee or the Board may issue subpoenas to compel access to, or the production of, such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in court. In the case of a refusal to obey a subpoena issued to any person, or refusal to comply with any method of discovery authorized in the Florida Rules of Civil Procedure, the Board and/or the Director shall request the County Attorney to make application to the appropriate court to order the witness to comply with a request for discovery, or to appear before the Board and to produce evidence, if so requested, or to give testimony concerning the matter in question. Failure to obey the order may be punishable by the court as contempt. The Director and/or the Board may administer oaths. The OEO shall endeavor to achieve final administrative disposition of the complaint within one (1) year of its filing, unless it is impracticable to do so. If final administrative disposition is impractical to achieve within one (1) year of the filing of the complaint, the parties shall be provided notice which shall state the reasons why it is impractical to achieve final disposition within one (1) year.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-48. - Withdrawal of complaint.

A complaint filed pursuant to this article may be withdrawn at any time by the complaining party upon notifying the OEO; however, the Director may continue action against the respondent if the facts establish reasonable cause to support a finding of discrimination and the Board approves such further action.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-49. - Preservation of records.

Following service of the complaint in the manner provided herein, the respondent shall preserve all personnel records, property records, or any other written or documentary material relating to the complaint until the complaint has been resolved.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-50. - Dismissal of complaint.

Any complaint filed pursuant to this article shall be dismissed by the Director or the Board upon the following grounds:

- (1) The complainant has failed or refused to cooperate or the complainant cannot be located after reasonable efforts to do so have been made and after at least ten (10) days' notice to the complainant by certified mail to the complainant's last known address and the complainant has failed to duly respond;
- (2) The complaint has not been timely filed with the OEO;

- (3) The Director determines that no reasonable cause exists to believe that a discriminatory practice has occurred or is about to occur.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-51. - Investigation procedure.

After the complaint has been filed, the OEO shall conduct an investigation. The OEO may utilize the services and information gathered from other public agencies charged with the administration of equal opportunity laws. The following procedures shall be followed:

- (1) *Complaint verification.* As part of the investigation process, the complaining party may be required to provide an additional sworn written statement, which shall include:
 - a. A statement of each particular harm or potential harm which the aggrieved person has suffered or will suffer and the date on which each harm occurred or will occur;
 - b. For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;
 - c. For each act, policy or practice alleged to have harmed the aggrieved person, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory.
- (2) *Requests for information.* In investigating the complaint, the OEO may obtain information by:
 - a. Oral interview; and/or
 - b. Requests for written statement or affidavit; and/or
 - c. Any discovery methods set forth in the Florida Rules of Civil Procedure.
- (3) *Complainant's duty to cooperate.* The complainant shall appear or be available for interviews and provide necessary information requested by the OEO pursuant to this section. Failure to do so may result in dismissal of the complaint.
- (4) *Access to files during investigation.* Information obtained during the investigation of the complaint shall be disclosed only to the complainant, the respondent, or their authorized representative, or to witnesses, only when disclosure is deemed necessary by the Director for the investigation or for securing appropriate disposition of the complaint. The Director may direct that a particular record, document or portion thereof be withheld from inspection by a party only when necessary for the protection of a witness or third party, or for the preservation of a trade secret and in accordance with the provisions of the Florida Public Records Law (F.S. § 119.01 et seq.).

(Ord. No. 2014-019, 7-22-14)

Sec. 15-52. - Determination of reasonable cause; notice.

- (a) Upon completion of an investigation, if the issue(s) alleged in the complaint has not been settled or withdrawn, the Director shall make a determination based on the facts whether reasonable cause exists to believe that an unlawful discriminatory practice has occurred or is about to occur.
- (b) If a notice of determination of reasonable cause is issued, the notice shall include an invitation to participate in conciliation.
- (c) After service of a notice of determination, records and documents in the custody of the OEO that pertain to the determination shall be open for public inspection in accordance with the provisions of the Florida Public Records Law (F.S. § 119.01, et seq.).

(Ord. No. 2014-019, 7-22-14)

Sec. 15-53. - Finding of reasonable cause; conciliation procedure.

- (a) During the period beginning with the filing of the complaint and ending with the final disposition, the OEO shall, to the extent feasible, engage in conciliation with respect to such complaint. Where such conciliation attempts are successful, the agreement shall be between the complainant, aggrieved person(s) and the respondent subject to approval by the Director. The terms of the agreement shall be reduced to writing and signed by the complainant, aggrieved person(s), the respondent and the Director. The original of the signed agreement shall be filed with the OEO, and copies shall be sent to the respondent, complainant, aggrieved person(s) and the Board.
- (b) When an agreement has not been signed, and the complaint has not been withdrawn or dismissed, the Director shall send a notice of failure of conciliation to the complainant and the respondent not less than thirty (30) days after issuance of a notice of determination of reasonable cause.
- (c) Nothing said or done in the course of the conciliation process may be made public or used as evidence in subsequent proceedings under sections 15-54 through 15-56 without the written consent of the parties. Any employee of the OEO who makes public any such information in violation of this provision shall be prosecuted in the same manner as a misdemeanor of the second degree, punishable as provided in F.S. Ch. 775. Final executed and approved conciliation agreements will be made public.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-54. - Enforcement.

- (a) In any proceeding brought pursuant to this article, the burden of proof is on the complainant.
- (b) A complainant may commence a civil action under this article whether or not the complaint has been filed and without regard to the status of any such complaint. However, if the OEO has obtained an agreement with the consent of a complainant, no action may be filed under this article by such complainant with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (c) Whenever an action filed in either federal or state court pursuant to this article, or any federal or state laws protecting the same rights stated herein comes to trial, the OEO and the Board shall immediately terminate all efforts to obtain voluntary compliance.
- (d) If the Board of County Commissioners concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the Board of County Commissioners shall direct the County Attorney to institute a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this article. The commencement of a civil action under this subsection shall not affect the initiation or continuation of proceedings under this article. The Board of County Commissioners need not have petitioned for administrative hearing or exhausted the administrative remedies prior to requesting the commencement of a civil action.
- (e) The court may award actual and punitive damages and may impose the following civil penalties for each violation of this article:
 - (1) Up to ten thousand dollars (\$10,000.00), if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
 - (2)

Up to twenty-five thousand dollars (\$25,000.00), if the respondent has been adjudged by order of the Board or a court to have committed one (1) prior discriminatory housing practice within the preceding five-year period ending on the date of the filing of this complaint.

(3) Up to fifty thousand dollars (\$50,000.00), if the respondent has been adjudged by order of the Board or a court to have committed two (2) or more discriminatory housing practices within the preceding seven-year period ending on the date of the filing of this complaint; except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (2) and (3) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

- (f) In imposing a fine under subsection (e), the court shall consider the nature and circumstances of the violation, the degree of culpability, the history of prior violations of this article, the financial circumstances of the respondent, and the goal of deterring future violations of this article.
- (g) In addition to the above-stated fines, the court shall award reasonable attorney's fees and costs to the County in any action in which the County prevails under this article.
- (h) The court may also grant injunctive and/or other appropriate equitable relief.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-55. - Administrative remedies and other relief.

- (a) A complainant, a respondent, or an aggrieved person on whose behalf a fair housing complaint was filed under this article may elect to have the claims asserted in that complaint decided in a civil action as provided by Section 15-56 of this article, in lieu of a hearing provided by this section.
- (b) The election under this section must be made not later than the 20th day after the date of issuance by the electing person of the notice of failure of conciliation, or in the case of the Director, not later than the 20th day after such service. The electing person shall give notice to the Director and to all other complainants and respondents to whom the complaint relates.
- (c) The fair housing complainant may request an administrative proceeding before the Board within thirty (30) days after receiving the notice of failure of conciliation. Additionally, if the Director is unable to obtain voluntary compliance with this article or has reasonable cause to believe that a discriminatory housing practice has occurred, the Director may institute an administrative proceeding before the Board on any Director-initiated complaint.
- (d) In conducting an administrative hearing to ascertain whether or not there has been a violation of this article, the Board shall have the power to administer oaths, issue subpoenas, compel the production of books, papers and other documents, and receive evidence. The Board shall conduct the administrative hearing in accordance with the procedure provided in F.S. § 120.57, as amended.
- (e) All recommended orders prepared by the Board as a result of such hearing or hearings shall conform to the requirements for such orders as set out in F.S. § 120.57, as amended.
- (f) The Board shall submit a copy of the order on each party to the administrative proceedings. The recommended order shall be considered as the final order of the Board as provided by F.S. § 120.57, as amended.
- (g)

Any party to such administrative proceedings shall have the right to appeal the administrative order described herein by filing notice of appeal pursuant to Florida Appellate Rule 9.110(a)(2) within thirty (30) days of the issuance of such order by the Board. Any party shall have the right to bring an action in the appropriate court to ensure compliance with this order.

- (h) In case of refusal to obey a subpoena issued by the Board, the County or the person at whose request it was issued may, in addition to any other remedies made available, petition for its enforcement in the appropriate court.
- (i) Should any party fail or refuse to comply with the final order issued or breach a conciliation agreement as provided herein, then following the expiration of the appeal time provided herein, the Board shall forward such order or conciliation agreement to the Board of County Commissioners with a request that the Board of County Commissioners authorize the County Attorney to bring such action or actions as necessary to obtain compliance with this article.
- (j) When any act is required or allowed to be done at or within a specified time by this section, for cause shown, the Board, at any time in its discretion, and upon the written request of a party, may order the period enlarged unless otherwise prohibited by law.
- (k) All written motions upon which a ruling is requested shall be filed at least ten (10) days prior to the hearing date established by the Board. Such motions shall be considered and ruled upon by the Board prior to the start of the hearing.
- (l) All motions and orders thereon shall be made a part of the record of such administrative proceedings.
- (m) No appeal may be made from rulings on such motions until a final order has been issued.
- (n) If there are separately filed cases before the Board which involve similar issues of law and fact and identity of parties, then such cases may be consolidated by the Director for hearing before the Board.
- (o) Discovery shall be permitted and shall proceed in the manner provided by the Florida Rules of Civil Procedure.
- (p) The Board may order a prehearing conference prior to any administrative hearing. Prior to such conference the Board may direct that the parties submit a preconference statement addressing the issues of law and fact that will be involved in such hearing, identifying the witnesses that will testify, providing a list of all documents or other exhibits that will be submitted, and providing such other information as requested by the Board.
- (q) The Director shall set the time and place of any administrative hearing. The Director shall send notice by certified mail of such hearing to the parties no later than fourteen (14) calendar days prior to the final hearing. Such notice requirement may be waived with the written consent of all parties. The notice shall also contain:
 - (1) A statement of the nature of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (3) A reference to the statutes, ordinances and rules involved.
- (r) Requests for subpoenas in any administrative proceeding shall be filed with the OEO and forwarded to the Board. Such request shall set forth the name and address of the person whose attendance is requested and shall describe with particularity any material to be produced. Such subpoenas shall be issued by the Board or the Director. The requesting party shall be responsible for service of any subpoena.

- (s) Any subpoena shall be subject to a motion to quash or a motion for protective order before the appropriate court.
- (t) The official transcript of a hearing shall be preserved by electronic recording or by a court reporter.
- (u) Should a party elect to provide a court reporter for a hearing, that party shall be responsible for entire payment of the reporter's fee.
- (v) If the Board finds that a discriminatory housing practice has occurred or is about to occur, it shall issue an order prohibiting the practice and awarding affirmative relief from the effects of the practice, including actual damages and reasonable attorney's fees and costs, and other injunctive or equitable relief. To vindicate the public interest, the Board, may assess civil penalties against the respondent, consistent with the provisions of section 15-54 of this article. Funds recovered under this section shall be paid to the Board of County Commissioners' general fund.
- (w) If a timely election is made under this section, the County Attorney shall, not later than the 30th day after the election is made, file and maintain such action on behalf of the aggrieved person in a court of competent jurisdiction seeking relief as provided by state and/or federal law. However, if a timely civil action election is not made under subsection (b), the fair housing complainant may request an administrative proceeding.
- (x) An aggrieved person may intervene in the civil action filed under this section.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-56. - Enforcement by private persons.

- (a) A civil action shall be commenced no later than two (2) years after the occurrence or the termination of an alleged discriminatory practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to such discriminatory practice or breach. However, the court shall continue a civil case brought pursuant to this article from time to time before bringing it to trial if the court believes that the conciliation efforts of the OEO are likely to result in satisfactory settlement of the discriminatory practice complained of in the complaint made to the OEO and which practice forms the basis for the action in court.
- (b) The computation of such two-year period shall not include any time during which an administrative proceeding was pending with respect to the complaint under this article based upon such discriminatory housing practice. This paragraph does not apply to actions arising from a breach of a conciliation agreement.
- (c) Any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this article and involving a bona fide purchaser, encumbrance, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this article shall not be affected.
- (d) If the court finds that a discriminatory practice has occurred, it shall issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including injunctive and other equitable relief, actual and punitive damages, and reasonable attorney's fees and costs.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-57. - Unlawful discriminatory practice in public accommodations.

It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression of any person directly or indirectly to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof that are afforded the other customers, directly or indirectly; to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression, or that the patronage of any person belonging to any particular race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression is unwelcome, objectionable or not acceptable, desired or solicited.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-58. - Discriminatory housing practices.

Except as provided in section 15-62 hereof, it shall be an unlawful discriminatory housing practice:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression.
- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, sex, color, religion, national origin, familial status, sexual orientation, age, marital status, or gender identity or expression.
- (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 dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, color, religion, sex, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression.
- (6) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - c. Any person associated with that buyer or renter.

- (7) 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:
 - a. That person; or
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - c. Any person associated with that person.
- (8) To refuse to permit, at the expense of a person with a disability, 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. The landlord may not increase for persons with disabilities 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 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.
- (9) To refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling.
- (10) To fail to design and construct multifamily dwellings for first occupancy after March 13, 1991, in such a manner that:
 - a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability;
 - b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities who utilize wheelchairs;
 - c. All premises within such dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchen and bathrooms such that an individual who utilizes a wheelchair can maneuver about the space; and
 - d. Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for persons with physical disabilities (commonly cited as "ANSI A 117.1") suffices to satisfy the requirements of this article.
- (11) To retaliate or discriminate in any manner against a person who has opposed a practice declared discriminatory by this article, or who has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this article.
- (12)

To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article; or to obstruct or prevent any person from complying with the provision of this article; or any order issued there under.

- (13) To resist, prevent, impede or interfere with the Board or any of its members or representatives in the lawful performance of its or their duty under this article.
- (14) To initiate maliciously, frivolously or in bad faith any complaint under the provisions of this article for the purposes of harassment.
- (15) To intimidate, threaten, coerce or interfere with the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-59. - Discrimination in the financing of housing.

It shall be an unlawful discriminatory housing practice of any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to any person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him/her in the fixing of the amount, interest rate, duration, or other terms or conditions as such loan or other financial assistance, because of the race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression of such person or any person associated with him/her in connection with such loan or other financial assistance, or the purposes of 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 of effectiveness of the exceptions set forth in section 15-62.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-60. - Discrimination in the provision of brokerage services.

It shall be an unlawful discriminatory housing practice to deny any person who is otherwise professionally qualified by state law and subject to the rules and regulations of the Florida Real Estate Commission, provided the local board of realtors does not discriminate in its membership policies on the basis of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression, 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 any person in the terms or conditions of such access, membership or participation, on account of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-61. - Discrimination in residential real estate related transactions.

It shall be an unlawful discriminatory housing practice for any person or other entity whose business includes engaging in residential real estate related 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, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-62. - Limitations and exceptions—Housing practices.

- (a) The prohibitions set forth in sections 15-57 through 15-80 shall not apply to 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 dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, disability, familial status, sexual orientation, age, marital status or gender identity or expression.
- (b) The prohibitions set forth in sections 15-58 through 15-60 shall not apply to 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, provided such rooms or units are sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker or real estate salesperson or person in the business of selling or renting dwellings and/or without the publication, posting or mailing of any advertisement or written document in contravention of section 15-58; but this shall not prohibit the use of any attorney, escrow agents, abstractors, title companies and such other professional assistance as is necessary to perfect or transfer title to a dwelling.
- (c) The prohibitions set forth in sections 15-58 through 15-60 shall not apply to any single-family dwelling unit sold or rented by an owner who does not own more than three (3) such single-family dwelling units at any one (1) time if such unit is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker or real estate salesperson or person in the business of selling or renting dwellings and/or without the publication, posting or mailing of any advertisement or written document in contravention of section 15-58; but this shall not prohibit the use of any attorney, escrow agents, abstractors, title companies and such other professional assistance as is necessary to perfect or transfer title to a dwelling.
- (d) For the purposes of subsections (a) and (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings and said exceptions shall not apply if:
 - (1) That person 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 any interest therein; or
 - (2) That person has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/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 any interest therein; or
 - (3) That person is the owner of any dwelling designed for or intended for occupancy by, or occupied by, five (5) or more families.

- (e) The prohibitions set forth in sections 15-57 through 15-60 shall not apply to a person or owner who wishes to rent a portion of a single dwelling unit to a person or persons of the same sex when such persons live in the single dwelling unit.
- (f) Housing for older persons shall be exempted from the provisions regarding familial status. Housing for older persons may also maintain only those age restrictions necessary in order to be designated as housing for older persons.
- (g) 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 race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identity or expression.
 - (2) Limits the applicability of any reasonable local government restrictions 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 by F.S. Ch. 893.
- (h) An individual who engages in conduct with a reasonable good faith reliance on the existence of the exemption of this article relating to housing for older persons is not personally liable for money damages for a violation of this article. For the purposes of this paragraph (h), a person engaged in the business or residential real estate transactions is presumed to have such a good faith reliance if that person has no actual knowledge that the housing facility is not or will not be eligible for the housing for older persons exemption and the housing facility gives such a person a written certification stating the compliance of the facility with the requirements for the housing for older persons.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-63. - Limitations and exceptions—Public accommodations.

The prohibitions set forth in section 15-57 shall not be applied to:

- (1) Limit of the use of a restroom to persons of one (1) sex;
- (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.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-64. - Limitations and exceptions—Physical disability.

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 and as provided in this article.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-65. - Applicability.

It is hereby provided that this Ordinance shall constitute a uniform law applicable in all the unincorporated and incorporated areas of Palm Beach County, Florida, to the extent permitted under the Florida Constitution, Article VIII, Section I.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-66. - Repeal of laws in conflict.

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this article are hereby repealed to the extent of any conflict.

(Ord. No. 2014-019, 7-22-14)

Sec. 15-67. - Savings clause.

All complaints, investigations, orders, hearing processes, and all other functions of the OEO and Board, initiated or completed pursuant to Ordinance 90-1, as amended by 07-042, shall remain in full force and effect.

(Ord. No. 2014-019, 7-22-14)