

Chapter 16 - HUMAN RIGHTS

Sec. 16-01. - Purpose and intent.

- (a) It is the desire of the city commission to foster and encourage the growth and development of the city in a manner that will ensure all individuals an equal opportunity to live free of discrimination imposed by age, race, color, religion, national origin, disability, marital status, familial status, sex, sexual orientation, gender identity or expression, or physical characteristic; and that discriminatory practices are contrary to the public policy of the city and are a menace to the public health and welfare of our citizens and, as such, the commission shall direct its efforts toward eliminating discriminatory practices within the city in the areas of employment, housing, and public accommodations where they exist; and
- (b) The general purpose of this chapter is to secure for all individuals within the city freedom from discrimination because of age, race, color, religion, national origin, disability, marital status, familial status, sex, sexual orientation, gender identity or expression, or physical characteristic and thereby to protect their interest in personal dignity, to make the city secure against strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, privileges of individuals within the city, and, in an effort to accomplish this purpose, to create a private cause of action to all individuals in the city against such discriminatory practices.

(Ord. No. [2015-47](#), § 2, 10-27-2015)

Sec. 16-02. - Definitions.

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

Disability or *disabled* means, with respect to an individual: A physical or mental impairment; a record of such an impairment; or being regarded as having such an impairment.

Discriminate, *discrimination* or *discriminatory* means any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's actual or perceived race, color, religion, national origin, disability, age, marital status, familial status, sex, sexual orientations, gender identity or expression, or physical characteristic. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

Educational institution means any public or private educational institution and any business, nursing, professional, secretarial, and technical or vocational school.

Employee means any individual employed or seeking employment from an employer.

Employer means any person who, for compensation, regularly employs five or more individuals, not including the employer's parents, spouse or children. For purposes of this article an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

Gender identity or *expression* means a person's gender-related self-identity, appearance, expression or behavior, regardless of the person's assigned sex at birth.

Person means any natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

Physical characteristic means a bodily condition or bodily characteristic of any person which is from birth, accident, or disease, or from any natural physical development, or any other event outside the control of that person including individual physical mannerisms, height or weight.

Place of public accommodation means all establishments within the city which offer goods, services, accommodations or entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private.

Excerpt from the Code of the City of North Port, Florida

Sexual orientation means a person's actual or perceived heterosexuality, homosexuality, or bisexuality.

(Ord. No. [2015-47](#), § 3, 10-27-2015)

Sec. 16-03. - General discriminatory practices.

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

- (1) It shall be unlawful for a person to retaliate or discriminate in any manner against an individual because such individual opposed a practice prohibited by this chapter or prohibited by existing federal or state law prohibiting discrimination; or to retaliate or discriminate in any manner against an individual because such individual has filed a complaint, testified, assisted or participated in any manner in any investigation, proceedings, hearing or conference under this chapter or under any federal or state law prohibiting discrimination.
- (2) It shall be unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(Ord. No. [2015-47](#), § 4, 10-27-2015)

Sec. 16-04. - Private causes of action; remedies.

- (a) An aggrieved individual may, under this chapter, commence a civil action in a court of competent jurisdiction against the person alleged to have committed a discriminatory practice; provided, however, that such civil action must be filed no later one year after the discriminatory practice is alleged to have been committed.
- (b) If, in a civil action commenced under this chapter, the court finds that a discriminatory practice has been committed or is about to be committed, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the discriminatory practice including, but not limited to, a temporary or permanent injunction or other equitable relief, a temporary restraining order, an award of actual damages, including back pay, punitive damages, an award of reasonable attorney's fees, interest, and costs, or other such relief as the court deems appropriate.
- (c) With regard to attorney's fees, sanctions for raising unsupported claims or defenses, service of motions, and damages for delay of litigation, F.S. (2010) § 57.105, or as such section may thereafter be amended, is hereby adopted as follows:
 - (1) In any civil action commenced under this chapter, upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:
 - a. Was not supported by the material facts necessary to establish the claim or defense; or
 - b. Would not be supported by the application of then-existing law to those material facts.

However, the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client as to the existence of those material facts. If the court awards attorney's fees to a claimant pursuant to this subsection, the court shall also award prejudgment interest.

Excerpt from the Code of the City of North Port, Florida

- (2) Paragraph (1)b. does not apply if the court determines that the claim or defense was initially presented to the court as a good-faith argument for the extension, modification, or reversal of existing law or the establishment of new law, as it applied to the material facts, with a reasonable expectation of success.
- (3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for its reasonable expenses incurred in obtaining the order, which may include attorney's fees, and other loss resulting from the improper delay.
- (4) A motion by a party seeking sanctions under this section must be served but may not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.
- (5) In administrative proceedings under F.S. (2010) ch. 120, or as such chapter may thereafter be amended, an administrative law judge shall award a reasonable attorney's fee and damages to be paid to the prevailing party in equal amounts by the losing party and a losing party's attorney or qualified representative in the same manner and upon the same basis as provided in subsections (1) through (4). Such award shall be a final order subject to judicial review pursuant to F.S. (2010) § 120.68, or as such section may thereafter be amended. If the losing party is an agency as defined in F.S. (2010) § 120.52(1), or as such section may thereafter be amended, the award to the prevailing party shall be against and paid by the agency. A voluntary dismissal by a nonprevailing party does not divest the administrative law judge of jurisdiction to make the award described in this subsection.
- (6) The provisions of this section are supplemental to other sanctions or remedies available under law or under court rules.

(Ord. No. [2015-47](#), § 5, 10-27-2015)

Sec. 16-05. - Sovereign immunity; no waiver of rights or remedies at law.

- (a) Pursuant to article X, section 13, Florida Constitution, nothing in this chapter shall be deemed to be a provision for bringing suit against the state or otherwise be deemed to be a waiver of sovereign immunity.
- (b) Nothing in this chapter shall be construed to prohibit any sovereignty immune entity from adopting its own internal policies and rules to prohibit discriminatory practices and acts and to resolve allegations or complaints of such discriminatory practice and acts to the extent allowed by law. The city specifically adopts this chapter as applicable to the government of the city.
- (c) This chapter shall be applicable within the jurisdictional boundary of the city.
- (d) Nothing in this chapter shall be deemed to modify, impair, or otherwise affect any other right or remedy conferred by the constitution or laws of the United States or the state, and the provisions of this chapter shall be deemed to be in addition to those provided by such other laws.

(Ord. No. [2015-47](#), § 6, 10-27-2015)

Sec. 16-06. - Prohibited act of discrimination—Employment.

With regard to employment, it shall be unlawful for any employer or labor organization, to engage in any of the following acts, wholly or partially for a discriminatory reason:

Excerpt from the Code of the City of North Port, Florida

- (a) To discriminate against any individual, with respect to failure to hire, refusal to hire, discharge, compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;
- (b) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any employee of employment opportunities, or which would otherwise tend to adversely affect his or her status as an employee; or
- (c) To fail or refuse to refer for employment, or to give discriminatory information to a potential employer of any individual, in such a manner that would deprive or limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee.

(Ord. No. [2015-47](#), § 7, 10-27-2015)

Sec. 16-07. - Prohibited act of discrimination—Housing and real estate transactions.

With regard to housing and real estate transactions, it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

- (a) To discriminate by impeding, delaying, discouraging, imposing different terms, or otherwise limiting or restricting any transaction in real estate;
- (b) To discriminate in the terms and conditions, or in performing, or refusing to perform, any act necessary to determining an individual's financial ability to engage in a real estate transaction or to represent falsely that an interest in real estate is not available for transaction; or
- (c) For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants or potential occupants of any real estate which he or she manages.

It shall not be an unlawful discriminatory practice for an owner, lessor or renter to refuse to rent, lease or sublease a portion of a single-family dwelling unit where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling.

(Ord. No. [2015-47](#), § 8, 10-27-2015)

Sec. 16-08. - Prohibited act of discrimination—Business establishment or public accommodations.

It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.

(Ord. No. [2015-47](#), § 9, 10-27-2015)

Sec. 16-09. - Prohibited act of discrimination—Educational institution.

It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason: To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified.

(Ord. No. [2015-47](#), § 10, 10-27-2015)

Sec. 16-10. - General exceptions.

Excerpt from the Code of the City of North Port, Florida

- (a) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system based on age such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purpose of this article.
- (b) Nothing contained in this article shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, a bona fide physical requirement, or, as to a religious or denominational institution, based upon a preference for applicants of the same religion or denomination.

(Ord. No. [2015-47](#), § 11, 10-27-2015)