

Chapter 23

FAIR HOUSING

Sec. 23-1. DECLARATION OF POLICY

It is the policy of the City of Archer, Florida, in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, and, to that end, to eliminate discrimination in housing.

(Ord. No. 271-91, §1)

Sec. 23-2. DEFINITIONS

As used in this Code, unless the context clearly states otherwise, the following words and terms shall have the meaning ascribed to them in this Chapter.

- a) "*Commission*" shall mean the City Commission of the City of Archer, Florida.
- b) "*Discriminatory housing practice*" shall mean an act that is unlawful under Sections 5.04 through 5.06.
- c) "*Dwelling*" shall mean any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy, as, a residence by one or more families, and any for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- d) "*Familial status*" shall mean one or more individuals [who have not attained the age of eighteen (18) years] being domiciled with:

- 1) The parent or other person having legal custody of such individual or individuals;
or
- 2) 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 legal age of eighteen (18) years.

e) "*Person*" shall include one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

f) "*Family*" includes a single individual.

g) "*Handicap*" shall mean a person has a physical impairment which substantially limits one (1) or more major life activities or that he or she has a record of having, or is regarded as having, such physical impairment.

h) "*To rent*" shall include to lease, to sublease, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant. (Ord. No. 271-91, § 2)

Sec. 23-3. EXEMPTIONS

a) Nothing in this section shall apply to:

1) Any single-family house sold or rented by an owner:

a) Provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time, and;

- b) Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period, and;
- c) Provided for that such bona fide private individual owner does not own an interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time and;
- d) That the sale or rental of any such single family house shall be excepted from the application of this chapter only if such house is sold or rented:
 - 1) Without the use of any manner of sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and,
 - 2) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this section of this title; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and such other professional assistance as necessary to perfect or transfer the title, or
- 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 residence.

For the purposes of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

- 1) He or she 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) He or she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his 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) He or she is the owner of any dwelling designated or intended for occupancy by, or occupied by, five (5) or more families.

(b) Nothing in this chapter shall 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 on account of race, color, age, sex, national origin, place of birth, ancestry, handicap, or ,familial status. Nor shall anything in this chapter prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings from which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(c) Nothing in Chapter 23 requires any person renting or selling a dwelling to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law. (Ord. No. 271-91, § 3)

Sec. 23-4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

Except as provided in Section 23-3, it shall be unlawful:

To refuse to sell or rent after making 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, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status.

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

c)To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, or an intention to make any such preference, limitation, or discrimination.

d)To represent to any person because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

e)For profit to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status. (Ord. No. 271-91, § 4)

Sec. 23-5. DISCRIMINATION IN THE FINANCING OF HOUSING

It shall be unlawful for any bank, savings 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 a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against that person in the fixing of the amount or terms because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, of such person, or of any person associated with such person, in connection with a loan or other financial assistance of 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 Section 23-5 shall impair the scope or effectiveness of the exception contained in Section 23-3. (Ord. No. 271-91, § 5)

Sec. 23-6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in terms or conditions of such access, membership, or participation, on account of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status. (Ord. No. 271-91, § 6)

Sec. 23-7. ADMINISTRATION

- 1) The authority and responsibility for administering this chapter shall be with the Commission.
- 2) The Commission may delegate its functions, duties, and powers to an appointed board including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under Chapter 23.
- 3) The Commission or its appointed board shall:

Implement the provisions of Chapter 23 and rules and regulations promulgated hereunder and all ordinances, codes, rules, and regulations pertaining to housing discrimination,

Receive, initiate, and investigate any and all complaints alleging violations of Chapter 23, and take appropriate action to eliminate, conciliate, prevent and/or initiate prosecution of any such violations;

Provide assistance in all matters relating to equal housing opportunity;

Publish and disseminate public information and educational materials relating to housing discrimination;

Enter into written working agreements as may be necessary to effectuate the purpose of Chapter 23, with federal, state, and county agencies involved in reducing housing discrimination;

Administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the Commission or its appointed board.

f)Take other informational, educational, or persuasive actions to implement the intent and purposes of Chapter 23. (Ord. No. 271-91, § 7)

Sec. 23-8. PROCEDURE

- 1) Any person aggrieved by an unlawful practice prohibited by Chapter 23 must file a written complaint with the Commission or its appointed board within forty-five (45) days after the alleged unlawful practice occurs.
- 2) Upon receipt of a complaint, the Commission or its appointed board shall serve upon the individual charged with a violation (hereinafter referred to as "respondent"), the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the Commission or its appointed board.
- 3) The Commission or its appointed board shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the Commission or its appointed board shall establish a written report with findings of fact.
- 4) Copies of the Commission or its appointed board's report shall be sent to the complainant and the respondent. Either may, within ten (10) days after such service, request a hearing before the Commission.
- 5) When the complainant or the respondent request a hearing by the Commission or its appointed board, or when the Commission or its appointed board itself determine that a hearing is desirable, the Commission or its appointed board shall call and conduct such hearing in accordance with this section as hereafter provided.
- 6) The Commission or its appointed board shall carry into execution the actions specified in its report, or, if a hearing is held, shall carry into execution the actions determined upon by the Commission or its appointed board in the hearing.
- 7) The Commission or its appointed board in its review or its hearing may determine:
 - That the complaint lacks grounds upon which to base action for violation of Chapter 23, or
 - That the complaint has been adequately dealt with by a conciliation of the parties, or
 - That the case warrants filing charges against the offending party in the appropriate court. In such cases, both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.
- 8) If the Commission or its appointed board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by Chapter 23, and the respondent refuses or fails to comply with or obey such adjudication, the Commission or its appointed board shall forthwith request that the State Attorney file a complaint in the appropriate court.
- 9) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by Chapter 23.

- 10) All papers or pleadings required by Chapter 23 to be served may be served certified mail or in accordance with the provisions of Rule 1.080(b), Florida Rules of Civil Procedure. (Ord. No. 271-91, § 8)

Sec. 23-9. HEARINGS BEFORE THE COMMISSION OR APPOINTED BOARD

- 1) When a hearing is required before the Commission or its appointed board, as specified in Section 23-8(5) above, the Commission or its appointed board 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 of the Commission or its appointed board's written report (Section 23-8(4) above).
- 2) The parties, or their authorized counsel, may file such statements, with the Commission or its appointed board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the Commission or its appointed board in person or by duly constituted representative 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 Commission or its appointed board shall not be bound by strict rules of evidence prevailing in courts of law or equity but due process shall be observed. The Commission or its appointed board shall keep a full record of the hearing, which record shall be public and open to inspection by any person, and upon request, by any principal party to the proceedings the Commission or its appointed board shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.
- 3) The Commission or its appointed board shall make a finding of fact, and determination of action to be taken (Section 23-8(7) above).
- 4) The Commission or its appointed board may subpoena respondents and witnesses to its hearings. The Commission or its appointed board may also subpoena evidence. Subpoenas may be served by the Sheriff of Alachua County or by a subpoena server duly appointed by the Commission.
- 5) Witnesses summoned by subpoena of the Commission or its duly appointed board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the state courts of Florida. Fees payable to witnesses summoned by subpoena issued at the request of respondent shall be paid by the respondent, unless the respondent is indigent, in which case the Commission shall bear the cost of said fees.
- 6) Within ten (10) days after service of a subpoena upon any person, such person may petition the Commission or its appointed board to revoke or modify the subpoena. The Commission or its appointed board shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires 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 and valid reason.

- 7) In case of refusal to obey a subpoena, the Commission or its appointed board may petition for its enforcement in the appropriate court. (Ord. No. 271-91, § 9)

Sec. 23-10. OTHER REMEDIES

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing any complaint with any other agency or any court having proper jurisdiction. (Ord. No. 271-91, § 10)

Sec. 23-11. REPORT TO REAL ESTATE COMMISSION

If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of Chapter 23, or has failed to comply with an order issued by the Commission or its appointed board, the Commission or its appointed board shall, in addition to other procedures set forth herein, report the fact to the Real Estate Commission of the State of Florida. (Ord. No. 271-91, § 11)