

Chapter 11

HOUSING

ARTICLE I -- In General

Section 11.1 – 11.15 Reserved

ARTICLE II -- Housing Code

Section 11.16 Adopted
Section 11.17–11.30 Reserved

ARTICLE III -- Fair Housing

Section 11.31 Definitions
Section 11.32 Declaration of policy
Section 11.33 Exemptions
Section 11.34 Discrimination in the sale or rental of housing
Section 11.35 Discrimination in the financing of housing
Section 11.36 Discrimination in the provision of brokerage service
Section 11.37 Administration
Section 11.38 Procedure
Section 11.39 Hearings before the City Commission
Section 11.40 Other remedies
Section 11.41 Report to real estate commission.

ARTICLE I -- In General

Section 11.1 – 11.15 Reserved

ARTICLE II -- Housing Code

Section 11.16 Adopted

The *Standard Housing Code*, 1982 Edition, as published by the *Southern Building Code Congress International, Inc.*, of which one copy is on file in the office of the administrative supervisor's office is hereby adopted and incorporated as fully as if set forth at length herein. The provisions therein shall be controlling in the use, maintenance and occupancy of all dwellings, dwelling units and/or structures within the area of jurisdiction of the City. (Ordinance 85-01)

Section 11.17 – 11.30 Reserved

ARTICLE III -- Fair Housing

Section 11.31 Declaration of Policy

It is hereby declared to be the policy of the City of Crescent City, 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, sex, religion, national origin, familial status, or handicap, and, to that end, to eliminate discrimination in housing. (Ordinance No. 9109, Section I, 11-11-91)

Section 11.32 Definitions

When used herein:

- (a) **Commission** means the City of Crescent City, Florida.
- (b) **Discriminatory housing practice** means an act that is unlawful under this Article.
- (c) **Dwelling** means 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 vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (d) **Familial status** means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) a parent or another person have legal custody of such individual or individuals; or
- (2) the designee of such parent or other person having such custody with the written permission of such parent or other persons. The protections 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 18 years.

(e) **Family** includes a single individual.

(f) **Handicap** means that a person has a physical or mental impairment which substantially limits one or more major life activities, or that he has a record of having, or is regarded as having, such physical or mental impairment.

(g) **Person** includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(h) **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.

(Ordinance No. 9109, Section I, 11-11-91)

Cross reference: Definitions and rules of construction generally, Section 1 - 2.

Section 11-33 Exemptions

(a) Nothing in Section 11.34 (other than subsection (b)) shall apply to:

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

Provided, that such private individual owner does not own more than three [3] such single-family houses at any one time;

Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four [24] month period;

Provided further, that such bona fide private individual owner shall not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental or more than three such single-family houses at any one time;

Provided further, that after the effective date of this Article, the sale or rental of any such single-family house shall be excepted from the

application of this article only if such house is sold or rented 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 without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 11.34(c). Nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such 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 families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:

- (1) he 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;
- (2) he 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 or more transactions involving the sale or rental of any dwelling or any interest therein; or
- (3) he is the owner of any dwelling designated or intended for occupancy by, or occupied by, five [5] or more families.

(c) Nothing in this Article shall prohibit 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 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, sex, national origin, familial status or handicap. Nor shall anything in this Article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings 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.

(d) Nothing in this Article requires any person renting or selling a dwelling to modify, alter or adjust the dwelling in order to provide a physical accessibility except as otherwise required by law.

(Ordinance No. 9109, Section II; 11-11-91)

Section 11.34 Discrimination in the sale or rental of housing

As made applicable by section 11.33 and except as exempted by section 11.33(a) and 11.37, it shall be unlawful:

- (a) 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, color, sex, religion, natural origin, familial status or handicap.
- (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, sex, religion, national origin, familial status or handicap.
- (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, sex, religion, national origin, familial status or handicap, or an intention to make any such preference, limitation, or discrimination.
- (d) to represent to any person because of race, color, sex, religion, national origin, familial status or handicap 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 representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, national origin, familial status or handicap.
(Ordinance No. 9109, Section IV; 11-11-91)

Section 11.35 Discrimination in the financing of housing

It shall be unlawful for 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 a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, sex, religion, national origin, familial status or handicap of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section 11.33.
(Ordinance No. 9109, Section V, 11-11-91)

Section 11.36 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 him in the terms or conditions of such access, membership, or participation, on account of race, color, sex, religion, national origin, familial status or handicap.

(Ordinance No. 9109, Section VI; 11-11-91)

Section 11.37 Administration

(a) The authority and responsibility for administering this article shall be with the City Commission.

(b) 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 this article.

(c) The Commission or its appointed board shall:

- (1) Implement the provisions of this article and rules and regulations promulgated hereunder and all ordinances, codes, rules, and regulations pertaining to housing discrimination.
- (2) Receive, initiate, and investigate any and all complaints alleging violations of this Article, and take appropriate action to eliminate, conciliate, prevent, and/or initiate prosecution of any such violations.
- (3) Provide assistance in all matters relating to equal housing opportunity.
- (4) Publish and disseminate public information and educational materials relating to housing discrimination.
- (5) Enter into written working agreements, as may be necessary to effectuate the purposes of this article, with federal, state and county agencies involved in reducing housing discrimination.
- (6) Administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the commission or its appointed board.
- (7) Take other informational, educational, or persuasive actions to implement the purposes of this Article.

(Ordinance No. 9109, Section VII, 11-11-91)

Section 11.38 Procedure

(a) Any person aggrieved by an unlawful practice prohibited by this Article must file a written complaint with the Commission or its appointed board within forty-five [45] days after the alleged unlawful practice occurs.

(b) Upon receipt of a complaint, the Commission or its appointed board shall serve upon the individual charged with a violation (hereinafter referred to as the 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.

(c) 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 written report with findings of fact.

(d) Copies of the Commission's or its appointed board's report shall be sent to the complainant and the respondent. Either party may, within ten [10] days after such services, request a hearing before the Commission.

(e) When the complainant or the respondent requests a hearing by the Commission or its appointed board, or when the Commission or its appointed board itself determines that a hearing is desirable, the Commission or its appointed board shall call and conduct such hearing in accordance with Section 11.39.

(f) 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 by the Commission or its appointed board in the hearing.

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

- (1) that the complaint lacks grounds upon which to base action for violation of this Article;
- (2) that the complaint has been adequately dealt with by conciliation of the parties; or
- (3) that the case warrants filing charges against the offending party in the appropriate court.

In some cases both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.

(h) If the Commission or its appointed board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this article, and the respondent refuses or fails to comply with or obey such adjudication, the Commission or its appointed board shall forthwith request that the state attorney file a complaint in the appropriate court. The Commission or its appointed board shall, at all times, provide the complainant with

full and timely information as to all the alternatives available to him under local, state and federal law, including assistance to initiate judicial action if desired, under the circumstances.

(i) The provisions of Rule 1.090, *Florida Rules of Civil Procedure*, shall govern the computation of any period of time prescribed by this Article.

(j) All papers or pleadings required by this Article to be served may be served by certified mail or in accordance with the provisions of Rule 1.080(b), *Florida Rules of Civil Procedure*.

(Ordinance No. 9109, Section VII, 11-11-91)

Section 11.39 Hearings before the City Commission

(a) When a hearing is required before the Commission or its appointed board, as specified in Section 11.38(e), 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 and of the Commission's or its appointed board's written report in Section 11.38(d).

(b) 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 a 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 records shall be public and open to inspection by any person. 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.

(c) The Commission or its appointed board shall make a finding of fact, and a determination of action to be taken in Section 11.38(g).

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

(e) Upon written application to the Commission or its appointed board, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission or to the same extent and subject to the same limitations as subpoenas issued by the commission or its appointed board itself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

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

(g) 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 reason.

(h) In case of refusal to obey a subpoena, the Commission or its appointed board or the person at whose request it was issued may petition for its enforcement in the appropriate court.

(Ordinance No. 9109, Section IX, 11-11-91)

Section 11.40 Other remedies

Nothing herein 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.

(Ordinance No. 9109, Section X; 11-11-91)

Section 11.41 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 this Article, 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 the other procedures set forth herein, report the facts to the *Real Estate Commission of the State of Florida*.

(Ordinance No. 9109, Section XI, 11-11-91)