

BCC Mtg. Date: May 02, 2023

Effective Date: May 08, 2023

**ORDINANCE NO. 2023-17**

**AN ORDINANCE PERTAINING TO HUMAN RIGHTS, EMPLOYMENT DISCRIMINATION, EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS, AND FAIR HOUSING IN ORANGE COUNTY, FLORIDA; AMENDING CHAPTER 22 (“HUMAN RIGHTS”), ARTICLE I (“IN GENERAL”); AMENDING SECTION 22-3 (“GENERAL DISCRIMINATORY PRACTICES”), SECTION 22-4 (“PRIVATE CAUSE OF ACTION; REMEDIES”), AND SECTION 22-5 (“SOVEREIGN IMMUNITY; NO WAIVER OF RIGHTS OR REMEDIES AT LAW”); AMENDING CHAPTER 22, ARTICLE II (“EMPLOYMENT DISCRIMINATION”); AMENDING SECTION 22-27 (“DEFINITIONS”) AND SECTION 22-28 (“UNLAWFUL EMPLOYMENT PRACTICES”); AMENDING SECTION 22-30 THROUGH SECTION 22-34 TO PROVIDE FOR AN ADMINISTRATIVE INVESTIGATION AND CONCILIATION PROCESS; AMENDING CHAPTER 22, ARTICLE III (“EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS”); AMENDING SECTION 22-41 (“DEFINITIONS”) AND SECTION 22-42 (“PROHIBITION OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS”); AMENDING SECTION 22-44 THROUGH SECTION 22-48 TO PROVIDE FOR AN ADMINISTRATIVE INVESTIGATION AND CONCILIATION PROCESS; AMENDING CHAPTER 22, ARTICLE IV (“FAIR HOUSING”), DIVISION 1 (“GENERALLY”) AND DIVISION 2 (“ADMINISTRATION AND ENFORCEMENT”); AMENDING SECTION 22-50 (“GENERALLY”) AND SECTION 22-59 (“ENFORCEMENT”); PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR FILING OF ORDINANCE AND EFFECTIVE DATE.**

**WHEREAS**, the Florida Civil Rights Act of 1992 (“FCRA”) prohibits certain discriminatory practices in employment and places of public accommodation on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and provides for administrative and civil remedies; and

**WHEREAS**, on November 23, 2010, the Orange County Board of County Commissioners adopted Ordinance No. 2010-15 amending Chapter 22 of the Orange County Code (“Human Rights Ordinance” or “HRO”) in its entirety to prohibit certain discriminatory practices in employment, public accommodations, and housing and to provide for a private cause of action for an individual aggrieved by such unlawful discriminatory practice; and

**WHEREAS**, on March 14, 2022, the Fifth District Court of Appeal of Florida filed an opinion holding that the County’s Human Rights Ordinance conflicts with the Florida Civil Rights Act of 1992 and is therefore unconstitutional. *See O C Food & Beverage, LLC v. Orange Cnty.*, 338 So. 3d 311, 314-15 (Fla. 5th DCA 2022), *reh'g denied* (May 6, 2022), *review denied sub nom. Orange Cnty., Florida v. O C Food & Beverage, LLC*, SC22-657 (Fla. Sept. 13, 2022); and

**WHEREAS**, the Court reasoned that the FCRA and the HRO conflict because the FCRA requires satisfaction of certain conditions precedent before filing a civil action whereas the HRO allows aggrieved parties to proceed directly to court without first exhausting administrative remedies; and

**WHEREAS**, specifically, the Court found that the Legislature intended for aggrieved parties to go through an administrative process prior to bringing a civil action in court so as to provide an administrative agency with the first opportunity to investigate the alleged discriminatory practice and obtain voluntary compliance and promote conciliation efforts; and

**WHEREAS**, the FCRA authorizes a complainant to file a civil action in court only after a determination has been made that there is reasonable cause to believe that a discriminatory practice has occurred or when such determination fails to be made by the Florida Commission on Human Relations (“FCHR”) within 180 days after the filing of the administrative complaint; and

**WHEREAS**, in accordance with the FCRA and the *O C Food & Beverage* case cited above, the Board desires to amend the Human Rights Ordinance to require an administrator to investigate and conciliate certain complaints of discriminatory practices and endeavor to determine whether there is reasonable cause to believe that a discriminatory practice has occurred, and, if so, to authorize a complainant to bring a civil action in court after said administrative process has concluded.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

**Section 1. Recitals.** The recitals set forth above are hereby adopted and incorporated into the body of this ordinance as if fully set forth herein.

**Section 2. Amendments to Chapter 22, Article I.** Chapter 22 (“Human Rights”), Article I (“In General”) of the Orange County Code of Ordinances is hereby amended as follows with additions being shown by underlines and deletions being shown by strike-throughs:

## **CHAPTER 22. HUMAN RIGHTS**

### **ARTICLE I. IN GENERAL**

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**Section 22-3.**

**Reserved. 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.~~

**Section 22-4.**

***Private cause 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 is timely filed pursuant to this chapter and the conclusion of any applicable investigation, conciliation, or reasonable cause determination required by this chapter. must be filed no later one (1) 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.

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***Section 22-5. Sovereign immunity; no waiver of rights or remedies at law.***

- (a) Pursuant to Article X, Section 13, Florida Constitution, and Section 768.28, Florida Statutes, as amended, 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 sovereignly 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 practices and acts to the extent allowed by law.
- (c) 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 of Florida, and the provisions of this chapter shall be deemed to be in addition to those provided by such other laws. Nothing in this chapter shall constitute an administrative prerequisite to another action or remedy available under a separate federal, state, or local law.
- (d) County employees tasked with the administration of this chapter shall be afforded all of the protections of absolute and qualified immunity to the furthest extent allowed by law. Nothing in this chapter shall be deemed to authorize a civil action against an individual County employee, or otherwise be deemed to be a waiver of absolute or qualified immunity.

***Section 3. Amendments to Chapter 22, Article II.*** Chapter 22 (“Human Rights”), Article II (“Employment Discrimination”) of the Orange County Code of Ordinances is hereby amended as follows with additions being shown by underlines and deletions being shown by strike-throughs:

**CHAPTER 22. HUMAN RIGHTS**

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**ARTICLE II. EMPLOYMENT DISCRIMINATION**

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***Section 22-27. Definitions.***

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

Administrator shall mean that person designated pursuant to section 22-30 or their duly authorized agent.

\* \* \*

***Section 22-28. Unlawful employment practices.***

\* \* \*

(g) In addition to those discriminatory practices made unlawful by this section, 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 discriminatory employment practice prohibited by this article or by an existing federal or state law prohibiting employment 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 employment 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.

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***Section 22-30. Administrative authority; powers and duties.***

(a) Administrative authority. The provisions of this article shall be administered by the mayor or the mayor's designee who shall hereinafter be referred to as the "administrator."

(b) Powers and duties. The administrator's powers and duties include the following:

- (1) Receive, initiate, and investigate written complaints as provided by this article relative to alleged discriminatory practices;
- (2) Upon receiving a written complaint, make such investigations as provided by this article;
- (3) Endeavor to resolve complaints through conciliation in accordance with this article;
- (4) Cooperate with, provide referrals to, and render technical assistance to federal, state, local, and other public and private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this article; and
- (5) Conduct educational and public information activities that are designed to promote the policy of this article.

**Section 22-31. Complaint; jurisdiction; answer.**

(a) Complaint. Any person aggrieved by an unlawful discriminatory practice in violation of this article may, within three hundred sixty-five (365) calendar days after the alleged violation has occurred, file a complaint with the administrator naming the employer, employment agency, labor organization, or other person responsible for the alleged violation and describing the alleged violation.

- (1) A complaint shall be in writing, signed under oath, on a form to be supplied by the administrator and shall contain the following:
  - i. The identity, name, and address of the respondent(s);
  - ii. The date of the alleged violation and the date of the filing of the complaint;
  - iii. A general statement of facts describing the alleged violation including the classification category or categories of discrimination upon which the complaint is based;

iv. The name, address, and signature of the complainant; and

v. Any other information as may be deemed relevant by the administrator.

(2) The administrator shall not process a complaint that fails to provide all of the information required by this section or is outside of the administrator's jurisdiction.

(b) Jurisdiction. A complaint is outside the jurisdiction of the administrator if:

(1) The complaint has been filed more than 365 calendar days after the alleged violation occurred;

(2) The complainant has previously filed a complaint with the administrator pursuant to this article alleging the same grievance that is the subject of the current complaint and the previous complaint was dismissed or authorized for civil action or otherwise resolved as determined by the administrator; or

(3) Another administrative agency under any other federal, state, or local law has jurisdiction over the alleged unlawful discriminatory practice that is the subject of the complaint and said agency is legally authorized to investigate and enforce the complaint.

(c) Answer. Within five (5) calendar days of receiving a timely and complete complaint that is within the administrator's jurisdiction, the administrator shall transmit a copy of said complaint to each respondent named in the complaint via certified mail, return receipt requested.

(1) In addition to a copy of the complaint, the administrator shall include a notice identifying the alleged unlawful discriminatory practice and a list of procedural rights and obligations contained in this article.

(2) The respondent may file a written, verified answer to the complaint within twenty (20) calendar days of the date of receipt of the complaint from the administrator.

- (3) The respondent shall mail a copy of any answer that it files with the administrator to the complainant.
- (d) A complaint or answer may be amended at any time when it would be fair and reasonable to do so, as determined by the administrator, and the administrator shall furnish a copy of each amended complaint or answer to the respondent or complainant, respectively, as promptly as practicable.
- (e) The administrator shall provide technical assistance related to the process of filing complaints or answers, or any amendments thereto or response to such amendments.
- (f) The administrator shall inform complainants of their procedural rights and options as provided for in this article.

**Section 22-32.                    *Investigation;            reasonable            cause; conciliation; cooperation.***

- (a) *Investigation.* The administrator shall investigate complaints that have been filed in accordance with this article as appropriate to ascertain facts to determine whether there is reasonable cause to believe that an unlawful discriminatory practice has occurred in violation of this article.
- (b) *Reasonable cause.* Within one hundred eighty (180) calendar days of the filing of the complaint, the administrator shall endeavor to determine whether there is reasonable cause to believe that a discriminatory practice has occurred in violation of this article.
- (1) The administrator may determine, upon conclusion of the investigation, that:
- i. There is reasonable cause to believe that a discriminatory practice has occurred in violation of this article; or
  - ii. There is no reasonable cause to believe that a discriminatory practice has occurred in violation of this article; or
  - iii. The complaint is not within the jurisdiction of the administrator.
- (2) If the administrator determines that there is no reasonable cause to believe that a discriminatory practice has occurred



in violation of this article, or that the complaint is not within the jurisdiction of the administrator, then the administrator shall dismiss the complaint.

(3) The administrator shall issue a reasonable cause determination in writing, signed and dated by the administrator. The administrator shall promptly notify the complainant and the respondent of the administrator's reasonable cause determination via certified mail and inform the parties of the options available under this article.

(c) Conciliation. If a complaint is within the jurisdiction of the administrator, then the administrator shall simultaneously, with its other duties described in this article, attempt to eliminate or correct the alleged discrimination by informal methods of conference, conciliation, and persuasion.

(1) The administrator may initiate dispute resolution procedures, including voluntary arbitration or mediation.

(2) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator, and must be signed and verified by the complainant and respondent and approved by the administrator. The conciliation agreement is for conciliation purposes only and does not constitute admission by any party that the law has been violated.

(d) Cooperation.

(1) Complainant. All complainants and aggrieved persons shall at all times cooperate with the administrator throughout any investigation, conciliation, or reasonable cause determination. Cooperation includes communicating with the administrator as requested and actively participating throughout the investigation, conciliation, and reasonable cause determination process. Failure of any complainant or aggrieved person to cooperate as required by this section may result in the administrator determining that the complainant or aggrieved person has abandoned the complaint and may result in the complaint being dismissed.

(2) Respondent. Cooperation by respondents with the administrator is essential to the County's ability to provide fair and efficient investigations and conciliations. Failure of any respondent to cooperate with the administrator's

investigation may result in the issuance of a determination based solely upon the facts that the administrator's investigation has disclosed concerning the alleged unlawful discriminatory practice; such a determination may be one of reasonable cause based on the unchallenged evidence submitted by a complainant.

**Section 22-33.           *Notice of right to sue; private cause of action.***

(a) *Notice of right to sue.* If the administrator determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of this article, and the administrator has been unable to obtain voluntary compliance with this article through conciliation (including a respondent's breach of an applicable conciliation agreement), then the administrator will issue the complainant a notice of right to sue on the basis of the complaint. The notice of right to sue must include:

- (1) Authorization to the complainant or aggrieved person to bring a civil action under this article within one (1) year from the issuance of such authorization;
- (2) Information concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;
- (3) A copy of the complaint and any applicable conciliation agreement; and
- (4) A copy of the administrator's determination of reasonable cause.

(b) *Private cause of action.* Upon receiving a notice of right to sue from the administrator in accordance with this section, the complainant or aggrieved party may bring a civil action against the person named in the complaint in any court of competent jurisdiction pursuant to this section and chapter 22, article I of this code including, but not limited to, section 22-4.

(c) If the administrator fails to conciliate and determine reasonable cause on a complaint within 180 calendar days after the filing of the complaint:

- (1) The administrator will promptly notify the complainant of the failure to conciliate and determine reasonable cause;

- (2) The administrator will issue the complainant a notice of right to sue; and
- (3) The complainant may proceed with a private cause of action under this section as if the administrator had determined that there was reasonable cause to believe that a discriminatory practice had occurred in violation of this article.

**Section 22-34.           *Appeal from determination of no reasonable cause; dismissal.***

- (a) *Appeal.* If, after concluding an investigation, the administrator determines that there is no reasonable cause to believe that a violation of this article has occurred, the complainant shall have the right to appeal such determination to a hearing officer. In order to exercise the right to appeal, the complainant must file a written statement with the administrator requesting an appeal, and describing the basis for the appeal, within thirty-five (35) calendar days of the date of the administrator's determination.
  - (1) The administrator shall promptly notify the respondent of the complainant's request to appeal in writing.
  - (2) The administrator shall promptly schedule a hearing in front of a hearing officer and notify the parties of the date, time, and location of the hearing. The hearing must be conducted in a manner to ensure that the complainant is afforded due process including, but not limited to, an opportunity to be heard.
- (b) In the event of an appeal, the hearing officer will promptly consider and act upon such appeal by issuing a written recommended order either:
  - (1) Affirming the administrator's determination; or
  - (2) Remanding the complaint to the administrator with appropriate instructions.
- (c) *Dismissal.* In the event that no appeal is taken, or such appeal results in the affirmation of the administrator's determination, or if remanded on appeal and on remand the administrator still determines that no reasonable cause exists, the determination of the administrator shall be final; the complaint will be closed with a ministerial finding of no reasonable cause, and the administrator will promptly notify the complainant and

respondent of the finding in writing, via certified mail, return receipt requested, and the complaint shall be dismissed.

**Secs. 22-35—22-39. Reserved. Secs. 22-30—22-39. Reserved.**

**Section 4. Amendments to Chapter 22, Article III.** Chapter 22 (“Human Rights”), Article III (“Equal Access to Places of Public Accommodations”) of the Orange County Code is hereby amended to read as follows with additions being shown by underlines and deletions being shown by strike-throughs:

## **CHAPTER 22. HUMAN RIGHTS**

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### **ARTICLE III. EQUAL ACCESS TO PLACES OF PUBLIC ACCOMMODATIONS**

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#### **Section 22-41. Definitions.**

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

Administrator shall mean that person designated pursuant to section 22-44 or their duly authorized agent.

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#### **Section 22-42. Prohibition of discrimination in public accommodations.**

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(c) In addition to those discriminatory practices made unlawful by this section, 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 discriminatory practice prohibited by this article or by an existing federal or state law prohibiting discrimination in public accommodations; 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 in public accommodations.

- (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.

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**Section 22-44. Administrative authority; powers and duties.**

- (a) Administrative authority. The provisions of this article shall be administered by the mayor or the mayor's designee who shall hereinafter be referred to as the "administrator."
- (b) Powers and duties. The administrator's powers and duties include the following:
- (1) Receive, initiate, and investigate written complaints as provided by this article relative to alleged discriminatory practices;
  - (2) Upon receiving or filing a written complaint, make such investigations as provided by this article;
  - (3) Endeavor to resolve complaints through conciliation in accordance with this article;
  - (4) Cooperate with, provide referrals to, and render technical assistance to federal, state, local, and other public and private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this article; and
  - (5) Conduct educational and public information activities that are designed to promote the policy of this article.

**Section 22-45. Complaint; jurisdiction; answer.**

(a) Complaint. Any person aggrieved by an unlawful discriminatory practice in violation of this article may, within three hundred sixty-five (365) calendar days after the alleged violation has occurred, file a complaint with the administrator naming the public accommodation, operator, or other person responsible for the alleged violation and describing the alleged violation.

(1) A complaint shall be in writing, signed under oath, on a form to be supplied by the administrator and shall contain the following:

- i. The identity, name, and address of the respondent(s);
- ii. The date of the alleged violation and the date of the filing of the complaint;
- iii. A general statement of facts describing the alleged violation including the classification category or categories of discrimination upon which the complaint is based;
- iv. The name, address, and signature of the complainant; and
- v. Any other information as may be deemed relevant by the administrator.

(2) The administrator shall not process a complaint that fails to provide all of the information required by this section or is outside of the administrator's jurisdiction.

(b) Jurisdiction. A complaint is outside the jurisdiction of the administrator if:

- (1) The complaint has been filed more than 365 calendar days after the alleged violation occurred;
- (2) The complainant has previously filed a complaint with the administrator pursuant to this article alleging the same grievance that is the subject of the current complaint and the previous complaint was dismissed or authorized for civil action or otherwise resolved as determined by the administrator; or

- (3) Another administrative agency under any other federal, state, or local law has jurisdiction over the alleged unlawful discriminatory practice that is the subject of the complaint and said agency is legally authorized to investigate and enforce the complaint.
- (c) Answer. Within five (5) calendar days of receiving a timely and complete complaint that is within the administrator's jurisdiction, the administrator shall transmit a copy of said complaint to each respondent named in the complaint via certified mail, return receipt requested.
- (1) In addition to a copy of the complaint, the administrator shall include a notice identifying the alleged unlawful discriminatory practice and a list of procedural rights and obligations contained in this article.
- (2) The respondent may file a written, verified answer to the complaint within twenty (20) calendar days of the date of receipt of the complaint from the administrator.
- (3) The respondent shall mail a copy of any answer that it files with the administrator to the complainant.
- (d) A complaint or answer may be amended at any time when it would be fair and reasonable to do so, as determined by the administrator, and the administrator shall furnish a copy of each amended complaint or answer to the respondent or complainant, respectively, as promptly as practicable.
- (e) The administrator shall provide technical assistance related to the process of filing complaints or answers, or any amendments thereto or response to such amendments.
- (f) The administrator shall inform complainants of their procedural rights and options as provided for in this article.

(b) Reasonable cause. Within one hundred eighty (180) calendar days of the filing of the complaint, the administrator shall endeavor to determine whether there is reasonable cause to believe that a discriminatory practice has occurred in violation of this article.

(1) The administrator may determine, upon conclusion of the investigation, that:

i. There is reasonable cause to believe that a discriminatory practice has occurred in violation of this article; or

ii. There is no reasonable cause to believe that a discriminatory practice has occurred in violation of this article; or

iii. The complaint is not within the jurisdiction of the administrator.

(2) If the administrator determines that there is no reasonable cause to believe that a discriminatory practice has occurred in violation of this article, or that the complaint is not within the jurisdiction of the administrator, then the administrator shall dismiss the complaint.

(3) The administrator shall issue a reasonable cause determination in writing, signed and dated by the administrator. The administrator shall promptly notify the complainant and the respondent of the administrator's reasonable cause determination via certified mail and inform the parties of the options available under this article.

(c) Conciliation. If a complaint is within the jurisdiction of the administrator, then the administrator shall simultaneously, with its other duties described in this article, attempt to eliminate or correct the alleged discrimination by informal methods of conference, conciliation, and persuasion.

(1) The administrator may initiate dispute resolution procedures, including voluntary arbitration or mediation.

(2) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator, and must be signed and verified by the complainant and respondent and approved by the administrator. The conciliation agreement is for conciliation



purposes only and does not constitute admission by any party that the law has been violated.

(d) Cooperation.

(1) Complainant. All complainants and aggrieved persons shall at all times cooperate with the administrator throughout any investigation, conciliation, or reasonable cause determination. Cooperation includes communicating with the administrator as requested and actively participating throughout the investigation, conciliation, and reasonable cause determination process. Failure of any complainant or aggrieved person to cooperate as required by this section may result in the administrator determining that the complainant or aggrieved person has abandoned the complaint and may result in the complaint being dismissed.

(2) Respondent. Cooperation by respondents with the administrator is essential to the County's ability to provide fair and efficient investigations and conciliations. Failure of any respondent to cooperate with the administrator's investigation may result in the issuance of a determination based solely upon the facts that the administrator's investigation has disclosed concerning the alleged unlawful discriminatory practice; such a determination may be one of reasonable cause based on the unchallenged evidence submitted by a complainant.

**Section 22-47. Notice of right to sue; private cause of action.**

(a) Notice of right to sue. If the administrator determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of this article, and the administrator has been unable to obtain voluntary compliance with this article through conciliation (including a respondent's breach of an applicable conciliation agreement), then the administrator will issue the complainant a notice of right to sue on the basis of the complaint. The notice of right to sue must include:

(1) Authorization to the complainant or aggrieved person to bring a civil action under this article within one (1) year from the issuance of such authorization;

(2) Information concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;

- (3) A copy of the complaint and any applicable conciliation agreement; and
  - (4) A copy of the administrator's determination of reasonable cause.
- (b) Private cause of action. Upon receiving a notice of right to sue from the administrator in accordance with this section, the complainant or aggrieved party may bring a civil action against the person named in the complaint in any court of competent jurisdiction pursuant to this section and chapter 22, article I of this code including, but not limited to, section 22-4.
- (c) If the administrator fails to conciliate and determine reasonable cause on a complaint within 180 calendar days after the filing of the complaint:
  - (1) The administrator will promptly notify the complainant of the failure to conciliate and determine reasonable cause;
  - (2) The administrator will issue the complainant a notice of right to sue; and
  - (3) The complainant may proceed with a private cause of action under this section as if the administrator had determined that there was reasonable cause to believe that a discriminatory practice had occurred in violation of this article.

**Section 22-48.      Appeal from determination of no reasonable cause; dismissal.**

- (a) Appeal. If, after concluding an investigation, the administrator determines that there is no reasonable cause to believe that a violation of this article has occurred, the complainant shall have the right to appeal such determination to a hearing officer. In order to exercise the right to appeal, the complainant must file a written statement with the administrator requesting an appeal, and describing the basis for the appeal, within thirty-five (35) calendar days of the date of the administrator's determination.
  - (1) The administrator shall promptly notify the respondent of the complainant's request to appeal in writing.
  - (2) The administrator shall promptly schedule a hearing in front of a hearing officer and notify the parties of the date, time,

and location of the hearing. The hearing must be conducted in a manner to ensure that the complainant is afforded due process including, but not limited to, an opportunity to be heard.

(b) In the event of an appeal, the hearing officer will promptly consider and act upon such appeal by issuing a written recommended order either:

(1) Affirming the administrator's determination; or

(2) Remanding the complaint to the administrator with appropriate instructions.

(c) Dismissal. In the event that no appeal is taken, or such appeal results in the affirmation of the administrator's determination, or if remanded on appeal and on remand the administrator still determines that no reasonable cause exists, the determination of the administrator shall be final; the complaint will be closed with a ministerial finding of no reasonable cause, and the administrator will promptly notify the complainant and respondent of the finding in writing, via certified mail, return receipt requested, and the complaint shall be dismissed.

~~Sec. 22-49. Reserved. Secs. 22-44—22-49. Reserved.~~

*Section 5. Amendments to Chapter 22, Article IV.* Chapter 22 (“Human Rights”), Article IV (“Fair Housing”) of the Orange County Code is hereby amended to read as follows with additions being shown by underlines and deletions being shown by strike-throughs:

## **CHAPTER 22. HUMAN RIGHTS**

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### **ARTICLE IV. FAIR HOUSING**

#### **DIVISION 1. GENERALLY**

*Section 22-50. Generally.*

(a) The general purpose of this article is to promote through fair, orderly, and lawful procedure the opportunity for each individual so desiring to obtain housing of such individual's choice in Orange County without regard to race, color, religion, national origin, disability, marital status, familial status, lawful

source of income, sex, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence, or stalking, and, to that end, to prohibit discrimination in housing by any person.

(b) In addition to those discriminatory practices made unlawful by this article, 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 discriminatory practice prohibited by this article or by an existing federal or state law prohibiting discrimination in housing; 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 in housing.

(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.

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## **DIVISION 2. ADMINISTRATION AND ENFORCEMENT**

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### ***Section 22-59. Enforcement.***

(a) Where pursuant to a failure of conciliation, any complaint presented by the complainant, and where in the manager's opinion such action is warranted, all evidence gathered relevant to any alleged violation of this article may be submitted to the proper state or federal authorities for further investigation or appropriate legal action.

(b) The aggrieved person may commence a civil action, pursuant to this section and article I of this chapter, in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by division 1 of this article and is not required to exhaust administrative remedies before commencing

such action. If an action filed in court under this section comes to trial, the manager shall immediately terminate all efforts to obtain voluntary compliance.

(1) An aggrieved person may commence a civil action no later than 2 years after an alleged discriminatory housing practice has occurred. However, the court shall continue a civil case brought under this section before bringing it to trial if the court believes that the conciliation efforts of the manager are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the manager and which practice forms the basis for the action in court. Any sale, encumbrance, or rental consummated before the issuance of any court order issued under this chapter and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this chapter is not affected.

(2) An aggrieved person may commence a civil action under this section and article I of this chapter regardless of whether a complaint has been filed with the manager under section 22-57 and regardless of the status of any such complaint. If the manager has obtained a conciliation agreement with the consent of an aggrieved person under section 22-58, the aggrieved person may not file any action under this section regarding the alleged discriminatory housing practice that forms the basis for the complaint except for the purpose of enforcing the terms of the conciliation agreement.

***Section 6. Repeal of Laws in Conflict.*** All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

***Section 7. Filing of Ordinance and Effective Date.*** This ordinance shall take effect pursuant to general law.

ADOPTED THIS 02 DAY OF May, 2023.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Jennifer Ann-Kline*  
Deputy Clerk