

BEACHWOOD CITY COUNCIL
COMMITTEE OF THE WHOLE MEETING
AGENDA

MONDAY, AUGUST 27, 2018 6:00 P.M.

at **BEACHWOOD CITY HALL, CONFERENCE ROOM A,**
25325 Fairmount Boulevard, Beachwood, Ohio

Brian Linick
James Pasch
Justin Berns
Alec Isaacson
Barbara Bellin Janovitz
Eric Synenberg
June E. Taylor

1. Mayor's Report.
2. Discussion regarding a proposal for a Dog Park in the City of Beachwood, Ohio.
3. Executive Session for the purpose of discussing the disposition of certain City of Beachwood, Ohio owned properties.
4. Discussion regarding the proposed LGBTQ Policy for the City of Beachwood, Ohio.
5. Any other matters coming before the Committee of the Whole.

#



Barkwood

 CITY OF BEACHWOOD

August 27, 2018

CITY OF
Beachwood

Proposed location

16 spaces

restrooms
1,700 ft



Project Proposal

- Approximately 1 acre in size
- 5' chain link fence, double gate system
- Base: natural grass
- Separate dogs by weight
- Current # of parking spaces: 25 (2 handicapped)
- Proposed # of spaces: 37
- Basic needs: water, electric, regrading, fence, seating, shade, separation
- Centrally located, easy to access, nearby restrooms (less than 1/3 mile away)

CITY OF
Beachwood

Project area



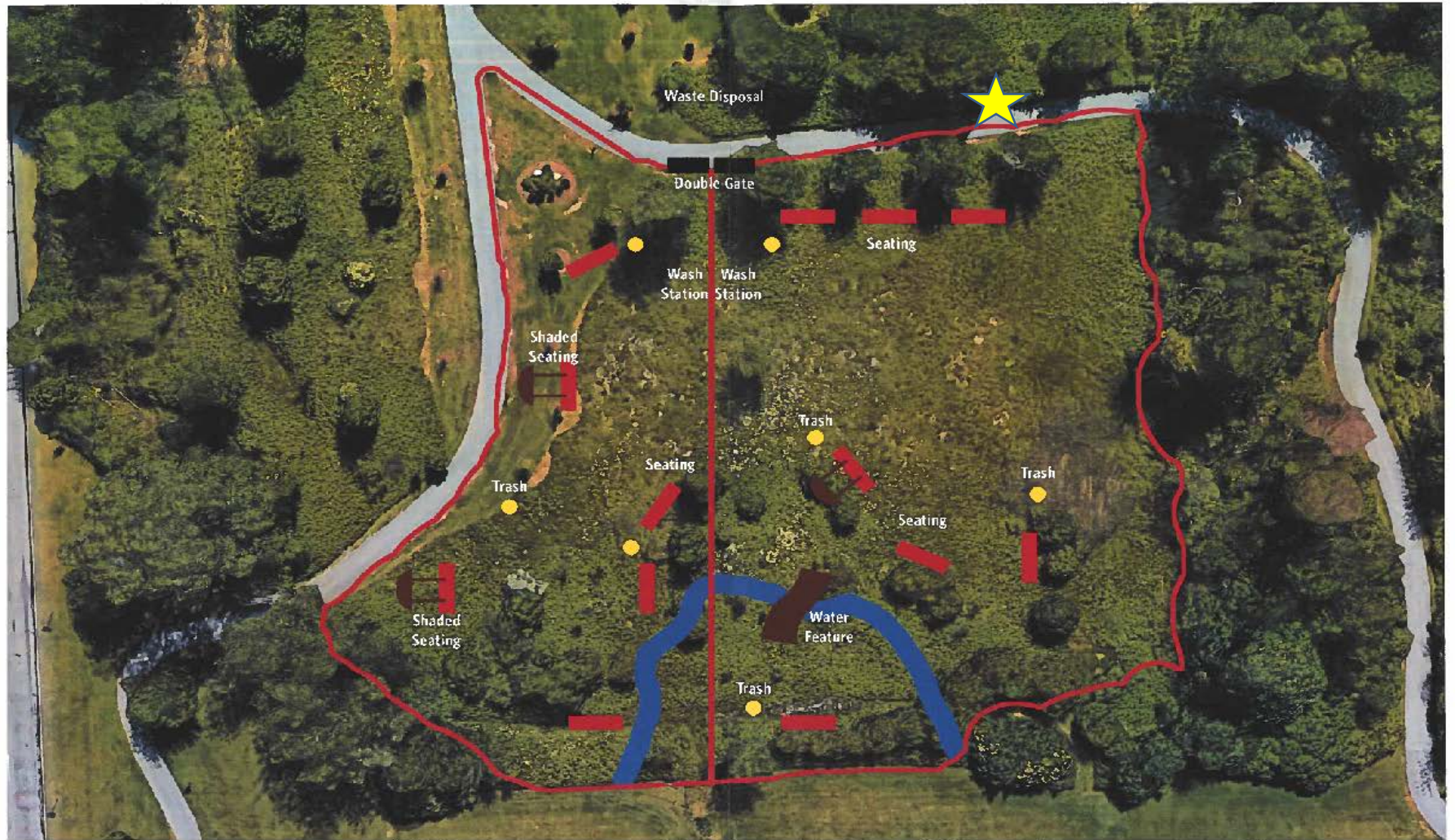
Regrading: \$15K
Fence: \$22.5K
Base: \$9K
Seed/mulch: \$12K

Electric: \$5K

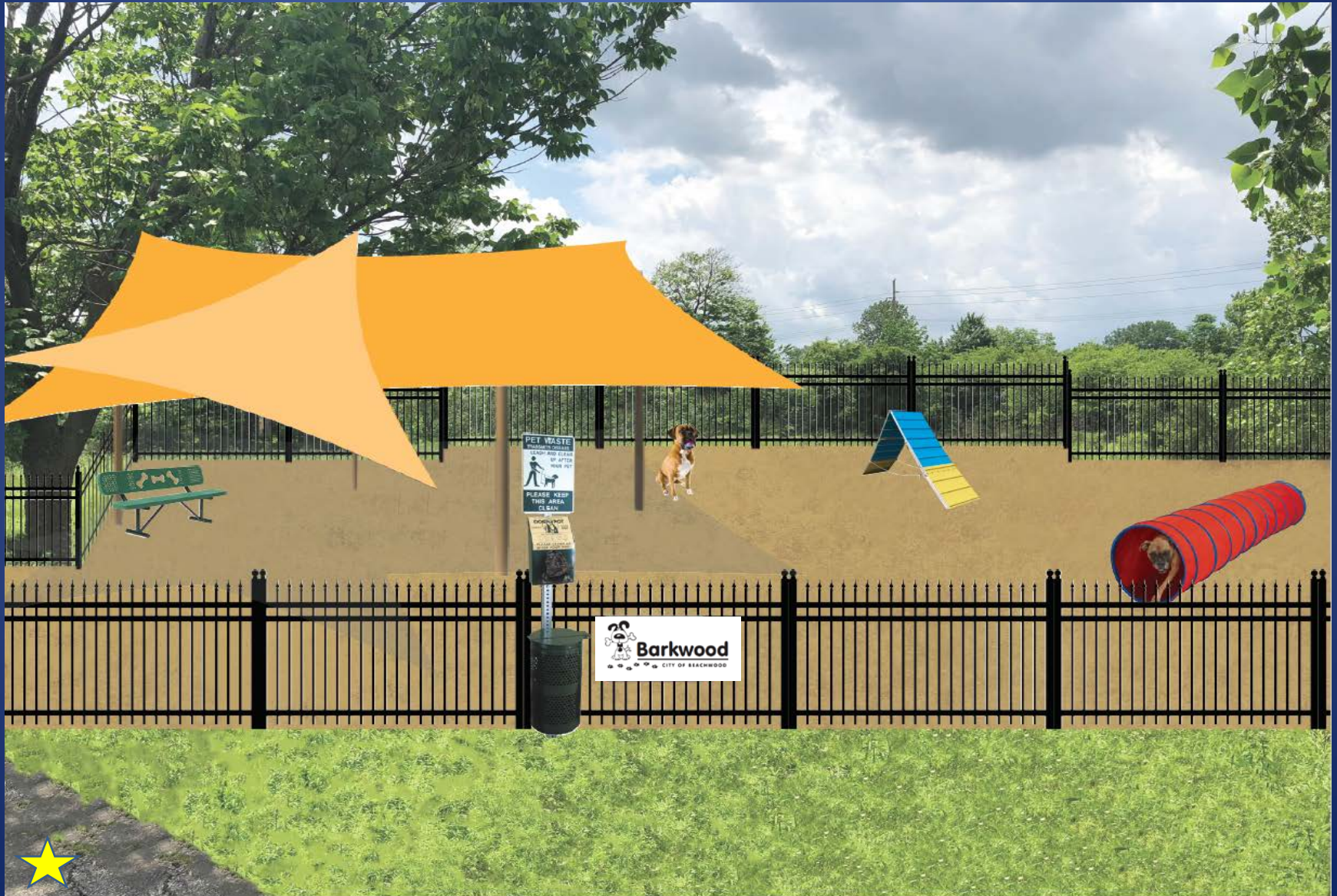
Lot expansion:
\$12.5K

Water: \$17.5K

Proposed site plan



Rendering of proposed



Public comments

- "I have been a Beachwood resident for 30 years and have been waiting for a dog park all this time. I hope this idea comes to fruition. My family and I are definitely in support of the proposed Dog Park"
- "Thanks. We are dog owners and Beachwood residents for the past 12 years. We would love to have a great dog park close to home. We currently drive either to South Euclid, or even more often all the way out to the Lake County Park. A dog park would be a great asset to the city and could only attract more residents and increase the overall appeal of Beachwood. We are excited to see a dog park soon!"
- "My wife Debbie and I live in Beachwood, and we are both in favor of the proposed dog park. We, and many others, including several families on our cul-de-sac, are dog owners. We like taking our pets for extended walks and would welcome such a park. Having a dog park, and knowing that it would be built to Beachwood's exacting standards, would be an additional quality of life positive for the city. Although we are long-time residents, we understand that offering a wide array of amenities is important to continue to attract and keep residents to the city. Beachwood does compete with other communities, and adding a dog park would be attractive to newcomers and residents alike. While appealing to our pets, it also will present a natural opportunity for Beachwood residents to meet and interact, which is also a positive".

- Additional comments in appendix

CITY OF
Beachwood

Public Engagement session

June 6, 2018

41 attendees

Major questions/concerns:

What will be used for the base material?

Will there be enough parking?

How should the dogs be separated?

Pros

Socialization/quality of life

Attract new/retain residents

Health & wellness

Cons

Cleanup/maintenance

Potential for injury

CITY OF
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Area dog park examination

Downtown (at Settler's Landing)

Base: peat gravel, boardwalks

Size: 3,500 sq ft (.08 acres)

Cost to use: free

Cost to build: \$20K

Features: agility, events

Cons: no shade or water

Cleanup: Bags

* 8% of size



CITY OF
Beachwood

Lakewood

Base: gravel

Size: 1/4 acre

Cost to use: free

Cost to build: \$20K

Features: agility

Cleanup: Bags

*25% of size



CITY OF
Beachwood

Canine Meadow (Kirtland)

Base: Grass, beach, pond

Size: 6 acres

Cost to use: free

Cost to build: \$135K

Cleanup: Bags

Features: events,
dog washing station



CITY OF
Beachwood

Bow Wow Beach (Stow)

Base: Grass, beach, pond

Size: 7.5 acres

Cost to use: free

Cleanup: Bags

Cost to build: just fence, as it was already a swimming park

Features: dog washing station



CITY OF
Beachwood

Bainbridge

Base: Grass, some concrete at the entry

Size: 1 acre

Cost to use: free

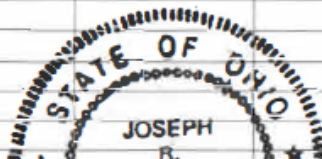
Cost to build: \$7,000
(not including labor)



CITY OF
Beachwood

Cost estimate

	Description	Quantity	Units	Unit Cost	Total
1	Preconstruction DVD	1	LS	\$1,000	\$1,000.00
2	Clearing & Grubbing	1	LS	\$5,000	\$5,000.00
3	Excavation & Grading	1	LS	\$10,000	\$10,000.00
4	Parking Lot Pavement Expansion	250	SY	\$50	\$12,500.00
5	Project Sign - do in house	1	LS	\$00	\$00.00
6	Subgrade Compaction	4500	SY	\$2	\$9,000.00
7	4" Concrete Walk	250	SF	\$15	\$3,750.00
8	60" Perimeter fence w/2-10' gate	1500	FT	\$15	\$22,500.00
9	Water Service w/ meter	500	FT	\$35	\$17,500.00
10	Electrical Service	1	LS	\$5,000	\$5,000.00
11	Seeding & Mulching	3000	SY	\$4	\$12,000.00
12	Dog Waste Station	2	Each	\$280	\$560.00
13	Washing Station	0	Each	\$0,	\$0,
14	Barkpark Kit	0	Each	\$0,	\$0,
15	Bench	4	Each	\$739	\$2956.00
16	Backless Bench	4	Each	\$479	\$1916.00
17	Trash Can	2	Each	\$663	\$1326.00
18	Leash Time	0	Each	\$0	\$0
19	Paws Table	2	Each	\$679	\$1358.00
20	Doggie & Me Fido Fountain	1	Each	\$3,400	\$3,399.99
21	Dog Bridge Stairs/Ramp	0	Each	\$0	\$0,
22	Shade Shelter	1	Each	\$6 000	\$6,000.00
23	Sutera	1	Each	\$5,500	\$5,500.00
24	Key Fob Gate	1	Each	\$5,000	\$5,000.00
25	Signage	1	Each	\$1,200	\$1,200.00
26	Community Bulletin Board	1	Each	\$700	\$700.00
Total Estimated Construction Costs					\$128,165.99
B. Engineering					\$10,000.00
C. Project Total					\$138,165.99
D. Construction Contingencies					\$10,000.00
TOTAL					\$148,165.99
Very truly yours,					
GPD GROUP					



Sponsorship Opportunities

- Benches
- Pathways
- Amenities/agility obstacles

Appendix

Proposed rules

- Patrons and dogs use the Dog Park at their own risk
- Park opens at dawn and closes at dusk
- Gates will remain locked when the park is not open
- Children under the age of 7 are not permitted inside fencing
- Owners must maintain their dog on leash when entering or leaving the park
- Dogs weighing less than 35lbs will be limited to the small dog section
- No dogs under 4 months are allowed at the park
- Unhealthy dogs or dogs in heat cannot enter the park
- Food is not allowed within the confines of the dog park
- Pets must be supervised by owner at all times
- Dog waste must be quickly cleaned up and disposed of, failing to do so or littering will result in fines
- All animals must have current licenses and current immunizations as well as rabies, distemper and parvovirus shots. (Vaccine information and ID tags must be on the dog's collar to be worn at all times)
- Aggressive dogs must be immediately removed
- Each individual is limited to three dogs
- Owners and dog handlers are responsible and liable for all damage or injury inflicted by their dogs
- For emergencies, dial 911

CITY OF
Beachwood

Examples of rules

BOW WOW BEACH

South Euclid Dog Park Rules

- Patrons and their dogs use the Dog Park at their own risk.
- Owners are responsible for all damages and/or injury inflicted by their dogs.
- No dogs declared dangerous under Ohio Law allowed (OH Rev. Code 955.22D).
- Children age 6 or under are prohibited from entering the Dog Park.
- Children ages 7 to 16 must be accompanied and supervised by an adult.
- Dogs must be leashed coming to and leaving the Dog Park.
- Dogs must be supervised by handler at all times.
- No more than 3 dogs per handler in the Dog Park at any time.
- No bicycles or portable pools in the Dog Park.
- Dogs in heat and dogs under 4 months of age are not permitted.
- Handler must clean up dog waste (S.E. City Ord. 505.18).
- Vicious or uncontrolled dogs must leave the Dog Park immediately.
- Dogs with communicable disease are not allowed.
- No aggressive dogs or excessive mounting allowed.
- Handler must have leash on his/her person at all times.
- No human food or dog treats allowed in the Dog Park.
- Dogs must wear current license and vaccination tags.
- The South Euclid Dog Park is open from dawn to dusk.

- Park hours are 8am to dusk daily during the open season.
- **Keep park gates closed at all times.**
- Park visitors use the park at their own risk.
- **No food of any kind is allowed in the park.**
- Humans must stay out of the lake water.
- **Humans must be at least 48" tall to enter the dog park.**
- Puppies under four months of age are prohibited.
- **Problem/aggressive dogs must be immediately removed.**
- Leave unhealthy dogs or dogs in heat at home.
- **Dogs with known history of dangerous behavior are prohibited.**
- The facility will be closed when the lake is freezing or frozen.
- **Large dogs are NOT permitted in the SMALL DOG area-small dogs ONLY! (Small dogs are 35 lbs. and under.)**
- Dogs should be leashed when entering and leaving the park area.
- **Quickly clean up after your dog, and dispose of the waste.**
- No animals other than dogs are permitted in the dog park.
- **Owners must carry leash and monitor dog's behavior at all times.**
- Owners are responsible and liable for their dogs and children.
- **Leaving dogs unattended is prohibited.**
- Limit of three dogs per person.
- **Dogs must wear a collar with identification at all times.**
- No choke or pinch collars allowed in the park.
- **All dogs must have current licenses and be current on immunizations and shots including rabies, distemper and parvovirus.**

CITY OF
Beachwood

Examples of rules

Canine Meadow

DOG PARK RULES & POLICIES

Users of the dog park do so at their own risk.

Parents/legal guardians assume all risk for their children. It is recommended that children younger than 12 stay outside of the fenced areas for their own protection.

Dog owners are responsible for any injury or damage caused by their dog, per state law.

All Lake Metroparks rules apply and must be observed.

Each dog must display current license and rabies tags on its collar per state law.

No dogs larger than 35 pounds are permitted in the small dog area.

Dogs in heat are not allowed.

Sick or injured dogs are not permitted in the dog park, nor a dog that has been declared dangerous or vicious per state law.

Dogs that have been designated as dangerous or vicious per state law may NOT enter the park. A handler shall immediately leash and remove a dog that becomes aggressive.

Criminal penalties apply for bringing a dangerous or vicious dog into this park.

Dogs must be closely supervised and within sight and voice control of their handler at all times.

All dog handlers must be at least 18 years old or supervised by an adult. No more than three dogs per handler.

Dog bites to other dogs or people shall be reported immediately to the Lake Metroparks Rangers at 440-354-3434. Handlers must provide their dog's name, license number and veterinarian's name to a ranger upon request.

Dogs are to be brought to the park on leashes and released inside the designated off-leash area, and put under the control of own leash again as they exit the off-leash area.

Retractable leashes are not recommended.

Muzzles, spike or prong collars are NOT permitted on dogs in the park.

Dog waste must be picked up immediately by the handler and placed in the trash cans.

Handlers who fail to do so may be cited for littering.

Animals other than dogs are NOT permitted.

People food and dog treats of any kind are NOT permitted — food and treats can trigger fights between dogs.

Glass containers, bicycles, strollers or children's toys are NOT permitted.

Fishing and swimming by humans is NOT permitted.

CITY OF
Beachwood

Dog Park public hearing attendees
June 6, 2018

Resident	Resident	Resident	Resident
Sam Malcmacher	Karen Tindel	Michael Mintz	George Cohn
Lee Janovitz	Linda Blumenthal	Bobbi Katz	Margaret Heydorn
David Roth	Yumi Matsugama	Murray Katz	Marilynn Johnson
Steven eppel	Gail Eisen	Darby Steiger	Shigemi Matsuyama
Roger Weiss	Lisa Lazar	Sharon Weisman	Micko Matsuyama
Bernard Agin	Jackie Monk	Nancy Silverman	
JoAnn Eisenberg	Chuck Bailin	Allyn and Leslie Sobel	
Mr. / Mrs. Gary Haas	Arlene Fine	Kathleen Fullerton	
Burton Curtis	Phil Fine	Cindy Polster	
Melvin Jacobs	Grant Gravagna	Lisa Fullerton	
Lori Martel	Clayton Herdorn	Stephanie Snyder	
Linda Myers	Joni Wasserman	Julie Mintz	

Dog Park comments received via phone email

Resident	Comment
Warren Sklar	"I encourage having a dog park"
Gail Eisen	"Will there be an attendant at the park to check if all dogs have been vaccinated? Is this park for residents only? Will the dogs be separated as to large and small? Will there be a fee? Will owners be responsible for injuries to other dogs? Why is a dog park necessary?"
Michael and Ann Epstein	"We are unable to attend the meeting regarding the Dog Park this week, however we wanted to voice our support. Can you let me know how we can do that in lieu of attending the meeting?"
Patty Rubin	"I understand that the city is considering building a dog park at the Shaker Blvd. Park. I am in support of this idea"
Rena Ellis Sogoloff	"I have been a Beachwood resident for 30 years and have been waiting for a dog park all this time. I hope this idea comes to fruition. My family and I are definitely in support of the proposed Dog Park"
Michael and Ann Epstein	"Thanks. We are dog owners and Beachwood residents for the past 12 years. We would love to have a great dog park close to home. We currently drive either to South Euclid, or even more often all the way out to the Lake County Park. A dog park would be a great asset to the city and could only attract more residents and increase the overall appeal of Beachwood. We are excited to see a dog park soon!"
Carol Katz	"Some very serious injuries occur at dog parks, I hope that you will consult vets in the area before doing this. Thanks for reading this"
Norma Zukerman	"I just want to let you know that I would support a dog park for the city of Beachwood and hope to be able to take my dogs there one day"
Morry Blech	"My wife is afraid of dogs. Will dogs still be allowed at the park across the street? Could this money be used for something else?"
Andrew and Debbie Hoffmann	"My wife Debbie and I live in Beachwood, and we are both in favor of the proposed dog park. We, and many others, including several families on our cul-de-sac, are dog owners. We like taking our pets for extended walks and would welcome such a park. Having a dog park, and knowing that it would be built to Beachwood's exacting standards, would be an additional quality of life positive for the city. Although we are long-time residents, we understand that offering a wide array of amenities is important to continue to attract and keep residents to the city. Beachwood does compete with other communities, and adding a dog park would be attractive to newcomers and residents alike. While appealing to our pets, it also will present a natural opportunity for Beachwood residents to meet and interact, which is also a positive".
Erica Remer	I was unable to attend the community meeting, but I strongly support the City of Beachwood constructing a dog park. I do not own a dog myself, but I have many friends in my neighborhood who walk their little fluffy white dogs (🐶), and I think it would be quite an asset for Beachwood to have a place for dogs and owners to congregate and socialize. It seems like it would be a unique feature of our community. I urge the Council to consider this matter sooner rather than later, since the season of construction in Cleveland is so limited. From what I have been told, it would require a relatively modest investment.
Juana A. Cuervo	"I am 100% for Beachwood having a dog park and I don't even own a dog! Please what do we need to make this park a reality?"

To include LGBTQ into our Policy

5.2(B)(3) should read:

Unlawful harassment includes harassment based on race, color, religion, sex, age, ethnic origin, military status, marital status, perceived or actual sexual orientation, gender identity or gender expression or disability.

Add this as Section as the new Section D in 5.2

Transgender Identification and Support Policy

The City recognizes that transgender employees may face additional challenges in the workplace. Affirming our commitment to an inclusive environment, embractive of the diversity of our staff, the City seeks to ensure that employees who are currently transitioning or who have already undergone gender transitions are treated in an equal and respectful manner. Transgender employees are encouraged to dress consistently with their gender identity and should be addressed with the pronouns relevant to the gender in which they identify. Additionally, as the City respects all employees right to privacy, transgender employees shall not be subject to unwanted questions regarding their status, medical history, or sexual orientation.



A look at Nondiscrimination Protections in Beachwood, Ohio

Prepared for Equality Ohio by Jennifer English

August 18, 2016

This memo provides a brief examination of the laws and codified ordinances of Beachwood, Ohio to determine what, if any, nondiscrimination protections are in place. Beachwood was incorporated as a village in 1915 when it chose to secede from Warrensville, in 2014, it was named the fourth best city to start a business in Ohio by NerdWallet.¹ Beachwood is located east of Cleveland in Cuyahoga County with a population of over 12,000.²

The Codified Ordinances of Beachwood, Ohio, contain general and permanent legislation. The code is edited and prepared for publication by ConwayGreene and includes codified ordinances through September 8, 2015. A search was done to identify all nondiscrimination provisions within the code and to document what groups of people these provisions protect. Each of the provisions was reviewed to see whether it included “sexual orientation,” “gender identity,” “gender expression,” or any other term that clearly was intended to be synonymous with these terms. The Beachwood code contains three nondiscrimination provisions.

¹ CITY OF BEACHWOOD WEBSITE, www.beachwoodohio.com (Last visited August 12, 2016).

² *Id.*

Table 1 in the appendix of this memo contains the text of provisions of the Beachwood code that provide protection to some groups from discrimination and do not include “sexual orientation” or “gender identity or expression.”³ To show the inconsistencies within these provisions, Table 2 shows the groups that are included in each of these instances.⁴ Each of the areas covered by these provisions vary greatly in the groups that are covered.

When evaluating the strength of a city’s nondiscrimination protections, it is important to review what areas these protections cover and what groups of people are afforded protection by them. Municipal codes with nondiscrimination provisions that cover housing, employment, and public accommodations, and which extend to a comprehensive group of people are considered the strongest.

Beachwood currently has nondiscrimination protections in the area of housing. These provisions provide very minimal protections for the residents of Beachwood and were enacted in 1966 and have not been updated for 50 years. The only other nondiscrimination provision is an affirmative action ordinance that applies only to city employees which was enacted in 1977. Also concerning with the Beachwood city code is the lack of an “Ethnic Intimidation” (hate crimes) ordinance. Beachwood should address the lack of nondiscrimination protections for all citizens in the areas of employment and public accommodations to make Beachwood a more inviting city.

³ See Infra Appendix table 1.

⁴ See Infra Appendix table 2.

Additionally, the existing provisions should be updated to reflect current best practices by providing protections in all areas of housing including credit and posting of notices.

There are no provisions that specifically require contractors/bidders who do business with the city to either disclose any charges of discrimination that they have had made against them or require them to have comprehensive nondiscrimination policies. Many cities have successfully required commitments from their contractors/bidders and Beachwood should consider implementing similar policies. While creating a new provision regarding contractors/bidders, Beachwood should make the requirements comprehensive in groups included and among them should be “sexual orientation” and “gender identity or expression”.

When municipalities enact local ordinances, residents of the municipality who disagree with the ordinance can challenge them. This ability to challenge a newly enacted ordinance is part of the referendum power that the Ohio Constitution grants to the people.⁵ Residents of all Ohio municipalities have referendum powers, but the procedures that govern these referendum powers can vary depending on whether the municipality has a charter and whether the municipality has included repeal procedures in their city charter. Beachwood has a city charter.

⁵ Article II Section 1f of the Ohio Constitution reserves to the people of each municipality the powers of initiative and referendum on all questions which such municipalities are authorized to control by legislative action. *Chapter 6: Municipal and Township Initiative and Referendum*, 2013 OHIO BALLOT QUESTIONS AND ISSUES HANDBOOK, 6-1, available at <http://www.electionsonthe.net/oh/clark/pdfs/MunicipalTwplInitiative.pdf> (last visited June 15, 2016). Referendum power is defined as the power of electors to petition for the submission of an ordinance enacted by a municipal legislative authority to the voters for either approval or rejection. *Id.*

The Ohio Revised Code contains provisions for how municipal residents can repeal a new ordinance by referendum. These provisions are found in sections 731.29 - 731.41,⁶ with the most relevant information contained in Section 731.29.⁷ Non-charter municipalities must follow the procedures described in Section 731.29, but state law does not necessarily bind charter municipalities. Municipal charter provisions will prevail over the statutory provisions.⁸ Beachwood is a charter municipality and has specific referendum procedures in place. If the residents want to repeal any ordinance passed by the city council, they will need to follow the procedures laid out in Article VII section 2 of the Beachwood City Charter.⁹

Article VII Section 2 states that within thirty days of the passage of a new ordinance, the electors can file a petition to repeal the ordinance with the signatures of 10% of the electors.¹⁰ The Council then has thirty days to reconsider the ordinance. If the Council chooses not to repeal the ordinance, the ordinance will then be voted on by the electors at the next election.¹¹

With respect to anti-bullying, Beachwood is compliant with the State of Ohio requirement that all public school districts have an anti-bullying policy.¹² The Beachwood City Schools has two bullying policies. The first is titled “Anti-Harrassment”

⁶ OHIO REV. CODE ANN. §731.29 – 41 (West 2010).

⁷ OHIO REV. CODE ANN. §731.29 (West 2010).

⁸ *Id.*

⁹ BEACHWOOD CITY CHARTER Article VII § 2

¹⁰ *Id.*

¹¹ *Id.*

¹² *The Impact of House Bill 116 on your School District*, OHIOSCHOOLPLAN.ORG, <http://www.ohioschoolplan.org/03-13-12.html> (Last visited August 12, 2016).

and was most recently updated on January 13, 2014.¹³ This policy is inclusive and includes protections for both “sexual orientation” and “transgender identity” along with a list of types of bullying behavior. The second bullying policy is titled “Bullying and Other Forms of Aggressive Behavior.”¹⁴ The second policy was revised in August 25, 2014 and is unremarkable. It is a general policy that does not include any protected classes. The policy is otherwise average and not remarkable in either a positive or negative way.

Ohio Law also requires that school districts report semiannually the number of incidents of verified bullying and harassment by school building.¹⁵ Beachwood City Schools complies with this requirement. The report can be found by searching “bullying” from the district’s homepage.¹⁶ The school reports only confirmed incidents of bullying, but do separate it according to the type and location. The information appears to be for the school year and should be broken down by semester.¹⁷

Public opinion is evolving rapidly regarding LGBTQ rights.¹⁸ The Supreme Court of the United States held in *Obergefell v. Hodges* (2015) that there is a constitutional

¹³ Beachwood City Schools Board Policies and Procedures § 5517.
<http://www.neola.com/beachwoodcity-oh/> (Last Visited August 12, 2016).

¹⁴ § 5517.01

¹⁵ OHIO REV CODE ANN. §3313.666 (2012).

¹⁶ 2014-2015 Bullying Report.

<http://www.beachwoodschoools.org/Downloads/Report%20Bullying%20Incidents%202014-2015.pdf> (Last Visited August 12, 2016).

¹⁷ Separating each semester’s reported bullying allows parents and interested parties to see if there were incidents of bullying that happened in the fall semester that were addressed allowing for a drop in reported incidents in the spring semester.

¹⁸ A recent CNN/ORC poll shows that 63% of Americans now support the freedom to marry as a constitutional right for gay couples. This is a 14% increase since 2010. *Polling Tracks Growing and Increasingly Diverse Support for the Freedom to Marry*, FREEDOM TO MARRY, <http://www.freedomtomarry.org/resources/entry/marriage-polling> (last visited August 12, 2016).

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right to same-sex marriage.¹⁹ This historic ruling struck down bans on same-sex marriage in 13 states including Ohio.²⁰ Additionally, almost 70% of Ohio voters strongly support laws that would protect gay and lesbian people from employment discrimination.²¹ This support is found among both political parties and every major religious group.²² Although the majority of Ohioans incorrectly believe that state and federal laws already protect people from discrimination based on “sexual orientation” and “gender identity,”²³ stories of discrimination are helping to illustrate that this is simply not the case.²⁴ As this realization spreads, people may start to pay more attention to what type of local protections are in place when they are considering where to live. Strong local nondiscrimination protections are a way for cities to distinguish themselves from neighboring cities.

¹⁹ Adam Liptak, *Gay Marriage Supporters Win Supreme Court Victory*, N.Y. TIMES, June 26, 2015, <http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html> (last visited August 12, 2016).

²⁰ *50 States with Legal Gay Marriage*, PROCON.ORG, <http://gaymarriage.procon.org/view.resource.php?resourceID=004857> (last visited August 12, 2016).

²¹ *The 2013 Ohio Values Survey: Ohio Voters Strongly Support Employment Nondiscrimination Laws for Gay and Lesbian People, Slim Majority Oppose Amending Ohio Constitution to Allow Same-sex Couples to Marry*, PUBLIC RELIGION RESEARCH INSTITUTE, <http://publicreligion.org/research/2013/09/2013-ohio-values-survey/> (last visited Jun. 17, 2015).

²² *Id.*

²³ *Id.*

²⁴ A same-sex couple in Bexley, Ohio was denied wedding services by a videographer because of their sexual orientation. Jareen Imam, *Ohio same-sex couple accuses videographer of discrimination*, CNN.COM (March 16, 2015), <http://www.cnn.com/2015/03/16/living/same-sex-wedding-videographer-feat-irpt/> (last visited Jun. 17, 2015). As a result of this incident, the Bexley City Council voted unanimously on June 23, 2015 to pass a comprehensive nondiscrimination ordinance. Catheryn Oakley, *Bexley, Ohio Passes Non-Discrimination Ordinance*, June 24, 2015, HUMAN RIGHTS CAMPAIGN, <http://www.hrc.org/blog/entry/bexley-ohio-passes-non-discrimination-ordinance> (last visited Jun. 25, 2015).

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In conclusion, the City of Beachwood needs to update the municipal code to be more inclusive for all citizens. There need to be provisions added to the code regarding public accommodations, private employers, and city employees in order for the city to be more welcoming and inclusive for all. Additionally, the existing housing provisions need to be updated to include “sexual orientation” and “gender identity or expression.”

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Appendix

Table 1

State of the Law in Beachwood, Ohio – Nondiscrimination Provisions that do not include “sexual orientation” or “gender identity or expression”. Yellow Highlighting shows groups protected, Red highlighting shows exceptions”²⁵

Current Beachwood Codified Nondiscrimination Ordinances that do not include “sexual orientation” or “gender identity or expression”:

Chapter 721 – Real Estate Practices

§ 721.01 - CERTAIN PRACTICES PROHIBITED.

No person who receives or expects to receive pecuniary gain from the sale of real property shall:

- (a) Incite, arouse or refer to neighborhood unrest, community tension or racial, religious or nationality change in a neighborhood or on a particular street for the purpose of inducing or promoting the sale or lease of real property.
- (b) Promote or influence or attempt to promote or influence a property owner, occupant or tenant to list for sale, sell, remove from or lease real property by referring to **race, color, religion or national origin** of neighbors, tenants, prospective buyers or occupants of real property.
- (c) Resort to or engage in any intimidation or threats in attempting to influence or induce a property owner or tenant to list for sale, sell, remove from or lease real property.

(Ord. 1966-50. Passed 5-2-66.)

Chapter 165 – Employees Generally

§ 165.03 - AFFIRMATIVE ACTION.

Evidenced by the Charter and the ordinances of the City, the City is committed to a policy of providing equal employment opportunity in recruiting, hiring, training and promoting in all job classifications on public contracts and prohibiting discrimination based on **race, creed, color, sex, national origin, age or handicap**, and inasmuch as the population of the City consists of people of every race, color, religion and national origin, the City has a vital and compelling interest in initiating positive practices in the expenditures of public funds to promote the general

²⁵ See *supra* note 3.

welfare of the City and to make possible the achievement of these laudable purposes. Accordingly, the program attached to original Resolution 1977-11, passed January 17, 1977, is hereby approved and adopted by the City to establish an affirmative action equal opportunity plan. The same shall be enforced in the City in order to obtain its objectives.

(Res. 1977-11. Passed 1-17-77.)

Chapter 636 – Offenses Relating to Persons

§ 636.22 - INTIMIDATION IN CONNECTION WITH HOUSING.

- (a) No person, whether or not acting under color of law, shall, by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with any of the following:
- (1) Any person because of race, color, religion, sex, familial status, as defined in Ohio R.C. 4112.01, national origin, handicap, as defined in that section, or ancestry and because that person is or has been selling, purchasing, renting, financing, occupying, contracting or negotiating for the sale, purchase, rental financing or occupation of any housing accommodations, or applying for or participating in any service, organization or facility relating to the business of selling or renting housing accommodations;
 - (2) Any person because that person is or has been, or in order to intimidate that person or any other person or any class of persons from doing either of the following:
 - A. Participating, without discrimination on account of race, color, religion, sex, familial status, as defined in Ohio R.C. 4112.01, national origin, handicap, as defined in that section, or ancestry, in any of the activities, services, organizations or facilities described in paragraph (a)(1) hereof;
 - B. Affording another person or class of persons opportunity or protection so to participate.
 - (3) Any person because that person is or has been, or in order to discourage that person or any other person from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, as defined in Ohio R.C. 4112.01, national origin, handicap, as defined in that section, or ancestry, in any of the activities, services, organizations or facilities described in paragraph (a)(1) hereof, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.
- (b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree, provided such person does not cause bodily injury or death in connection with such violation. Punishment shall be as provided in Section 698.02.

(ORC 2927.03)

Table 2

State of the Law Beachwood, Ohio - An illustration of the inconsistencies in the nondiscrimination protections in the Beachwood Municipal Code

Groups Protected →→→→→→→→																				
Provisions ↓ ↓ ↓	Race	Creed	Color	Religious Belief	Religion	Sex	National Origin	Age	Ancestry	Handicap	Disability	Familial Status	Marital Status	Sexual Preference	Sexual Orientation	Gender Identity	Gender Expression	Political Affiliation	Union Affiliation	Military Status
§ 165.03 – Affirmative Action	✓	✓	✓			✓	✓	✓		✓										
§ 636.22 – Intimidation In Connection with Housing	✓		✓		✓	✓	✓			✓		✓								
§ 721.01 – Certain Practices Prohibited	✓		✓		✓		✓													

This memo contains information that is confidential.
It is for the exclusive use of the intended recipient and is not intended to be legal advice.

Exhibit A

CHAPTER 749: FAIR PRACTICES

749.01 DESIGNATION OF POLICY.

It is hereby designated to be the continuing policy of the City of Cleveland Heights to do all things necessary and proper to secure for all citizens their right to equal Housing opportunities, equal employment opportunities, equal access to educational opportunities, and equal access to public accommodations regardless of their race, color, religion, sex, familial status, national origin, disability, sexual orientation, or gender identity or expression.

749.02 PURPOSE.

The purposes of this Chapter are:

- (a) To provide for fair practices in the City,
- (b) To create a procedure for investigating and settling complaints of discriminatory practices in a housing, employment, education, and public accommodation context, and
- (c) To prohibit “blockbusting” and other similar real estate practices which limit housing options and result in the de-stabilization of communities, a decline in property values, and/or the segregation or resegregation of neighborhoods.

749.03 DEFINITIONS.

As used in this Chapter, the following terms shall have these meanings:

- (a) “Administrative Hearing” means a hearing conducted by the Board as set forth in Section 749.19.
- (b) “Aggrieved Person” includes any individual who claims to have been injured by an Unlawful Discriminatory Practice or who believes that he/she will be injured by an Unlawful Discriminatory Practice that is about to occur or a non-profit organization whose purpose is to prevent or eliminate Unlawful Discriminatory Practices and has reason to believe, because of testing conducted by said organization or otherwise, that an Unlawful Discriminatory Practice has occurred.
- (c) “Board” means the Fair Practices Board as set forth in Section 749.04.
- (d) “Business Days” means days that City Hall is open for normal operations.

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- (e) “Complainant” means an individual who files a Complaint and may be (i) an Aggrieved Person; (ii) an individual acting on behalf of an Aggrieved Person with his/her authority to do so, such as an attorney or other representative; or (iii) a legal guardian or legal custodian of an Aggrieved Person.
- (f) “Complaint” means a complaint filed by the Complainant with the Complaint Officer as set forth in Section 749.17 and under the procedure set forth in Section 749.18.
- (g) “Complaint Officer” means the individual designated by the City Manager as set forth in Section 749.05.
- (h) “Conciliation” means the attempted resolution of issues raised by a Complainant or by the investigation of a Complaint, through informal negotiations involving the Aggrieved Person, the Respondent, and the Complaint Officer.
- (i) “Conciliation Agreement” means a written agreement setting forth the resolution of the issues in Conciliation. A Conciliation Agreement shall be subject to final approval of the Board as set forth in Section 749.18(g).
- (j) “Covered Multi-Family Dwellings” means all dwelling units in buildings containing four (4) or more units with one (1) or more elevators, and all ground floor units in buildings containing four (4) or more units, without an elevator, as defined by 24 CFR 100.201.
- (k) “Determination” means a determination made by the Board following the Complaint Officer’s Recommendation as set forth in Section 749.18.
- (l) “Disability” is defined by the Americans with Disability Act and means a physical or mental impairment that substantially limits one or more major life activities, a history or record of such an impairment, or perception by others as having such impairment.
- (m) “Disabled” means an individual with a Disability, including for illustrative purposes only, such contagious and non-contagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, being HIV-positive (whether symptomatic or asymptomatic), mental retardation, emotional illness, specific learning disabilities, tuberculosis, drug addiction, and alcoholism or being regarded or perceived as having any of these diseases or conditions.
- (n) The terms “Discriminate,” “Discriminating,” or “Discrimination,” mean any act, policy, or practice that, regardless of intent, has or had the effect of subjecting any individual to different treatment as a result of that individual’s race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression, except as otherwise set forth in this Chapter.

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(o) “Dwelling” means any building, structure, or part of a building or structure that is occupied as, or designed for or intended for occupancy as a residence or any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a dwelling.

(p) “Educational Institution” means any public educational institution, including an academy, college, elementary or secondary school, extension course, kindergarten, pre-school, nursery school, university, and any business, nursing, professional, secretarial, technical, or vocational school. Educational Institution does not mean any private educational institution or any educational institution operated by a religious or denominational institution.

(q) “Employee” means an individual employed by an Employer, except those engaged in domestic service.

(r) “Employer” means any Person that employs four (4) or more individuals within the City of Cleveland Heights, except for an organized religious congregation, or an organization or institution limited to members of a single religious faith.

(s) “Familial Status” means either of the following: (i) one (1) or more individuals who are under eighteen (18) years of age and who are domiciled with a parent or guardian having legal custody of the individual; (ii) one (1) or more individuals who are under eighteen (18) years of age and who are domiciled with a designee of the parent or guardian under written permission of the parent or guardian; or (iii) any individual who is pregnant or in the process of securing legal custody of any individual who is under eighteen (18) years of age. “Family” includes a single individual.

(t) “Gender Identity or Expression” means having or being perceived as having gender-related identity, appearance, expression, or behavior, whether or not that identity, appearance, expression, or behavior is different from that traditionally associated with the individual’s actual or perceived sex.

(u) “Housing” means any building, structure, or part of a building or structure that is occupied as, or designed for or intended for occupancy as a residence or any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a dwelling.

(v) “Housing for Older Persons” means Housing of one (1) of the following: (i) that the Board determines is specifically designed and operated to assist elderly individuals under a state program or HUD determines is specifically designed and operated to assist elderly individuals under a federal program; (ii) intended for and solely occupied by individuals sixty-two (62) years of age or older; or (iii) intended and operated for occupancy by at least one (1) individual fifty-five (55) years of age or older per unit.

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- (w) “Lending Institution” means any bank, insurance company, savings and loan association, or any other Person regularly engaged in the business of lending money or guaranteeing loans.
- (x) “Order” shall mean an order issued by the Board at the conclusion of an Administrative Hearing, as set forth in Section 749.19.
- (y) “Party” means Complainant(s), Aggrieved Person(s), and/or Respondent(s).
- (z) “Person” means one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, nonprofit or not-for-profit organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (aa) “Place of Public Accommodation” means any lodging house, restaurant, eating house, barbershop, public conveyance by air, land or water, theater, store, or other place for the sale of merchandise, or any other place of public accommodation or amusement where the accommodation, advantages, facilities, or privileges thereof are available to the public, or a private club which has more than two hundred (200) members, provides regular meal service, and regularly receives payments for dues, fees, use of space, facilities, services, meals or beverages, directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business. “Place of Public Accommodation” does not mean a religious or benevolent corporation incorporated as such under the laws of Ohio.
- (bb) “Preliminary Investigation” means the investigation conducted by the Complaint Officer as set forth in Section 749.18.
- (cc) “Recommendation” means the written recommendation of the Complaint Officer after completing the Preliminary Investigation as set forth in Section 749.18.
- (dd) “Real Estate Agent” includes any real estate broker, real estate salesperson or an agent thereof, or any other Person who for consideration sells, purchases, exchanges, Rents, negotiates, offers, or attempts to negotiate the sale, purchase, exchange, or rental of real property or holds himself/herself out as engaged in the business of selling, purchasing, exchanging, Renting, or otherwise transferring any interest in real property.
- (ee) “Rent” means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.
- (ff) “Respondent” means a Person accused of violating this Chapter by engaging in an Unlawful Discriminatory Practice in a Complaint or amended Complaint.
- (gg) “Sex” means male or female. The terms “because of Sex” and “on the basis of Sex” includes all forms “sex” recognized under Title VII of the Civil Rights Act of 1964 including, for illustrative purposes only, pregnancy, any illness arising out of and occurring during the course

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of a pregnancy, childbirth, or related medical conditions, and gender non-conforming appearance or behavior.

(hh) “Sexual Orientation” means an individual’s actual or perceived heterosexuality, homosexuality, or bisexuality.

(ii) “Unlawful Discriminatory Practice” means an act prohibited by this Chapter, and includes “Unlawful Discriminatory Housing Practices,” “Unlawful Discriminatory Employment Practices,” “Unlawful Discriminatory Education Practices,” and “Unlawful Discriminatory Public Accommodation Practices,” as set forth in this Chapter.

749.04 FAIR PRACTICES BOARD.

(a) There is hereby created in this City a Fair Practices Board with membership appointed by Council and as follows:

- (1) Three (3) residents of the City meeting the qualifications set forth in this Section; and
- (2) One (1) alternate member having the qualifications set forth in this Section.

(b) Of the members first appointed, one (1) shall hold office for a term of one (1) year; one (1) for a term of two (2) years; and the other for a term of three (3) years; and their successors shall be appointed for terms of three (3) years. Council shall fill all vacancies by appointment for the unexpired term. A Board member or alternate whose term has expired shall be eligible for reappointment to the Board. However, any Board member or alternate may serve a maximum of two (2) complete terms. Board members presently serving on this Board shall continue their service thereon until expiration of his or her current term of office.

(c) The Board shall serve without salary.

(d) If an individual Board member has a preexisting personal or professional relationship with a Complainant, Aggrieved Person, or Respondent, that Board member shall recuse himself or herself on all matters concerning said Person. In case of an absence or recusal of any Board member for any reason, the Complaint Officer shall request the attendance of the alternate to serve in the place of the absent or recused member so that three (3) Board members are present at every meeting whenever possible.

(f) Two (2) members of the Board shall constitute a quorum for the purpose of conducting the business thereof. Action by the Board on any matter shall be effected by the concurring votes of at least two (2) members. A vacancy on the Board shall not impair the right of the other members to exercise all the powers of the Board.

(g) The Board may adopt rules and regulations for the conduct of its business, subject to approval by the Director of Law.

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(h) Council may, from time to time, request a written report from the Board of its activities and any recommendations including, but not limited to, educational and other programs designed to promote the purposes stated in this Chapter.

749.05 COMPLAINT OFFICER

The City Manager shall designate a Complaint Officer. The Complaint Officer shall be an employee of the City or other designee who is familiar with the jurisdictions and authorities of the U.S. Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, the Office of Civil Rights for the U.S. Department of Education, and the Ohio Civil Rights Commission.

749.06 COOPERATION WITH STATE AND FEDERAL AGENCIES.

The Board and the Complaint Officer are encouraged to cooperate with the Secretary of Housing and Urban Development and the Attorney General of the United States in the enforcement of the Fair Housing Act of 1968, 42 U.S.C. §3601, et seq., as amended, and may assist the Secretary or Attorney General of the United States in any way consistent with the policy of this Chapter.

The Board and the Officer are encouraged to cooperate with the Ohio Civil Rights Commission and any other state or federal agency in the enforcement of state or federal fair housing or any discrimination laws and may assist the Commission in any way consistent with the policy of this Chapter.

749.07 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.

It shall be an Unlawful Discriminatory Housing Practice and a violation of this Chapter:

(a) For any Person or Real Estate Agent or Lending Institution:

- (1) To Discriminate against any individual in the selling, Renting, assigning or otherwise transferring of any interest in any Housing.
- (2) To Discriminate against any individual by refusing to negotiate, making false representations on the availability of Housing, or withdrawing from the market any Housing which is for sale, lease, sublease or rental.
- (3) To include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any Housing, any clause, condition or restriction Discriminating against any individual in the use or occupancy of such Housing.
- (4) To Discriminate in the furnishing of any facilities, repairs, improvements or services or in the terms, conditions, privileges or tenure of occupancy of any individual.

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(b) For any Lending Institution or Person to Discriminate in lending money, guaranteeing loans, accepting a deed of trust or mortgage or otherwise making available funds for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of any Housing or Discriminate in the fixing of the rates, terms, conditions or provisions of any such financial assistance or to discriminate on the basis of geographic location.

(c) For any Person or Real Estate Agent or Lending Institution, with respect to any prohibited act specified in this Chapter, to publish or circulate or cause to be published or circulated, any notice, statement, listing or advertisement, or to announce a policy or to make any record in connection with the prospective sale, lease, sublease, rental or financing of any Housing which indicates reliance, determination or decision based on race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression.

(d) For any Person or Real Estate Agent or Lending Institution to assist in, compel, or coerce the doing of any act declared to be an Unlawful Discriminatory Housing Practice under this Chapter, or to obstruct or prevent enforcement or compliance with provisions of this Chapter, or to attempt directly or indirectly to commit any act declared by this Chapter to be an Unlawful Discriminatory Housing Practice.

(e) For any Person or Real Estate Agent or Lending Institution:

(1) To induce or attempt to induce the sale, transfer of interest, or listing for sale of any Housing by making representations regarding the existing or potential proximity of real property owned, used, or occupied by any individual of any particular race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression by direct or indirect methods.

(2) To make any representation to a prospective purchaser or lessee that any Housing in a particular block, neighborhood or area may undergo, is undergoing, or has undergone a change with respect to the race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression of the individuals that live in such a block, neighborhood, or area.

(3) To induce or attempt to induce the sale or listing for sale of any Housing by representing that the presence or anticipated presence of individuals of any particular race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression in the area will or may result in:

A. The lowering of property values.

B. A change in the race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression status of the individuals in the block, neighborhood, or area in which the property is located.

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- C. An increase in criminal or anti-social behavior in the area.
- D. A decline in quality of the schools serving the area.

(f) For any Person or Real Estate Agent or Lending Institution to cause or attempt to cause or coerce retaliation against any individual because such individual has lawfully opposed any act or failure to act that is a violation of this Chapter or has, in good faith, filed a Complaint, testified, participated, or assisted in any way in any proceeding under this Chapter.

(g) To Discriminate against any individual by denying such individual 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 Housing, or Discriminate against an individual in the terms or conditions of such access, membership or participation.

(h) To do any other thing or engage in conduct which would otherwise make unavailable equal Housing opportunities.

(i) Nothing herein contained shall prohibit any Person subject to the terms of this Chapter from answering, in a truthful manner, any questions directed to him or her from any prospective purchaser or renter concerning the race, color, religion, Sex, Familial Status, national origin, Disability or Sexual Orientation of individuals then Renting or living on a given street or neighborhood.

749.08 POSTING OF HOUSING NOTICES.

All Real Estate Agents shall post, in a conspicuous location in a portion of their place of business identified as the reception room, main room, or that room normally used by them for negotiating the terms of a sale or lease of Housing, and all Persons who operate a Covered Multi-Family Dwelling shall post at all times in a conspicuous location in either the main entry area or in that portion of their Housing business normally used by them for negotiating the rental of a Housing unit therein, a notice which contains the following language, printed on a light-colored background, in not less than fourteen (14) point type:

It is a violation of the Fair Practices Law of the City of Cleveland Heights for any real estate agent, or for any person owning or managing a multi-unit apartment dwelling to:

(a) Deny housing to any person because of race, color, religion, sex, familial status, national origin, disability, sexual orientation, or gender identity or expression.

(b) Discriminate against any person because of that person's race, color, religion, sex, familial status, national origin, disability, sexual orientation, or gender identity or expression with respect to the terms, conditions, or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith.

749.09 DISABILITY DISCRIMINATION PROHIBITED IN HOUSING PRACTICES.

It shall be an Unlawful Discriminatory Housing Practice and a violation of this Chapter to do any of the following:

(a) A Person may not discriminate in the sale or rental or otherwise make unavailable or deny a Dwelling to a buyer or renter because of a Disability of:

- (1) That buyer or renter;
- (2) An individual residing in or intending to reside in that Dwelling after it is sold, rented, or made available; or
- (3) Any individual associated with that buyer or renter.

(b) A Person may not discriminate against any individual in the terms, conditions, or privileges of sale or rental of a Dwelling or in the provision of services or facilities in connection with the Dwelling because of a Disability of:

- (1) That buyer or renter;
- (2) An individual residing in or intending to reside in that Dwelling after it is sold, rented, or made available; or
- (3) Any individual associated with that individual.

(c) For purposes of this Section only, discrimination includes:

(1) A refusal to permit, at the expense of the individual with the Disability, reasonable modifications of existing premises occupied or to be occupied by the individual if the modifications may be necessary to afford the individual full enjoyment of the premises of a Dwelling, provided that, in the case of a rental, a landlord may:

A. Reasonably condition permission for modifications upon the renter's agreement to restore the interior of the premises to its premodification condition, reasonable wear and tear excepted, and

B. Reasonably condition such permission on the renter providing a reasonable description of the proposed modifications and reasonable assurances that all work will be done in a workmanlike manner and that all required permits will be obtained.

(2) A landlord may not increase for individuals with a Disability any customarily required security deposit except that to ensure available funds for restorations, if any, a landlord may negotiate an agreement that the renter deposit into an interest bearing escrow account, over a reasonable period, a reasonable amount not to exceed the cost of

restorations where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restoration. All interest shall accrue to the renter's benefit.

(3) A refusal to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford an individual with a Disability equal opportunity to use and enjoy a Dwelling, including public and common use areas.

(4) Making any inquiry to determine whether an applicant for a Dwelling, an individual intending to reside in that dwelling, or any individual associated with that individual has a Disability or to determine the nature or severity of any Disability.

(d) Nothing in this Section requires that a Dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

749.10 HOUSING FOR ELDERLY EXEMPTED.

The provisions of this Chapter relating to Familial Status do not apply to Housing for Older Persons, as defined in Section 749.03(v).

749.11 RELIGIOUS ORGANIZATION AND PRIVATE CLUB HOUSING EXEMPTIONS.

(a) This Chapter does not prohibit a religious organization, association, or society, or a non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

(1) Limiting the sale, rental or occupancy of Dwellings that it owns or operates for other than a commercial purpose to individuals of the same religion; or

(2) Giving preference for such Dwellings to individuals of the same religion.

(b) This Chapter does not prohibit a private club not in fact open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

749.12 UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES

It shall be an Unlawful Discriminatory Employment Practice and a violation of this Chapter for any Employers, Employees, employment agencies, or other Persons subject to this Chapter to do any of the following:

- (a) Discriminate against any individual with regard to hire, discipline, discharge, tenure, upgrading, terms or conditions of employment;
- (b) To establish, announce, or follow a policy of denying or limiting the employment or employment opportunities of any individual or group of individuals because of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression;
- (c) Publish or cause to be published any notice or advertisement relating to employment or employment opportunities which contains any specification or limitation as to race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression;
- (d) Require of any applicant as a condition of employment or employment opportunities any information concerning the applicant's race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression; or
- (e) Aid, abet, encourage or incite the commission of any Unlawful Discriminatory Employment Practice prohibited by this Chapter.

749.13 UNLAWFUL DISCRIMINATORY EDUCATION PRACTICES

It shall be an Unlawful Discriminatory Education Practice and a violation of this Chapter:

- (a) For any Educational Institution to deny, restrict, abridge, or condition the use of or access to any educational facilities or educational services to any individual who is otherwise qualified on account of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression.
- (b) For any Person, whether or not included in divisions (a) in this Section, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an Unlawful Discriminatory Education Practice under this Section.

749.14 EXEMPTIONS FROM EDUCATION PROVISIONS

(a) It shall not be an Unlawful Discriminatory Education Practice for an Educational Institution to limit attendance in classes or programs conducted by an Educational Institution based upon a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law.

(b) It shall not be an Unlawful Discriminatory Education Practice for an Educational Institution to admit students or program attendees on the basis of that student's or attendee's Sex to achieve a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law.

749.15 UNLAWFUL DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICES.

It shall be an Unlawful Discriminatory Public Accommodation Practice and a violation of this Chapter:

(a) For any proprietor or his or her Employee, keeper, or manager of a Place of Public Accommodation to deny any individual except for reason applicable alike to all individuals regardless of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression the full enjoyment of the accommodations, advantages, facilities, or privileges thereof.

(b) For any proprietor or his or her Employee, keeper, or manager of a Place of Public Accommodation to publish, circulate, issue, display, post or mail, either directly or indirectly, any printed or written communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, goods, products, services and privileges of any such place shall be refused, withheld or denied to any individual on account of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression or that such an individual is unwelcome, objectionable, or not acceptable, desired or solicited.

(c) For any Person, whether or not included in divisions (a) and (b) in this Section, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an Unlawful Discriminatory Public Accommodation Practice under this Section.

749.16 EXEMPTIONS FROM PUBLIC ACCOMMODATION PROVISIONS

Restrooms, dressing rooms, swimming pools, health clubs, gyms, hospitals, and public and private educational institutions that segregate on the basis of Sex are exempt from provisions in this Chapter concerning Unlawful Discriminatory Public Accommodation Practices based on Sex. Individuals with gender non-conforming appearance or behavior or Gender Identity or Expression may choose to use the above facilities accordingly.

749.17 COMPLAINT

Any Person may file a Complaint with the Complaint Officer within one hundred and eighty (180) days after an alleged Unlawful Discriminatory Practice has occurred or after said practice has terminated, whichever is later. A Complaint shall be in writing, under oath, and in a form prescribed by the Complaint Officer. The form shall state that all Complaints are subject to the Ohio Public Records Act and are public records that may not be kept confidential. A Complaint may be amended at any time prior to being heard by the Board.

749.18 COMPLAINT PROCEDURE; NOTICE; SERVICE

- (a) After a Complaint is filed, the Complaint Officer shall:
 - (1) Send a notice to the Aggrieved Person and the Complainant, indicating the date the Complaint was received by the City. If the Aggrieved Person differs from the Complainant, said notice shall also inform the Aggrieved Person of his or her right to withdraw the Complaint if it was filed without proper authority.
 - (2) Within five (5) Business Days of receipt, serve the Complaint on each Respondent and notify each Respondent of its procedural rights and obligations under this Chapter.
- (b) Within ten (10) Business Days after the Complaint Officer serves the Complaint, a Respondent may file an answer (“Answer”) to the Complaint. An Answer shall be: in writing, under oath, and in a form prescribed by the Complaint Officer. An Answer may be amended at any time prior to the Complaint being heard by the Board. A failure to file an Answer shall be deemed a denial of all substantive allegations of the Complainant.
- (c) After receiving the Answer or after the time to answer has expired, whichever is later, the Complaint Officer shall initiate a Preliminary Investigation. The Preliminary Investigation shall be conducted by the Complaint Officer with any assistance deemed necessary by the Complaint Officer and may include, but is not limited to, interviews of the Complainant, Aggrieved Person, Respondent, and witnesses; requests for documents; planned or unplanned site visits; and any other methods deemed necessary by the Complaint Officer.
- (d) During the Preliminary Investigation, the Complaint Officer may attempt to facilitate Conciliation between the Complainant and the Respondent. Successful Conciliations shall be captured in a written Conciliation Agreement, which shall be subject to approval by the Board.
- (e) After completing the Preliminary Investigation, the Complaint Officer shall issue a Recommendation to the Board, setting forth in writing the reason for the Recommendation,

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including a statement of the relevant facts. Recommendations may include, but are not limited to:

- (1) dismissal for failure to state an Unlawful Discriminatory Practice or because the limitation period set forth in Section 749.17 has expired;
 - (2) dismissal because the Preliminary Investigation did not reveal that it is probable that Unlawful Discriminatory Practices have been or are being engaged;
 - (3) dismissal because the Complaint could be heard under the jurisdiction of the U.S. Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, the Office of Civil Rights for the U.S. Department of Education, the Ohio Civil Rights Commission, or other similar civil rights agency;
 - (4) approval of a proposed Conciliation Agreement;
 - (5) an Administrative Hearing because the Preliminary Investigation revealed it is probable that an Unlawful Discriminatory Practice has been or is being engaged; or
 - (6) any other action that the Complaint Officer determines is appropriate.
- (f) If a Recommendation has not been issued by forty (40) Business Days after the receipt of the Complaint, the Complaint Officer shall send a written explanation of the reason for the delay to the Complainant, Aggrieved Person, Respondent, and the Board. If the delay is unreasonable, any Party may submit a written request to the Board that an Administrative Hearing be held prior to the issuance of a Recommendation. The Board shall decide to proceed with an Administrative Hearing if it finds that the delay is unreasonable or wait for a Recommendation if the delay is reasonable. This decision shall be in writing and served on the Parties.
- (g) After receiving the Recommendation, the Board shall meet to deliberate within twenty-five (25) Business Days, unless good cause is shown, and determine how to proceed. The Board shall make a Determination which may follow the Complaint Officer's Recommendation or take any other action set forth in Subsection (e) herein. All Determinations shall be reduced in writing and shall be served to the Complainant, Aggrieved Person, and Respondent within ten (10) Business Days of said meeting.
- (h) In response to a Determination resulting in a dismissal, the Complainant may submit a written appeal to the Board within five (5) Business Days of service. The Board shall meet within twenty-five (25) Business Days, unless good cause is shown, and determine how to proceed. The meeting shall be a public meeting and notice of the meeting shall be served on the Parties. The Parties and the Complaint Officer shall be given an opportunity to address the Board but no additional evidence shall be taken. The Board shall decide whether to grant the appeal and proceed with an Administrative Hearing or deny the appeal.

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(i) A document is served under this Chapter by: (i) mailing to a Party's last known address, in which event service is complete three (3) days after the mailing, or (ii) by emailing it to a Party if email service is requested by said Party, in which event service is complete upon transmission.

749.19 ADMINISTRATIVE HEARINGS; RELIEF

(a) In the event that the Board determines that an Administrative Hearing is required, the Complaint Officer shall cause to be served on the Complainant and the Respondent a notice of an Administrative Hearing, notifying of the time, date, and place of the hearing. Said notice shall be served not less than ten (10) Business Days before the date of the hearing.

(b) The Administrative Hearing shall be a public meeting at City Hall over which the Board shall preside. Any Party may present evidence to the Board, including witnesses. The Complaint Officer shall appear and testify about the findings of his or her Preliminary Investigation. All testimony taken shall be under oath and recorded in some form.

(c) The Respondent shall have the right to appear at such hearing in person and be given the opportunity to be heard by the Board on his or her own behalf or be represented by counsel or otherwise. The Respondent or representative shall be permitted to examine and cross-examine all witnesses.

(d) If, upon all the testimony and evidence taken, the Board determines that the Respondent committed the Unlawful Discriminatory Practice set forth in the Complaint or Amended Complaint, the Board shall issue an administrative Order. Said Order shall set forth the Board's factual findings and may order appropriate relief including actual damages, reasonable attorney's fees, and injunctive or equitable relief, and any administrative penalties, as set forth in Section 749.20.

749.20 ADMINISTRATIVE PENALTIES.

(a) If the Board determines at an Administrative Hearing under this Chapter that a Respondent has engaged in or is about to engage in an Unlawful Discriminatory Practice, to vindicate the public interest, the Board may assess a civil penalty against the Respondent in addition to issuing appropriate relief as set forth in Section 749.19(d). Said penalties shall be in an amount that does not exceed:

(1) Ten thousand dollars (\$10,000) if the Respondent has not been previously the subject of an Order of the Board or a court concerning the commitment of one (1) prior Unlawful Discriminatory Practice in violation of this Chapter during the past five (5) year period ending on the date of the receipt of the Complaint;

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(2) Twenty-five thousand dollars (\$25,000) if the Respondent has been previously the subject of an Order of the Board or a court concerning the commitment of one (1) other Unlawful Discriminatory Practice in violation of this Chapter during the five (5) year period ending on the date of the filing of the Complaint; and

(3) Fifty thousand dollars (\$50,000) if the Respondent has been previously the subject of an by Order of the Board or a court concerning the commitment of two (2) or more other Unlawful Discriminatory Practices in violation of this Chapter during the seven (7) year period ending on the date of the filing of the Complaint.

(4) Five hundred dollars (\$500.00) if the Respondent is determined to have committed a violation of Section 749.08.

749.21 EFFECT ON OTHER LAWS.

This Chapter does not affect a requirement of nondiscrimination in any other section of the City's Codified Ordinances or state or federal law.

749.22 EFFECT OF ADMINISTRATIVE ORDER.

An Order under this Chapter does not affect a contract, sale, encumbrance or lease for Housing that:

- (a) was consummated before the Board issued the Order; and
- (b) involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the Complaint filed under this Chapter.

749.23 LAND USE LAW OR OTHER LEGISLATION.

If the Board determines that a matter involves the legality of a state or local zoning or other land use law or ordinance or other legislation, the Board shall immediately refer the matter to the City Law Director for appropriate action.

Placed on first reading and referred to the
Committee of the Whole 1/19/2016; second reading
2/1/2016. Substitute recommended for adoption
6/20/2016. Please substitute for the original.

ORDINANCE NO. 1-16

BY: Anderson, Bullock, Litten,
Marx, Nowlin, O'Leary, O'Malley

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to effect and be in force at the earliest period allowed by law, to amend certain provisions of Chapter 516, Chapter 537, Chapter 142, Chapter 501, and Chapter 1327 of the Codified Ordinances of the City of Lakewood, Ohio, to ensure that all persons within the City have equal access to employment, housing, public accommodations, and education.

WHEREAS, it is the intent of the City Council, in enacting this ordinance, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic. The Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who live, work, or visit the City of Lakewood. It is important for the City of Lakewood to ensure that all persons within the city have equal access to employment, housing, public accommodations, and education.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 516, Fair Housing, of the Lakewood Codified Ordinances, currently reading as follows:

Chapter 516
FAIR HOUSING

516.01 POLICY.

It is hereby designated to be the continuing policy of the City to do all things necessary and proper to secure for all citizens their right to equal housing opportunities regardless of their race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin or gender identity or expression.

516.02 SCOPE.

The provisions of this chapter shall apply to all housing located within the territorial limits of the City.

516.03 DEFINITIONS.

As used in this chapter certain terms are defined as follows:

(a) "Director" means the Director of Community Development for the City of Lakewood or other Community Development Officer within the Department of Planning and Development.

(b) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed 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.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries. It also includes, but is not limited to any owner, leaver, assignor, builder, manager, broker, salesman, agent, employee, lending institution, and the City, the State and all authorities, agencies, boards and commissions thereof.

(e) "Discrimination" means to render any difference in treatment to any person in the sale, lease, rental or financing of a dwelling or housing unit because of a person's race, color, religion, sex, sexual orientation, ancestry, handicap, familial status or national origin.

(f) "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 occupants.

(g) "Discriminatory housing practice" means any act that is unlawful as designated by this chapter.

(h) "Discrimination complaint service" means that service established by this chapter.

516.04 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.

It shall be unlawful to:

(a) 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, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

(c) Make, print, 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, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

(d) Represent to any person because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression, 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 a representative regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

516.05 DISCRIMINATION IN FINANCING OF HOUSING.

It shall be unlawful to:

(a) Refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing or otherwise withhold financing of housing from any persons because of the race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant, or user of such housing provided such person whether an individual, corporation or association of any type, lends money as one of the principal aspects or incident to his principal business and not only as part of the purchase price of an owner-occupied residence he is selling nor merely casually or occasionally to a relative or friend.

(b) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing or subleasing any housing or in furnishing facilities, services or privileges in connection with the ownership, occupancy, or use of any housing because of the race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant or user of such housing.

(c) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant, or user of such housing.

(d) Make any inquiry, elicit any information, make or keep any record or use any form of application containing questions or entries concerning race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression in connection with the sale or lease of any housing or the loan of any

money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing.

516.06 DISCRIMINATION IN BROKERAGE SERVICES.

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 a person in the terms or conditions of such access, membership or participation, on account of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

516.07 ADMINISTRATION, DISCRIMINATION COMPLAINT SERVICE AND ENFORCEMENT.

(a) This chapter shall be administered by the Director of Community Development, and the Director shall also be responsible for the establishment and administration of a discrimination complaint service.

(b) The discrimination complaint service shall be available to any person who alleges that his rights have been denied relative to housing and/or financing for housing because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression. (Ord. 79-10. Passed 12-20-10.)

(c) Any person who claims to have been subjected to a discriminatory housing practice shall file a complaint in writing within 180 days of the alleged violation with the Director. The complaint shall contain such information and will be in such form as the Director may require.

(d) If the Director determines that there are reasonable grounds to believe a violation has occurred, he shall attempt to conciliate the matter within five working days of the filing of the complaint by utilizing conciliation conferences with all interested parties and such representatives as the parties may choose to assist them. These conferences shall be informal, and nothing shall be made public by the Director regarding the conferences unless all parties agree thereto in writing. During this period the Director shall make such investigation as he deems appropriate.

(e) If the Community Development Director and the Law Director determine that the person complained against has violated this chapter, the Law Director shall prepare and issue a directive requiring that person to cease and desist from such unlawful conduct and within fifteen calendar days take such affirmative action as will effectuate the purpose of this chapter. If after the fifteenth day, the situation has not been rectified, the Director of Community Development shall initiate the proper legal action through the Law Department of the City or through the

complainant's legal counsel, or the U. S. Department of Housing and Urban Development, whatever the Director deems appropriate.

(f) If at the conclusion of the informal hearing, the Director of Community Development and Law Director determine upon the preponderance of the evidence presented that the person complained against has not violated this chapter, the Director shall issue an order dismissing the complaint.

(g) The Director is advised to seek at any time the cooperation and aid of the U. S. Department of Housing and Urban Development and any other person or group regarding any matter before the Director as he deems appropriate.

516.08 OTHER LEGAL ACTIONS.

Nothing contained in this chapter shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled or from filing any complaint with any other agency or court of law.

516.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree.

shall be and hereby is repealed and new Chapter 516, Discrimination Prohibited, of the Lakewood Codified Ordinances, is enacted to read as follows:

Chapter 516 DISCRIMINATION PROHIBITED

516.01 DEFINITIONS.

(a) "Advertising" means to make, print, publish, advertise or otherwise disseminate any notice, statement or advertisement, with respect to any employment activity, any business activity, or any educational activity.

(b) "Age" means 18 years of age or older except as otherwise provided by law.

(c) "Business establishment" means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements consist only of payment of fees or consist only of requirements under which a substantial portion of the residents of the city could qualify.

(d) "Disability" or "disabled" means, with respect to an individual, a physical or mental impairment, a record of such an impairment, or being perceived or regarded as having such impairment. For purposes of this chapter discrimination on the basis of disability means that no covered entity shall discriminate against a qualified

individual with a disability because of that individual's disability. The term "qualified individual with a disability" shall mean an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment positions that the individual holds or desires.

(e) "Discriminate, discrimination or discriminatory" means any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic.

(f) "Educational institution" means any public or private educational institution including an academy, college, elementary or secondary school, extension course, kindergarten, pre-school, nursery school, university, and any business, nursing, professional, secretarial, technical or vocational school.

(g) "Employee" means any individual employed or seeking employment from an employer.

(h) "Employer" means any person who, for compensation, regularly employs four (4) or more individuals, not including the employer's parents, spouse or children. For purposes of this chapter an employer "regularly" employs four (4) individuals when the employer employs ~~five~~ four (4) or more individuals for each working day in any twenty (20) or more calendar weeks in the current or previous calendar year. For purposes of this chapter an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

(i) "Gender" means actual or perceived sex.

(j) "Gender identity or expression" means having or being perceived as having a gender identity or expression whether or not that gender identity or expression is different from that traditionally associated with the sex assigned to that individual at birth.

(k) "Labor organization" means any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection on behalf of employees.

(l) "Person" means a natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

(m) "Physical characteristic" means a bodily condition or bodily characteristic of any person that is from birth, accident, or disease, or from any natural physical development, including individual physical mannerisms including but not limited to height and weight. Physical characteristic shall not relate to those situations where a bodily condition or characteristic will present a danger to the health, welfare or safety of

any individual.

(n) "Place of public accommodation" means inns, taverns, hotels, motels, restaurants, wholesale outlets, retail outlets, banks, savings and loan associations, other financial institutions, credit information bureaus, insurance companies, dispensaries, clinics, hospitals, theaters, recreational parks and facilities, trailer camps, garages, public halls, and all other establishments which offers goods, services, accommodations and entertainment to the public within the City. A place of public accommodation does not include any institution, club or other place of accommodation, which by its nature is distinctly private.

(o) "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

(p) "Transaction in real estate" means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, of any interest in real property or improvements thereon.

516.02 PROHIBITED ACTS OF DISCRIMINATION RELATING TO EMPLOYMENT.

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

- (a) To fail to hire, refuse to hire or discharge an individual;
- (b) To discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion. Nothing in this section shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;
- (c) 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;
- (d) To fail or refuse to refer for employment any individual in such a manner that would deprive an individual of employment opportunities, that would limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as a prospective employee or as an applicant for employment;
- (e) To discriminate against an individual in admission to, or employment in, any program established to provide apprenticeship or other job training, including an on-the-job training program;
- (f) To print or publish, or cause to be printed or published, any discriminatory notice or advertisement relating to employment. This subsection shall not be construed so as to expose the person who prints or publishes the notice or advertisement, such as a newspaper, to liability;

- (g) To discriminate in referring an individual for employment whether the referral is by an employment agency, labor organization or any other person.

516.03 PROHIBITED ACTS OF DISCRIMINATION RELATING TO 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 or otherwise limiting or restricting any transaction in real estate;
- (b) To discriminate by imposing different terms on a real estate transaction;
- (c) To represent falsely that an interest in real estate is not available for transaction;
- (d) To include in the terms or conditions of a real estate transaction any discriminatory clause, condition or restriction;
- (e) To discriminate in performing, or refusing to perform, any act necessary to determine an individual's financial ability to engage in a real estate transaction;
- (f) For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants of any real estate which he or she manages;
- (g) To make, print or publish, or cause to be made, printed or published any discriminatory notice, statement, or advertisement with respect to a real estate transaction or proposed real estate transaction, or financing relating thereto. This subsection shall not be construed to prohibit advertising directed to physically disabled persons or persons over the age of 55 for the purpose of calling to their attention the existence or absence of housing accommodations or services for the physically disabled or elderly;
- (h) To discriminate in any financial transaction involving real estate, on account of the location of the real estate be it residential or non-residential ("red-lining");
- (i) For a real estate operator, a real estate broker, a real estate salesperson, a financial institution, an employee of any of these, or any other person, for the purposes of inducing a real estate transaction from which such person may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to age, race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic of the owners or occupants in the block, neighborhood or area in which the real property is located or to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area in which the real

property is located ("block-busting");

(j) Notwithstanding the provisions of subsections (a) through (h), it shall not be an unlawful discriminatory practice for an owner to limit occupancy on the basis of a person's low-income, age over 55 years or disability status in accordance with federal or state law;

(k) Notwithstanding the provisions of subsections (a) through (h), 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 to a person as a tenant, roomer or boarder where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling or to refuse to rent, lease or sublease where it is anticipated that the owner, lessor or renter will be sharing either a kitchen or a bathroom with the tenant, roomer or boarder.

516.04 PROHIBITED ACTS OF DISCRIMINATION RELATING TO BUSINESS ESTABLISHMENTS OR PUBLIC ACCOMMODATIONS.

It shall be unlawful for a business establishment or place of public accommodation to engage in any of the following acts wholly or partially for a discriminatory reason:

(a) To deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment or place of public accommodation;

(b) To print, publish, circulate, post, or mail, directly or indirectly, a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a business establishment or place of public accommodation will be unlawfully refused, withheld from or denied an individual, or which indicates that an individual's patronage of, or presence at, the business establishment or place of public accommodation is objectionable, unwelcome, unacceptable or undesirable.

516.05 PROHIBITED ACTS OF DISCRIMINATION RELATING TO EDUCATIONAL INSTITUTIONS.

It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason:

(a) To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified;

(b) Notwithstanding the provisions of subsection (a) it shall not be an unlawful discriminatory practice to limit attendance in classes or programs conducted by an educational institution based upon a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law to provide

reasonable accommodation;

(c) Notwithstanding the provisions of subsection (a), it shall not be an unlawful discriminatory practice for an educational institution operated by a religious or denominational institution, or established for a bona fide religious purpose, to admit students or program attendees on the basis of that student's or attendee's religious or denominational affiliation or preference.

516.06 CITY SERVICES, FACILITIES, TRANSACTIONS AND CONTRACTS.

The City shall be bound by the provisions of this chapter to the same extent as private individuals. All contractors proposing to, or currently doing business with the City, shall abide by this ordinance.

516.07 GENERAL EXCEPTIONS

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that the practice is not intentionally devised to contravene the prohibitions of this chapter and there exists no less discriminatory means of satisfying a business purpose.

(b) Unless otherwise prohibited by law, nothing contained in this chapter shall be construed to prohibit promotional activities such as senior citizen discounts and other similar practices designed primarily to encourage participation by protected group.

(c) 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 such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this chapter.

(d) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices, or as otherwise required by state or federal law.

(e) Nothing contained in this chapter shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification or a bona fide physical requirement. Nothing contained in this chapter shall be deemed to prohibit a religious or denominational institution from selecting or rejecting applicants and employees for non-secular positions on the basis of the applicant's or employee's conformance with the institution's religious or denominational principles. If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide occupational qualification, or a permissible bona fide physical requirement, that party shall have the burden of proving:

(1) That the discrimination is in fact a necessary result of such a bona fide condition; and

(2) That there exists no less discriminatory means of satisfying the bona fide requirement.

(f) If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide religious or denominational preference, that party shall have the burden of proving that the discrimination is in fact a necessary result of such a bona fide condition.

516.08 POSTING OF NOTICES.

Every employer or institution subject to this chapter shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated, a notice, the language and form of which has been prepared by the City, setting forth excerpts from or summaries of the pertinent provisions of this chapter and information pertinent to the enforcement of rights hereunder. The notice shall be in both English and Spanish. If over ten percent of an employer's employees speak, as their native language, a language other than English or Spanish, notices at that employer's place of business shall be posted in that language. At the request of the employer or institution, notices required by this section shall be provided by the City. Notices shall be posted within ten days after the receipt from the City.

516.09 CORRECTION OR RETALIATION.

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against or interfere with any person in the exercise of, or on account of having exercised, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected under this ordinance, or on account of having expressed opposition to any practice prohibited by this ordinance.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this ordinance, or because that person has made a charge, or because that person has testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this ordinance.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person in order to prevent that person from complying with the provisions of this ordinance.

516.10 PRESERVATION OF BUSINESS RECORDS.

Where a complaint of discrimination has been filed against a person under this ordinance, such person shall preserve all records relevant to the complaint, until a final disposition of the complaint.

516.11 HUMAN RIGHTS COMMISSION.

(a) There is hereby created the City of Lakewood Human Rights Commission, hereafter referred to as "the Commission," to be comprised of three (3) members. One member shall be the Director of Planning and Development or his or her designee for the City. The second member shall be appointed by the mayor. The third member shall be appointed by majority vote of council. Each member of the Commission shall serve a term of three years and until his or her successor has been appointed and qualified for office. With the exception of Director of Planning and Development or his or her designee, members of the Commission shall be ineligible to be reappointed to succeed themselves for more than one additional three-year term, unless the member is completing a term for which he or she was appointed to fill a mid-term vacancy. Every member shall have been a resident of the City for at least one year prior to appointment and shall continue to be a resident so long as he or she shall serve as a member of the Commission. In the event of a vacancy a replacement will be chosen by the appropriate appointing authority of that seat and will serve out the remainder of the vacant term.

(b) The Commission may create and modify rules regarding its meetings and procedures. The Commission may create and appoint task forces and committees it deems appropriate to carry out its functions.

(c) The work of the Commission shall be managed by the Department of Planning and Development.

(d) The responsibilities of the Department of Planning and Development include managing Commission records and accounts, developing public education programs as needed, providing training for Commission members, managing citizen complaints, facilitating Commission scheduling and communication, and any other tasks needed to effectuate the functions of the Commission.

(e) In addition, the Commission may use the services of attorneys, hearing examiners, clerks and other employees and agents who are city government employees, except in those cases in which the city government is a party, and in which case the Commission may seek the city attorney's approval to engage appropriate counsel.

(f) In the enforcement of this chapter, the Commission shall have the following powers and duties:

(1) To receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of this chapter;

(2) To cooperate with relevant federal and state authorities;

(3) To present an annual report to the mayor and city council setting forth the number of complaints received during the prior year, as well as the disposition of the complaints, and the number of convictions for violation. The Commission shall publish this report and make it available in some format to the general public;

(4) To require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person by deposition and require the production of documents relevant to the complaint. The Commission may make rules authorizing or designating any member or individual to exercise these powers in the performance of official duties;

(5) To cooperate with community, professional, civic and religious organizations, as well as state and federal agencies, in the development of public education programs regarding compliance with the provisions of this chapter and equal opportunity and treatment of all individuals;

(6) To conduct tests to ascertain the availability of housing, both in sales and also in rentals of real property;

(7) To make available for the City's website information on this chapter, grievance procedures, the Commission's annual report and any other information that would further the purposes and intentions of this chapter.

516.12 COMPLAINTS – CONSIDERATION BY THE COMMISSION.

(a) A person claiming to be aggrieved by a discriminatory practice, or a member of the Commission, may file with the Commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the Commission to identify the persons charged (hereinafter the respondent). Within 10 days after receipt of the complaint, the Commission shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of the respondent's time limits.

(b) The Commission shall, within 10 days of the filing of the complaint, furnish the respondent with a copy of the complaint and a notice advising the respondent of the respondent's procedural rights and obligations under this chapter.

(c) The complaint must be filed within one year after the commission of the alleged discriminatory practice.

(d) The Commission shall commence an investigation of the complaint within 30 days after the filing of the complaint. The Commission, or designee, shall promptly investigate the matter to determine whether the discriminatory practice exists.

(e) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(f) The complainant, within 30 days after receiving a copy of the order dismissing the complaint, may file with the Commission an application for reconsideration of the order.

(g) Upon such application, the Commission shall review the original investigation and make a determination within 30 days whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

(h) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint after reconsideration and furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

516.13 CONCILIATION AGREEMENTS.

(a) If the Commission determines after investigation that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall endeavor to eliminate the alleged discriminatory practices by conference, conciliation and persuasion.

(b) The terms of a conciliation agreement reached with a respondent shall require the respondent to refrain from discriminatory practices in the future and shall make such further provisions as may be agreed upon between the Commission or its assigned staff and the respondent.

(c) If a conciliation agreement is entered into, the Commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent and such public officers and persons as the Commission deems proper.

(d) Except for the terms of the conciliation agreement, the Commission shall not make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate discriminatory practice by conference, conciliation or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement. The conciliation agreement itself shall not be made public unless the complainant and the respondent otherwise agree and the Commission also determines that disclosure is not required to further the purposes of this chapter.

(e) At the expiration of one year from the date of a conciliation agreement, and at other times in its reasonable discretion, the Commission or its staff may investigate whether the respondent is following the terms of the agreement.

(f) If a finding is made that the respondent is not complying with the terms of the agreement, the Commission shall take such action as it deems appropriate to assure compliance.

516.13 HEARINGS.

(a) If a conciliation agreement has not been reached within 90 days after an administrative determination of reasonable cause to believe that

discrimination took place, the Commission shall serve on the respondent by mail or in person a written notice, together with a copy of the complaint as it may have been amended, or a copy of the letter of determination, requiring the respondent to answer the allegation(s) of the complaint at a hearing before the Commission or another individual pursuant to its rules, at a time and place specified by the hearing examiner or examiners after conference with the parties or their attorneys. A copy of the notice shall be furnished to the complainant and such public officers and persons as the Commission deems proper.

(b) A member of the Commission who filed the complaint or endeavored to eliminate the alleged discriminatory practice by conference, conciliation or persuasion shall not participate in the hearing or in the subsequent deliberation of the Commission. In the case where a member of the Commission filed a complaint and a hearing or subsequent deliberation of the Commission is required, a temporary Commissioner shall be appointed by the City Law Director.

(c) The respondent may file an answer with the Commission by registered or certified mail in accordance with the rules of the Commission before the hearing date. The respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had an opportunity of a hearing on the complaint or amendment on which the order is based.

(d) A respondent, who has filed an answer or whose default in answering has been set aside for good cause shown, may appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant and may offer evidence.

(e) The complainant, and, in the discretion of the Commission, any person may intervene, examine and cross-examine witnesses and present evidence.

(f) If the respondent fails to answer the complaint, the Commission may find the respondent in default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(g) Efforts at conference, conciliation and persuasion shall not be received in evidence.

(h) Testimony taken at the hearing shall be under oath and recorded. If the testimony is not taken before the Commission, the record shall be transmitted to the Commission.

(i) In a proceeding under this chapter, the production of a written, printed or visual communication, advertisement or other form of publication, or a written inquiry, or record, or other document purporting to have been made by a person shall be prima facie evidence that it was authorized by the person.

(j) All hearings conducted under this section shall be conducted in accordance with Chapter 119 of the Ohio Revised Code.

516.14 FINDINGS AND ORDERS.

(a) If the Commission determines that the respondent has not engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(b) If the Commission determines that the respondent has engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant and to such public officers and persons as the Commission deems proper.

516.15 REMEDIES.

(a) Affirmative action ordered under this section may include, but is not limited to:

(1) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;

(2) Admission or restoration of individuals to union membership, admission to or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;

(3) Admission of individuals to a place of public accommodation;

(4) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;

(5) Reporting as to the manner of compliance;

(6) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the Commission and inclusion of such notices in advertising material;

(7) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and costs, including reasonable attorney fees;

(8) Payment to the Commission of a \$500 fine for each violation. Each day on which a continuing violation occurs shall constitute a new and separate violation of this ordinance. Fines collected pursuant to this section will be used to establish a fund to

educate the community about nondiscrimination practices and to promote nondiscrimination in the City;

(9) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record.

(b) The Commission may publish, or cause to be published, the names of persons who have been determined to have engaged in a discriminatory practice.

516.16 JUDICIAL REVIEW.

A complainant or respondent aggrieved by an order of the Commission, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review in accordance with applicable law.

516.17 SUBPOENAS.

(a) Upon written application to the Commission, a party to a proceeding is entitled as of right to the issuance of subpoenas for deposition or hearing in the name of the Commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony by witnesses and the production of documents.

(b) A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena is directed.

(c) On petition of the person to whom the subpoena is directed and notice to the requesting party, the Commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(d) Any depositions of witnesses shall be taken as prescribed by the Ohio Rules of Civil Procedure.

(e) Witnesses whose depositions are taken, or who are summoned before the Commission or its agents, will be entitled to the same witness and mileage fees as are paid to the witnesses subpoenaed in municipal court.

(f) If a person fails to comply with a subpoena issued by the Commission, the municipal court may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

516.18 RESISTANCE TO, OBSTRUCTION, ETC., OF COMMISSION.

Any person who willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this Act, or violates any order of the Commission shall be subject to a fine of not more than five hundred dollars in addition to such order or decree that may be issued.

516.19 STATE/FEDERAL REMEDIES.

(a) The remedies provided for in this chapter are in addition to, not

in lieu of, those provided for by state and federal law. This chapter shall therefore not be construed so as to limit a person's right to file complaint with any state or federal agency, board, tribunal or court vested with jurisdiction to receive, review and act upon complaints of discrimination. This chapter shall not be construed as limiting the right of any person to seek remedies in courts of competent jurisdiction pursuant to state or federal law which grant private rights of action to persons aggrieved by discriminatory acts of the type prohibited by this chapter. There is no requirement that an aggrieved person file a complaint with the City pursuant to this chapter before seeking any other federal, state or other remedy available to the person.

(b) A person's election to seek remedies provided for in this chapter shall not operate to toll any statute of limitation set forth in state or federal law for pursuing remedies under state or federal law for acts of discrimination of the type prohibited by this chapter.

516.20 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter, or the application thereof to any person, firm, corporation or circumstance, is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The City Council of the City hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

516.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree.

Section 2. Section 1327.08, Equal Opportunity, of the Lakewood Codified Ordinances, currently reading as follows:

1327.08 EQUAL OPPORTUNITY.

No person shall be denied the right to purchase or lease a condominium unit in the City because of race, color, religion, sex, sexual orientation, ancestry, handicap, familial status or national origin.

shall be and hereby is repealed and new Section 1327.08, Equal Opportunity, of the Lakewood Codified Ordinances, is enacted to read as follows:

1327.08 EQUAL OPPORTUNITY.

No person shall be denied the right to purchase or lease a condominium unit in the City because of race, color, religion, gender,

sexual orientation, gender identity or expression, ancestry, handicap, familial status or national origin.

Section 3. Section 142.01, Establishment; Purpose, of the Lakewood Codified Ordinances, currently reading as follows:

142.01 ESTABLISHMENT; PURPOSE.

The Lakewood Community Relations Advisory Commission is hereby established to serve in an advisory capacity for the purpose of educating, informing and making recommendations to City officials, departments, boards and commissions on matters relating to community relations within the City of Lakewood in an effort to advance:

(a) Respect for diversity: Acknowledge we live in a dynamic community with an ever- changing variety of group and individual experiences, and affirm values derived from the understanding of our differences (whether based on socio-economic class, culture, religion, race, ethnicity, age, gender, or sexual orientation).

(b) Bonds of mutuality: Recognize the interdependence of our different interests as we work toward serving the common good, and ensure community relations have substantive meaning by acknowledging, as Martin Luther King Jr. stated, "Whatever affects one directly affects all indirectly."

(c) Equity: Affirm our commitment to social justice, and assure all groups and individuals have the opportunity to participate fully in civic affairs with equal access to employment, community resources, and decision-making processes.

shall be and hereby is repealed and new Section 142.01, Establishment; Purpose, of the Lakewood Codified Ordinances, is enacted to read as follows:

142.01 ESTABLISHMENT; PURPOSE.

The Lakewood Community Relations Advisory Commission is hereby established to serve in an advisory capacity for the purpose of educating, informing and making recommendations to City officials, departments, boards and commissions on matters relating to community relations within the City of Lakewood in an effort to advance:

(a) Respect for diversity: Acknowledge we live in a dynamic community with an ever- changing variety of group and individual experiences, and affirm values derived from the understanding of our differences (whether based on socio-economic class, culture, religion, race, ethnicity, age, gender, sexual orientation, or gender identity or expression).

(b) Bonds of mutuality: Recognize the interdependence of our different interests as we work toward serving the common good, and ensure community relations have substantive meaning by acknowledging,

as Martin Luther King Jr. stated, "Whatever affects one directly affects all indirectly."

(c) Equity: Affirm our commitment to social justice, and assure all groups and individuals have the opportunity to participate fully in civic affairs with equal access to employment, community resources, and decision-making processes.

Section 4. Section 537.18, Intimidation, of the Lakewood Codified Ordinances, currently reading as follows:

537.18 INTIMIDATION

(a) No person shall violate Section 537.05, 537.06, 537.10(a)(3), (4) or (5), 541.03 or 541.04 by reason of race, color, religion or national origin of another person or group of persons.

(b) No person shall violate Section 537.06, 541.03 or 541.04 by reason of actual or perceived sexual orientation, age, gender, gender identity or expression, or disability as defined by Ohio R.C. 3304.11(A), of another person or group of persons.

(c) Whoever violates subsection (a) hereof is guilty of intimidation. A violation of intimidation under subsection (a) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In case of an offense that is a misdemeanor of the first degree, whoever violates this section shall be prosecuted under Ohio R.C. 2927.12.

(d) Whoever violates subsection (b) of this section is guilty of intimidation. A violation of intimidation under subsection (b) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation when the underlying offense is a second, third or fourth degree misdemeanor.

shall be and hereby is repealed and new Section 537.18, Intimidation, of the Lakewood Codified Ordinances, is enacted to read as follows:

537.18 INTIMIDATION.

(a) No person shall violate Section 537.05, 537.06, 537.10(a)(3), (4) or (5), 541.03 or 541.04 by reason of race, color, religion, national origin, or actual or perceived sexual orientation, age, gender, gender identity or expression, or disability of another person or group of persons.

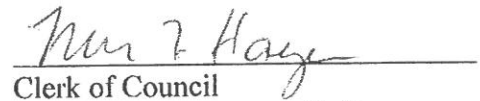
(b) Whoever violates subsection (a) hereof is guilty of intimidation. A violation of intimidation under subsection (a) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In case of an offense that is a misdemeanor of the first degree, whoever violates this section may be prosecuted under Ohio R.C. 2927.12.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

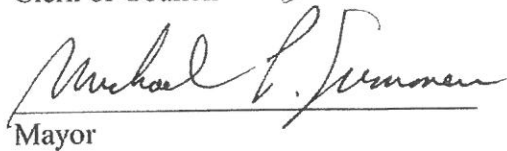
Section 6. This ordinance is found to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City for the reasons set forth in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: June 24, 2016


President of Council


Clerk of Council

Approved: June 22, 2016


Mayor

REVISED TO INCLUDE DEFINITION OF RELIGIOUS ORGANIZATION

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 12-17
INTRODUCED BY: Goodman
REQUESTED BY: Mayor Welo

June 12, 2017
Committee Meeting #1: July 10, 2017
As amended in Committee: September 11, 2017
As amended in Committee: October 9, 2017
As amended in Committee: February 26, 2018

AN ORDINANCE

CREATING CHAPTER 552 "DISCRIMINATION PROHIBITED" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO TO ENSURE THAT ALL PERSONS HAVE EQUAL ACCESS TO EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS. ~~AND EDUCATION.~~

WHEREAS, the City of South Euclid benefits from a diverse, open, and inclusive community; and

WHEREAS, no person should live in fear of discrimination based on their race, creed, color, religious belief, religion, sex, national origin, age, ancestry, handicap, disability, familial status, marital status, sexual preference, sexual orientation, gender identity, gender expression, recipient of public assistance, ethnic group, military status, or physical characteristic; and

WHEREAS, Mayor Welo and the Council of the City of South Euclid are committed to fostering an environment that is welcoming to people of all races, backgrounds, beliefs and identities; and

WHEREAS, ensuring that all employees, residents, patrons and visitors will be treated fairly and equally encourages economic development and helps to attract and retain families, workers, and businesses to South Euclid; and

WHEREAS, victims of discrimination should be provided with access to justice and an opportunity to be heard, without fear of retaliation; and

WHEREAS, whenever possible, complaints of discrimination should be resolved through conciliation to help foster mutual understanding and corrective action; and

WHEREAS, through passage of this ordinance, the City of South Euclid seeks to ensure that all persons within the city have equal access to employment, housing, and public accommodations; and

WHEREAS, Mayor Welo and the Council of the City of South Euclid wish to affirm the dignity and worth of all people and provide certainty to the residents and visitors of South Euclid that unlawful discrimination will not be tolerated in this City.

WHEREAS, it is the intent of the Mayor and City Council, in enacting this ordinance, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on race, creed, color, religious belief, religion, sex, national origin, age, ancestry, handicap, disability, familial status, marital status, ~~sexual preference~~, sexual orientation, gender identity, gender expression, recipient of public assistance, ethnic group, military status, or physical characteristic; and

WHEREAS, City Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who work, live or visit the City of South Euclid. It is important for the City of South Euclid to ensure that all persons within the city have equal access to employment, housing, ~~and public accommodations, and education.~~

BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1. That Chapter 552, Discrimination Prohibited, of the South Euclid Codified Ordinances, be enacted as follows:

CHAPTER 552 DISCRIMINATION PROHIBITED

DEFINITIONS.

(a) "Advertising" means to make, print, publish, advertise or otherwise disseminate any notice, statement or advertisement, with respect to any employment activity, any business activity, or any educational activity.

(b) "Age" means 18 years of age or older except as otherwise provided by law.

(c) "Business establishment" means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements consist only of payment of fees or consist only of requirements under which a substantial portion of the residents of the city could qualify.

(d) "Disability" or "disabled" means, with respect to an individual, a physical or mental impairment, a record of such an impairment, or being perceived or regarded as having such impairment. For purposes of this chapter discrimination on the basis of disability means that no covered entity shall discriminate against a qualified individual with a disability because of that individual's disability. The term "qualified individual with a disability" shall mean an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment positions that the individual holds or desires.

(e) "Discriminate, discrimination or discriminatory" means any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's **age**, race, color, creed, religion, national origin, ancestry, disability, marital status, **military status**, gender, gender identity or expression, sexual orientation, **source of income**, **ethnic group**, or physical characteristic.

(f) "Educational institution" means any public or private educational institution including an academy, college, elementary or secondary school, extension course, kindergarten, pre-school, nursery school, university, and any business, nursing, professional, secretarial, technical or vocational school.

(g) "Employee" means any individual employed or seeking employment from an employer.

(h) "Employer" means any person who, for compensation, regularly employs four (4) or more individuals, not including the employer's parents, spouse or children. For purposes of this chapter an employer "regularly" employs four (4) individuals when the employer employs four (4) or more individuals for each working day in any twenty or more calendar weeks in the current or previous calendar year. For purposes of this chapter an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

(i) "Gender" means actual or perceived sex.

(j) "Gender identity or expression" means having or being perceived as having a gender identity or expression whether or not that gender identity or expression is different from that traditionally associated with the sex assigned to that individual at birth.

(l) "Labor organization" means any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection on behalf of employees.

(m) "Person" means a natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

(n) "Physical characteristic" means a bodily condition or bodily characteristic of any person that is from birth, accident, or disease, or from any natural physical development, including individual physical mannerisms including but not limited to height and weight. Physical characteristic shall not relate to those situations where a bodily condition or characteristic will present a danger to the health, welfare or safety of any individual.

(o) "Place of public accommodation" means inns, taverns, hotels, motels, restaurants, wholesale outlets, retail outlets, banks, savings and loan associations, other financial institutions, credit information bureaus, insurance companies, dispensaries, clinics, hospitals, theaters, recreational parks and facilities, trailer camps, garages, public halls, and all other establishments which offers goods, services, accommodations and entertainment to the public within the City. A place of public accommodation does not include any institution, club or other place of accommodation, which by its nature is distinctly private.

(p) "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

(q) "Transaction in real estate" means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, of any interest in real property or improvements thereon.

(r) "**Religious Organization**" as defined by Ohio Revised Code Section 2915.01, means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances, and is officially recognized by the Internal Revenue Service.

552.01 PROHIBITED ACTS OF DISCRIMINATION RELATING TO EMPLOYMENT.

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

(b 1) To fail to hire, refuse to hire or discharge an individual;

(c 2) To discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion. ~~Nothing in this section shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;~~

(d 3) 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;

(e 4) To fail or refuse to refer for employment any individual in such a manner that would deprive an individual of employment opportunities, that would limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as a prospective employee or as an applicant for employment;

(f 5) To discriminate against an individual in admission to, or employment in, any program established to provide apprenticeship or other job training, including an on-the-job training program;

(g 6) To print or publish, or cause to be printed or published, any discriminatory notice or advertisement relating to employment. This subsection shall not be construed so as to expose the person who prints or publishes the notice or advertisement, such as a newspaper, to liability;

(h 7) To discriminate in referring an individual for employment whether the referral is by an employment agency, labor organization or any other person.

552.02 PROHIBITED ACTS OF DISCRIMINATION RELATING TO HOUSING AND REAL ESTATE TRANSACTIONS.

(a) 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:

(b 1) To discriminate by impeding, delaying, discouraging or otherwise limiting or restricting any transaction in real estate;

(c 2) To discriminate by imposing different terms on a real estate transaction;

(d 3) To represent falsely that an interest in real estate is not available for transaction;

(e 4) To include in the terms or conditions of a real estate transaction any discriminatory clause, condition or restriction;

(f 5) To discriminate in performing, or refusing to perform, any act necessary to determine an individual's financial ability to engage in a real estate transaction;

(g 6) For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants of any real estate which he or she manages;

(h 7) To make, print or publish, or cause to be made, printed or published any discriminatory notice, statement, or advertisement with respect to a real estate transaction or proposed real estate transaction, or financing relating thereto. This subsection shall not be construed to prohibit advertising directed to physically disabled persons or persons over the age of 55 for the purpose of calling to their attention the existence or absence of housing accommodations or services for the physically disabled or elderly;

(i 8) To discriminate in any financial transaction involving real estate, on account of the location of the real estate be it residential or non-residential ("red-lining");

(j 9) For a real estate operator, a real estate broker, a real estate salesperson, a financial institution, an employee of any of these, or any other person, for the purposes of inducing a real estate transaction from which such person may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to **age, race, color, creed, religion, national origin, ancestry, disability, marital status, military status, sexual preference, gender, gender identity or expression, sexual orientation, source of income, ethnic group, or physical characteristic** of the owners or occupants in the block, neighborhood or area in which the real property is located or to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area in which the real property is located ("block-busting");

(k b) Notwithstanding the provisions of subsections (1) through (9) (a) through (h), it shall not be an unlawful discriminatory practice for an owner to limit occupancy on the basis of a person's low-income, age over 55 50 years or disability status in accordance with federal or state law;

(l c) Notwithstanding the provisions of subsections (a) (1) – (9) (a) through (h), 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 to a person as a tenant, roomer or boarder where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling or to refuse to rent, lease or sublease where it is anticipated that the owner, lessor or renter will be sharing either a kitchen or a bathroom with the tenant, roomer or boarder.

552.03 PROHIBITED ACTS OF DISCRIMINATION RELATING TO BUSINESS ESTABLISHMENTS OR PUBLIC ACCOMMODATIONS.

(a) It shall be unlawful for a business establishment or place of public accommodation to engage in any of the following acts wholly or partially for a discriminatory reason:

1. i. To deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment or place of public accommodation;
2. ii. To print, publish, circulate, post, or mail, directly or indirectly, a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a business establishment or place of public accommodation will be unlawfully refused, withheld from or denied an individual, or which indicates that an individual's patronage of, or presence at, the business establishment or place of public accommodation is objectionable, unwelcome, unacceptable or undesirable.

552.04 PROHIBITED ACTS OF DISCRIMINATION RELATING TO EDUCATIONAL INSTITUTIONS.

~~It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason:~~

- ~~(a) To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified;~~
- ~~(b) Notwithstanding the provisions of subsection (a) it shall not be an unlawful discriminatory practice to limit attendance in classes or programs conducted by an educational institution based upon a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law to provide reasonable accommodation;~~
- ~~(c) Notwithstanding the provisions of subsection (a), it shall not be an unlawful discriminatory practice for an educational institution operated by a religious or denominational institution, or established for a bona fide religious purpose, to admit students or program attendees on the basis of that student's or attendee's religious or denominational affiliation or preference.~~

552.05 CITY SERVICES, FACILITIES, TRANSACTIONS AND CONTRACTS.

The City shall be bound by the provisions of this chapter to the same extent as private individuals. All contractors proposing to, or currently doing business with the City, shall abide by this ordinance.

552.06 GENERAL EXCEPTIONS

- (a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that the practice is not intentionally devised to contravene the prohibitions of this chapter and there exists no less discriminatory means of satisfying a business purpose.
- (b) Unless otherwise prohibited by law, nothing contained in this chapter shall be construed to prohibit promotional activities such as senior citizen discounts and other similar practices designed primarily to encourage participation by protected group.
- (c) 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 such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this chapter.
- (d) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices, or as otherwise required by state or federal law.
- (e) Nothing contained in this chapter shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification or a bona fide physical requirement. Nothing contained in this chapter shall be deemed to prohibit a religious or denominational institution from **employing preferring to employ an individual of a particular religion to perform work connected with the performance of religious activities by the institution** selecting or rejecting applicants and employees for non-secular positions on the basis of the applicant's or employee's conformance with the institution's religious or denominational principles. If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide occupational qualification, or a permissible bona fide physical requirement, that party shall have the burden of proving:
 1. That the discrimination is in fact a necessary result of such a bona fide condition; and;
 2. That there exists no less discriminatory means of satisfying the bona fide requirement.
- (f) If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide religious or denominational preference, that party shall have the burden of proving that the discrimination is in fact a necessary result of such a bona fide condition.

(g) The provisions of this Chapter shall not be applicable to religious organizations officially recognized by the Internal Revenue Service, only to the extent that it is not inconsistent with Federal or State Law.

552.07 POSTING OF NOTICES.

Every employer or institution subject to this chapter shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated, a notice, the language and form of which has been prepared by the City, setting forth excerpts from or summaries of the pertinent provisions of this chapter and information pertinent to the enforcement of rights hereunder. The notice shall be in both English and Spanish. If over ten percent of an employer's employees speak, as their native language, a language other than English or Spanish, notices at that employer's place of business shall be posted in that language. At the request of the employer or institution, notices required by this section shall be provided by the City. Notices shall be posted within ten days after the receipt from the City.

552.08 CORRECTION OR RETALIATION.

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against or interfere with any person in the exercise of, or on account of having exercised, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected under this ordinance, or on account of having expressed opposition to any practice prohibited by this ordinance.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this ordinance, or because that person has made a charge, or because that person has testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this ordinance.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person in order to prevent that person from complying with the provisions of this ordinance.

552.09 PRESERVATION OF BUSINESS RECORDS.

Where a complaint of discrimination has been filed against a person under this ordinance, such person shall preserve all records relevant to the complaint, until a final disposition of the complaint.

552.10 FAIR HOUSING CIVIL RIGHTS REVIEW BOARD

(a) There is hereby created a Civil Rights Review Board, which shall consist of five members, including the Mayor or his or her designee, a member of City Council, and three citizen members appointed by the Mayor and confirmed by City Council. Of the citizen members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, and thereafter appointments shall be for three years.

(b) The Civil Rights Review Board shall have the responsibility to administer the provisions of this chapter and to adjudicate complaints alleging violations of Section 552. All administrative proceedings prescribed in this chapter shall be conducted at the Board's expense. The Board shall have and fully exercise the following powers to implement the purposes of this chapter:

- (1) To hold adjudicative hearings, make findings of fact, issue orders, enforce such orders, and seek judicial and/or administrative relief with respect to any such complaints in accordance with the provisions of this chapter;
- (2) To subpoena witnesses, compel their attendance, administer oaths, take sworn testimony, and, in connection therewith, to require the production for examination of any documents relating to any matter under investigation or in question before the Board, and enforce such powers by proper petition to any court of competent jurisdiction;
- (3) To adopt such rules and regulations as the Board may deem necessary or desirable for the conduct of its business and to carry out the purposes of this chapter; and
- (4) To do such other acts as are necessary and proper to perform those duties with which the Board is charged under this chapter.

552.11 ADMINISTRATOR.

The Mayor, with approval by City Council and upon the recommendation of the Civil Rights Review Board, shall appoint an Administrator who may be a City employee. The Administrator shall have such duties, responsibilities and powers as may be provided by the Board, including, but not limited to, receipt and processing of complaints on behalf of the Board.

552.12 COMPLAINTS.

Any person may allege that a violation of Section 552 has occurred, or that a violation will occur and cause injury, by filing with the Civil Rights Review Board, within one year of the alleged violation, a written complaint setting forth his or her grievance. The complaint shall state, on a printed form made available by the Board, the name and address of the complainant, the name and address of the person(s) alleged to have committed a violation of Section 552 and the particular facts thereof, and such other information as may be required by the Board. A complaint may be amended at any time. Upon the filing of a complaint, the Administrator shall acknowledge the receipt of the complaint, serving notice thereof to the complainant, which notice shall also contain information as to the time limits and choice of forum provided in this chapter.

552.13 NOTICE.

Within fifteen calendar days after a complaint has been received by the Board, the Administrator shall serve, or cause to be served, in person, or by certified mail, a copy of the complaint on the person (hereinafter referred to as the "respondent") alleged to have violated Section 552. Along with the service of the complaint, the Administrator shall advise the respondent in writing of his or her procedural rights and obligations pursuant to this chapter. The respondent may file with the Board an answer to the complaint.

552.14 INVESTIGATION

(a) Within thirty calendar days after a complaint has been received by the Board, the Administrator shall conduct an investigation of the complaint and shall determine either that:

- (1) There are reasonable grounds to believe that a violation of Section 552 has occurred, in which case the Administrator shall then initiate the conciliation process of Section 552; or
- (2) There are reasonable grounds to believe that a violation of Section 552 has not occurred, in which case the Administrator shall then dismiss the complaint by preparing a written notice of dismissal, including the reasons therefore, and notify the parties of the dismissal, within five days, by serving a copy of the notice of dismissal by certified mail on the parties. A copy of the notice shall also be filed with the Board. The notice of dismissal shall advise the complainant of his or her right of appeal under this section. Within fourteen days of receipt of the notice of dismissal, the complainant may appeal by filing a written request with the Board for a review of the complaint. By a majority vote, the Board may overrule the dismissal and refer the complaint to the Administrator for conciliation pursuant to Section 552.

(b) The Administrator shall complete the investigation within 100 days after receipt of the complaint, unless impracticable, in which case the Administrator shall inform, in writing, the complainant and the respondent of the reasons why the investigation cannot be completed within the time prescribed.

552.15 CONCILIATION.

If the Administrator has made a determination pursuant to Section 552 that there are reasonable grounds to believe that a violation of Section 552 has occurred, or at such other time after a complaint has been filed, as appropriate, the Administrator shall:

- (a) Notify the complainant and respondent of the time, place and date of the conciliation conference at least ten days prior thereto, and both parties shall appear at the conciliation conference in person or by attorney; and
- (b) Attempt to resolve the complaint by methods of conference, conciliation and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such conferences shall be made public unless the parties agree thereto in writing. The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, subject to approval by the Civil Rights Review Board. The terms of the conciliation agreement shall be made public unless the complainant and the respondent agree otherwise, and the Board determines that disclosure is not required to further the purposes of this chapter.

If the complaint has not been resolved by conciliation within sixty calendar days after it has been received, the Administrator shall refer the complaint to the Civil Rights Review Board for an adjudicative hearing.

552.16 INJUNCTIVE RELIEF.

At any time after the filing of a complaint, the Administrator may request the Director of Law to petition the appropriate court for temporary or preliminary relief pending final determination of the proceedings under this chapter, or as otherwise necessary to carry out the purposes of this chapter, including an order or decree restraining the respondent from doing or causing any act which would render ineffectual any order or action by the Civil Rights Review Board.

552.17 HEARINGS.

Within thirty calendar days after the complaint is referred to the Civil Rights Review Board, the Board shall, upon due and reasonable notice to all parties, conduct a hearing on the complaint. Parties to the hearing shall be the complainant and respondent, and such other persons as the Board may deem appropriate. The hearing shall be open to the public. At least seven days before the hearing, the Board shall serve upon the respondent a statement of charges and a summons requiring the attendance of named persons and the production of relevant documents and records. The parties may apply to the Board to have subpoenas issued in the Board's name. Failure to comply with a summons or subpoena shall constitute a violation of this chapter. The parties may file such statements with the Board as they deem necessary. No fewer than three of the same members of the Board must be present at all times during a hearing. The parties may appear before the Board in person or by duly authorized representative, and may be represented by legal counsel. The parties shall have the right to present witnesses and cross-examine witnesses, and all testimony and evidence shall be given under oath or by affirmation, administered by the Civil Rights Review Board and all proceedings to be written or audio recorded to be considered its formal record of proceedings.

552.18 HEARING DECISIONS.

Where hearings have been held before the Board, only those members of the Board who have attended all hearings on the complaint shall participate in the determination of the complaint. Within fifteen days of the close of the hearing, the decision shall be rendered, in the form of a written order which shall include findings of fact, a statement of whether the respondent has violated Section 552, and such remedial actions as the Board may order pursuant to Section 552. The order shall be served upon the parties by certified mail within fifteen days of the date of the decision. The order shall be available for public inspection, and a copy shall be provided to any person upon request and payment of reproduction costs.

552.19 HEARING OFFICER.

The Civil Rights Review Board, in lieu of conducting a hearing upon complaint, may appoint a hearing officer for the purpose of conducting hearings and reporting the findings thereof to the Board. In conducting such hearings, the hearing officer shall be delegated all powers conferred upon the Board pursuant to this chapter as to subpoenaing witnesses, compelling their attendance, administering oaths, taking sworn testimony, and requiring the production for examination of any documents relating to any matter under investigation or question before the Board. Notice of hearing and the procedures therefore shall be in accordance with Section 552 of this chapter. After the conclusion of any hearing, the hearing officer shall report his or her findings to the Board within seven days. Within fifteen days after receipt of the findings of the hearing officer, the Board shall render its decision in accordance with Section 552 of this chapter.

552.20 REMEDIAL ACTIONS

(a) If the Board finds that the respondent has not violated Section 552 its order under Section 552 shall dismiss the complaint. If the Commission finds the complaint to be frivolous or vindictive, then the costs of these proceedings may be assessed against the complainant.

(b) If the Board finds that the respondent has violated Section 552 its order under Section 552 shall provide for the taking of such remedial action(s) as it deems appropriate, which may include, but need not be limited to:

- (1) Directing the respondent to cease and desist from violations of Section 552 and to take such affirmative steps as necessary to effectuate the purposes of this chapter;
- (2) Recommending to the City's Law Director an appropriate court action for the enforcement of Section 552, and for such other or further relief as the court may deem appropriate, including, but not limited to, injunctive relief, compensatory damages, punitive damages, and/or attorneys' fees and costs for award to the complainant; such court action shall be required in the event the respondent does not voluntarily comply with the remedial actions ordered by the Board.
- (3) Recommending to the Law Director the proceedings for a violation of Federal or State law and/or regulations;
- (4) Recommending to the Law Director proceedings with any contracting agency, in the case of any violation of Section 552 by a respondent in the course of performing under a contract or sub-contract with the State or any political subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, for the purpose of causing a termination of such contract or any portion thereof, or obtaining other relief;
- (5) Recommending to the Law Director proceedings with the State of Ohio where applicable, to revoke, suspend or refuse to renew the license of any person found to have violated any provision of Section 552;

(6) Directing the respondent to reimburse the complainant for his or her actual and reasonable expenses incurred and to be incurred as a result of each violation found, including, but not limited to, expenses for moving and temporary storage of household furnishings, additional expenses in connection with the purchase or rental of a dwelling for alternative accommodations, and reasonable attorneys' fees and costs.

(7) Assessing compensatory damages, as appropriate, or arrange to have adjudicated in court at the Board's expense the award of compensatory damages against the respondent.

(8) Assessing civil penalties, as appropriate, or arrange to have adjudicated in court at the Board's expense the award of a civil penalty against the respondent.

(9) Directing the respondent to comply with such other further relief as the Board may deem appropriate for the enforcement of Section 552.

(10) The Civil Rights Review Board shall make a final administrative disposition of a complaint within one year after the complaint has been filed, unless it is impracticable to do so, in which case the complainant and the respondent shall be notified in writing of the reasons why disposition of the complaint cannot be made within the time prescribed.

(c) Nothing herein shall be construed to prevent the City, upon recommendation from the Board, from initiating appropriate court action on behalf of the complainant in order to enforce the provisions of this chapter. In addition, upon a finding by the Administrator that there are reasonable grounds to believe that a violation of Section 552 has occurred, as provided in Section 552 either the complainant or the respondent, in lieu of participating in the administrative hearing process before the Civil Rights Review Board, or at any time during said administrative process, may elect to have the case heard in a civil action. Upon notification thereof, the City, at the request of the Board, shall initiate a civil action in a court of law on behalf of the complainant.

(d) The complainant and the respondent shall have the right to appeal an adverse final determination by the Board to the Cuyahoga County Common Pleas Court pursuant to Ohio R.C. Chapter 2506, or in such other forum or court of competent jurisdiction as provided by law.

552.21 JUDICIAL RELIEF.

The City, or the complainant, or any person aggrieved by a violation of any provision of this chapter may, at any time within one year from the date of the alleged violation, and in lieu of proceeding with the administrative process set forth in this chapter, apply to any court of competent jurisdiction for appropriate relief, including, but not limited to:

- (a) Injunctive relief or an order otherwise compelling compliance with this chapter;
- (b) Compensatory damages, and/or punitive damages;
- (c) Reasonable attorneys' fees and costs, provided that said complainant, in the opinion of the court, is not financially able to assume said attorneys' fees; and/or
- (d) Such other or further relief as is appropriate for the enforcement of this chapter and the elimination of violations hereof.

552.22 ADDITIONAL REMEDIES

This chapter shall not prevent the City or any person from exercising any right or seeking any remedy to which that person might otherwise be entitled, or from filing any complaint with any other agency or court of law or equity."

552.10 HUMAN RIGHTS COMMISSION.

(a) — There is hereby created the City of South Euclid Human Rights Commission, hereafter referred to as "the Commission," to be comprised of three (3) members. One member shall be the Director of Community Services or his or her ~~their~~ designee for the City who is trained and/or certified in diversity management practices. The second member shall be appointed by the mayor. The third member shall be appointed by majority vote of council. Each member of the Commission shall serve a term of three years and until his or her ~~their~~ successor has been appointed and qualified for office. With the exception of Director of Community Services or his or her ~~their~~ designee, members of the Commission shall be ineligible to be reappointed to succeed themselves for more than one additional three-year term, unless the member is completing a term for which he or she ~~the member~~ was appointed to fill a mid-term vacancy. Every member shall have been a resident of the City for at least one year prior to appointment and shall continue to be a resident so long as he or she ~~they~~ shall serve as a member of the Commission. In the event of a vacancy a replacement will be chosen by the appropriate appointing authority of that seat and will serve out the remainder of the vacant term.

(b) — The Commission may create and modify rules regarding its meetings and procedures. The Commission may create and appoint task forces and committees it deems appropriate to carry out its functions.

(c) — The work of the Commission shall be managed by the Department of Community Services.

(d) — The responsibilities of the Department of Community Services include managing Commission records and accounts, developing public education programs as needed, providing training for Commission members, managing citizen complaints, facilitating Commission scheduling and communication, and any other tasks needed to effectuate the functions of the Commission.

(e) — In addition, the Commission may use the services of attorneys, hearing examiners, clerks and other employees and agents who are city government employees, except in those cases in which the city government is a party, and in which case the Commission may seek the city attorney's approval to engage appropriate counsel. In the enforcement of this chapter, the Commission shall have the following powers and duties:

1. To receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of this chapter;
2. To cooperate with relevant federal and state authorities;
3. To present an annual report to the mayor and city council setting forth the number of complaints received during the prior year, as well as the disposition of the complaints, and the number of convictions for violation. The Commission shall publish this report and make it available in some format to the general public;
4. To require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person by deposition and require the production of documents relevant to the complaint. The Commission may make rules authorizing or designating any member or individual to exercise these powers in the performance of official duties;
5. To cooperate with community, professional, civic and religious organizations, as well as state and federal agencies, in the development of public education programs regarding compliance with the provisions of this chapter and equal opportunity and treatment of all individuals;
6. To conduct tests to ascertain the availability of housing, both in sales and also in rentals of real property;
7. To make available for the City's website information on this chapter, grievance procedures, the Commission's annual report and any other information that would further the purposes and intentions of this chapter.

552.11 COMPLAINTS — CONSIDERATION BY THE COMMISSION.

(a) — A person claiming to be aggrieved by a discriminatory practice, or a member of the Commission, may file with the Commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the Commission to identify the persons charged (hereinafter the respondent).

(b) — Within 14 days after receipt of the complaint, the Commission shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of the respondent's time limits.

(c) — The Commission shall, within 14 days of the filing of the complaint, furnish the respondent with a copy of the complaint and a notice advising the respondent of the respondent's procedural rights and obligations under this chapter.

(d) — The complaint must be filed within one year after the commission of the alleged discriminatory practice.

(e) — The Commission shall commence an investigation of the complaint within 30 days after the filing of the complaint. The Commission, or designee, shall promptly investigate the matter to determine whether the discriminatory practice exists.

(f) — If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(g) — The complainant, within 30 days after receiving a copy of the order dismissing the complaint, may file with the Commission an application for reconsideration of the order.

(h) — Upon such application, the Commission shall review the original investigation and make a determination within 30 days whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

(i) — If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint after reconsideration and furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

552.12 CONCILIATION AGREEMENTS.

(a) — If the Commission determines after investigation that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall endeavor to eliminate the

alleged discriminatory practices by conference, conciliation and persuasion:

(b) — The terms of a conciliation agreement reached with a respondent shall require the respondent to refrain from discriminatory practices in the future and shall make such further provisions as may be agreed upon between the Commission or its assigned staff and the respondent.

(c) — If a conciliation agreement is entered into, the Commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent and such public officers and persons, as the Commission deems proper.

(d) — Except for the terms of the conciliation agreement, the Commission shall not make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate discriminatory practice by conference, conciliation or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement. The conciliation agreement itself shall not be made public unless the complainant and the respondent otherwise agree and the Commission also determines that disclosure is not required to further the purposes of this chapter.

(e) — At the expiration of one year from the date of a conciliation agreement, and at other times in its reasonable discretion, the Commission or its staff may investigate whether the respondent is following the terms of the agreement.

(f) — If a finding is made that the respondent is not complying with the terms of the agreement, the Commission shall take such action as it deems appropriate to assure compliance.

552.13 HEARINGS.

(a) — If a conciliation agreement has not been reached within 90 days after an administrative determination of reasonable cause to believe that discrimination took place, the Commission shall serve on the respondent by mail or in person a written notice, together with a copy of the complaint as it may have been amended, or a copy of the letter of determination, requiring the respondent to answer the allegation(s) of the complaint at a hearing before the Commission or another individual pursuant to its rules, at a time and place specified by the hearing examiner or examiners after conference with the parties or their attorneys. A copy of the notice shall be furnished to the complainant and such public officers and persons as the Commission deems proper.

(b) — A member of the Commission who filed the complaint or endeavored to eliminate the alleged discriminatory practice by conference, conciliation or persuasion shall not participate in the hearing or in the subsequent deliberation of the Commission. In the case where a member of the Commission filed a complaint and a hearing or subsequent deliberation of the Commission is required, a temporary Commissioner shall be appointed by the City Law Director.

(c) — The respondent may file an answer with the Commission by registered or certified mail in accordance with the rules of the Commission before the hearing date. The respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had an opportunity of a hearing on the complaint or amendment on which the order is based.

(d) — A respondent, who has filed an answer or whose default in answering has been set aside for good cause shown, may appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant and may offer evidence.

(e) — The complainant, and, in the discretion of the Commission, any person may intervene, examine and cross-examine witnesses and present evidence.

(f) — If the respondent fails to answer the complaint, the Commission may find the respondent in default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(g) — Efforts at conference, conciliation and persuasion shall not be received in evidence.

(h) — Testimony taken at the hearing shall be under oath and recorded. If the testimony is not taken before the Commission, the record shall be transmitted to the Commission.

(i) — In a proceeding under this chapter, the production of a written, printed or visual communication, advertisement or other form of publication, or a written inquiry, or record, or other document purporting to have been made by a person shall be prima facie evidence that it was authorized by the person.

(j) — All hearings conducted under this section shall be conducted in accordance with Chapter 119 of the Ohio Revised Code.

552.14 FINDINGS AND ORDERS.

(a) — If the Commission determines that the respondent has not engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(b) — If the Commission determines that the respondent has engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this chapter. A copy of the order shall be delivered

to the respondent, the complainant and to such public officers and persons as the Commission deems proper.

552.15 REMEDIES.

(a) — Affirmative action ordered under this section may include, but is not limited to:

1. Firing, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;
2. Admission or restoration of individuals to union membership, admission to or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;
3. Admission of individuals to a place of public accommodation;
4. The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;
5. Reporting as to the manner of compliance;
6. Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the Commission and inclusion of such notices in advertising material;
7. Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and costs, including reasonable attorney fees;
8. Payment to the Commission of a \$500 fine for each violation. Each day on which a continuing violation occurs shall constitute a new and separate violation of this ordinance. Fines collected pursuant to this section will be used to establish a fund to educate the community about nondiscrimination practices and to promote nondiscrimination in the City;
9. Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record.

(b) — The Commission may publish, or cause to be published, the names of persons who have been determined to have engaged in a discriminatory practice.

552.16 JUDICIAL REVIEW.

A complainant or respondent aggrieved by an order of the Commission, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review in accordance with applicable law.

552.17 SUBPOENAS.

(a) — Upon written application to the Commission, a party to a proceeding is entitled as of right to the issuance of subpoenas for deposition or hearing in the name of the Commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony by witnesses and the production of documents.

(b) — A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena is directed.

(c) — On petition of the person to whom the subpoena is directed and notice to the requesting party, the Commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(d) — Any depositions of witnesses shall be taken as prescribed by the Ohio Rules of Civil Procedure.

(e) — Witnesses whose depositions are taken, or who are summoned before the Commission or its agents, will be entitled to the same witness and mileage fees as are paid to the witnesses subpoenaed in municipal court.

(f) — If a person fails to comply with a subpoena issued by the Commission, the municipal court may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

552.18 RESISTANCE TO, OBSTRUCTION, ETC., OF COMMISSION.

Any person who willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this Act, or violates any order of the Commission shall be subject to a fine of not more than five hundred dollars in addition to such order or decree that may be issued.

552.19 STATE/FEDERAL REMEDIES.

(a) — The remedies provided for in this chapter are in addition to, not in lieu of, those provided for by state and federal law. This chapter shall therefore not be construed so as to limit a person's right to file complaint with any state or federal agency, board, tribunal or court vested with jurisdiction to receive, review

and act upon complaints of discrimination. This chapter shall not be construed as limiting the right of any person to seek remedies in courts of competent jurisdiction pursuant to state or federal law which grant private rights of action to persons aggrieved by discriminatory acts of the type prohibited by this chapter. There is no requirement that an aggrieved person file a complaint with the City pursuant to this chapter before seeking any other federal, state or other remedy available to the person.

(b) — A person's election to seek remedies provided for in this chapter shall not operate to toll any statute of limitation set forth in state or federal law for pursuing remedies under state or federal law for acts of discrimination of the type prohibited by this chapter.

552.23 552.20 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter, or the application thereof to any person, firm, corporation or circumstance, is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The City Council of the City hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

552.24 552.21 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree.

552.25 552.22 EQUAL OPPORTUNITY.

No person shall be denied the right to purchase or lease a condominium unit in the City because of age, race, color, creed, religion, national origin, ancestry, disability, marital status, military status, gender, gender identity or expression, sexual orientation, source of income, ethnic group, **recipient of public assistance** or physical characteristic.

~~age, race, creed, color, religion, sex, national origin, ancestry, disability, familial status, marital status, sexual preference, sexual orientation, gender identity or gender expression, recipient of public assistance, ethnic group, military status, or physical characteristic.~~

552.26 552.23 ESTABLISHMENT; PURPOSE.

The South Euclid Community Relations Advisory Commission is hereby established to serve in an advisory capacity for the purpose of educating, informing and making recommendations to City officials, departments, boards and commissions on matters relating to community relations within the City of South Euclid in an effort to advance:

- (a) Respect for diversity: Acknowledge we live in a dynamic community with an ever-changing variety of group and individual experiences, and affirm values derived from the understanding of our differences (whether based on **age, race, creed, color, religious belief, religion, sex, national origin, age, ancestry, handicap, disability, familial status, marital status, sexual preference, sexual orientation, gender identity, gender or expression, recipient of public assistance, ethnic group, military status, or physical characteristic**).
- (b) Bonds of mutuality: Recognize the interdependence of our different interests as we work toward serving the common good, and ensure community relations have substantive meaning by acknowledging, as Martin Luther King Jr. stated, "Whatever affects one directly affects all indirectly."
- (c) Equity: Affirm our commitment to social justice, and assure all groups and individuals have the opportunity to participate fully in civic affairs with equal access to employment, community resources, and decision-making processes.

552.27 552.24 INTIMIDATION.

(a) No person shall violate Section 537.05, 537.051, 537.06, 537.10(a)(3), (4) or (5), 541.03 or 541.04 by reason of **age, race, creed, color, religious belief, religion, sex, national origin, age, ancestry, handicap, disability, familial status, marital status, sexual preference, sexual orientation, gender identity, gender or expression, recipient of public assistance, ethnic group, military status, or physical characteristic**.

(b) Whoever violates subsection (a) hereof is guilty of intimidation. A violation of intimidation under subsection (a) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In case of an offense that is a misdemeanor of the first degree, whoever violates this section may be prosecuted under Ohio R.C. 2927.12.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety for the reason that the functions of the various departments of the municipal government are immediately affected hereby. Wherefore, this Ordinance shall take effect upon passage and approval and the signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law