

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 ACCOMODATIONS. ~~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. ~~1.~~ 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. ~~2.~~ 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. 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.~~

~~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