

**Repealing Toledo Municipal Code Chapter 554 “Discrimination Prohibited”;
creating new Chapter 554 “Discrimination Prohibited”.**

SUMMARY & BACKGROUND:

The purpose of this chapter is to address serious health, safety, and economic concerns associated with employment and housing discrimination. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 554 is hereby repealed.

SECTION 2. That a new Chapter 554, entitled “Employment, Real Estate Discrimination”, be enacted to read as follows:

554.01. Definitions

(a) "Business establishment" means any entity, however organized, which furnishes goods or services 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 the payment of fees or consist of requirements under which a substantial portion of the residents of this City could qualify.

(b) "Conversion therapy" has the same meaning as sexual orientation or gender identity change efforts, which is defined herein.

(c) "Discriminate", "discriminates" or "discrimination" means any distinction or difference in treatment because of, or motivated by, even if not solely because of, a protected class.

(d) "Employee" means any person hired or employed by any employer in consideration for direct or indirect monetary wages, compensation and/or profit or as a volunteer except those engaged in domestic service, personal service or an employee of an organized religious congregation or an employee of an organization or institution limited to members of a single religious faith.

(e) "Employer" means any person, one or more individuals, a partnership, association or corporation hiring or employing another in consideration for direct or indirect monetary wages, compensation and/or profit or as a volunteer except as provided in Section 554.02(b).

(f) "Employment agency" means any person, company, partnership, association or corporation which undertakes with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.

(g) "Financial institution" means any person, partnership, association or corporation engaged in the business of lending money or guaranteeing loans on real property.

(h) "Gender identity or expression" means a person's gender-related identity, appearance, expression or behavior, whether or not that gender-related identity, appearance, expression or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth.

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

(j) "Mental health provider" means an individual who is licensed, certified or registered under the laws of the State of Ohio to provide, to an individual or a group, mental health services, including but not limited to, the assessment or improvement of mental, emotional, psychiatric, psychological, or psychosocial adjustment or functioning, regardless of whether there is a diagnosable, pre-existing disorder or disease. Mental health professionals include, but are not limited to, physicians specializing in the practice of psychiatry, psychologists, marriage and family therapists, licensed clinical social workers, professional clinical counselors, behavioral clinicians or therapists, nurses, or any other person offering such mental health services.

(k) "Person selling real property" means any person, corporation, partnership, association or trustee who sells real property, leases or rents real property, or, who as agent for another, performs any of the functions listed herein.

(l) "Places of public accommodation" means any inn, 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 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.

(m) "Purchaser of real property" means any occupant, prospective occupant, lessee, prospective lessee, buyer or prospective buyer of any real property.

(n) "Reparative therapy" has the same meaning as sexual orientation or gender identity change efforts, which is defined herein.

(o) "Sexual orientation" means an inherent or immutable enduring emotional, romantic or sexual attraction to other people.

(p) "Sexual orientation or gender identity change efforts" means any practices by mental health providers that seek to change an individual's sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(q) "Sexual orientation change efforts" does not include counseling that provides support and assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change sexual orientation or gender identity.

(r) "Source of income" means any lawful income or payment, including but not limited to wages accruing from any lawful occupation; federal, state or local payments, including Section 8 housing assistance payments or any other rent subsidy or rent assistance program; court ordered payments; payments received as gifts, bequests, annuities or life insurance policies; or social security.

(t) "Protected Class" means race, ethnicity, religion, color, national origin, ancestry, sex, familial status, disability, age, source of income, military status, immigration status, sexual orientation, or gender identity.

554.02. Prohibited employment discrimination; exemptions.

(a) No employer, labor union, employment agency or any individual shall:

(1) Discriminate against any person with regard to hire, discharge, tenure, upgrading, promotion, terms or conditions of employment or union membership because of that person's Protected Class.

(2) Publish or cause to be published any notice or advertisement relating to the employment or membership which contains any specification or limitation as to a Protected Class.

(3) Require of any applicant, as a condition of employment or membership, any information concerning the applicant's Protected Class.

(4) Aid, abet, encourage or incite the commission of any discrimination in employment practice prohibited by this chapter.

(b) Exemptions.

(1) Any employer of less than twelve persons is not subject to the provisions of subsection (a) hereof; furthermore, members of the immediate family of an employer shall not be included in determining the number of employees.

(2) Any religious organization or institution whose membership or service is limited to persons of a particular religious faith is not subject to the provisions of subsection (a) hereof.

(3) Any private organization having a purely social or fraternal purpose is not subject to the provisions of subsection (a) hereof.

(4) Any type of employment where religion would usually and normally be considered an essential qualification of employment is not subject to the provisions of subsection (a) hereof.

554.03. Prohibited real estate discrimination.

(a) No person selling or renting real property shall, because of Protected Class:

(1) Refuse to sell or rent property.

(2) Evict from or deny occupancy.

(3) Make any distinction, discrimination or restriction in the eligibility criteria, sale, rental, price, terms, conditions or privileges relating to the sale, rental, lease, occupancy of real property or in the furnishing of any facilities or services in connection therewith.

(4) Fail to provide complete, accurate, and truthful information.

(5) Make unavailable or otherwise attempt to prevent the sale, rental or lease of any real property to a purchaser or renter.

(b) No person selling or renting real property shall publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of real property which indicates any preference, limitation or discrimination based on Protected Class.

(c) No person, firm, partnership, association or corporation shall:

(1) Induce, directly or indirectly, or attempt to induce directly or indirectly, the sale or listing for sale of residential property by representing that a change has occurred or may occur in the composition of any Protected Class in the block, neighborhood or area in which the property is located.

(2) Induce, directly or indirectly, or attempt to induce directly or indirectly, the sale or listing for sale of residential real property by representing that the presence or anticipated presence of individuals of any particular Protected Class in the area will or may result in:

A. The lowering of property value;

B. A change in the composition of a Protected Class or Classes in the block, neighborhood or area in which the property is located;

C. An increase in criminal or antisocial behavior in the area; and/or

D. A decline in the quality of the schools serving the area.

(3) Make any representation to any prospective purchaser or renter of real estate that any block, neighborhood or area has, will or might undergo a change with respect to the composition

of Protected Class in the block, neighborhood or area for the purpose of discouraging the purchase of residential property in a particular area.

(4) Make any representations or omissions or engage in any other action pertaining to real estate for the purpose of directing or discouraging a potential real estate purchaser or renter from living in a particular unit, building, or neighborhood because of Protected Class.

(5) Place any sign advertising the sale or rental of real property on any City owned property without authority.

(6) Refer to Protected Class in any showing, advertisement, or other communication offering residential property for sale or rental.

(7) Engage in, hire or conspire with any other or others to commit acts or activities of any nature, the purpose of which is to incite fear of any Protected Class among property owners.

(d) No financial institution shall discriminate, as defined herein, in the granting, extending or renewing of any financial assistance or in the fixing of rates, terms or conditions of any financial assistance, sought by any person applying for the purchase, construction, rehabilitation, repair or maintenance of any real property, or improvements thereon.

(e) No person shall conspire, assist, aid or abet, induce, incite or coerce another person to commit an act or engage in a practice that violates this section, or engage in economic or other reprisals against a person or business firm for complying with this section.

(f) As used in this section, "familial status" discrimination shall include discrimination based upon the occupancy of real property by children of a purchaser or renter of the property and/or discrimination against a renter/purchaser or potential renter/purchaser based upon the renter/purchaser or potential renter/purchaser having children.

(g) As used in this section, "military status" shall include the status of being a veteran, active, or reserve member of any branch of the Armed Forces of the United States. The term "Armed Forces" shall include the United States Army, Navy, Marine Corps, Air Force, Coast Guard, the reserve components thereof, the Air National Guard, and Army National Guard.

(h) As used in this Section source of income discrimination shall include refusal to cooperate in the process of accepting section 8 housing choice voucher assistance or payments from other rental assistance programs, including but not limited to refusal to cooperate in housing quality standards inspections by the housing authority.

554.04. Business establishments.

It shall be an unlawful business practice for any person to deny any individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment including, but not limited to medical, dental, health care and convalescent services of any kind whatsoever on the basis, in whole or in part of any Protected Class.

554.05. Places of public accommodation.

(a) It shall be an unlawful practice to deny any person the full and equal enjoyment of or to impose different terms and conditions on the availability of any of the following, because of any Protected Class:

(1) Use of any facility or City service.

(2) Any service, program or facility wholly or partially funded or otherwise supported by the City. This subsection shall not apply to any facility, service or program which does not receive any assistance from the City which is not provided for the public generally.

554.06. Prohibition against sexual orientation or gender identity change efforts.

No mental health provider shall engage in sexual orientation or gender identity change efforts with any person, without regard to whether the mental health provider is compensated or receives any form of remuneration for his or her services.

554.08. Private Enforcement and Civil Remedies

(a) An aggrieved person may commence a civil action not later than 2 years after the occurrence or the termination of an alleged discriminatory practice, as described in Sections 554.02 through 554.05, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(b) In a civil action under subsection (a), if the court finds that a discriminatory practice has occurred or is about to occur, as described in Sections 554.02 through 554.05, the court may award to the plaintiff actual and punitive damages, and may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(c) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party a reasonable attorney's fee and costs.

554.99. Penalty.

(a) Any person who violates any of the provision of Sections 554.02-554.05 of this chapter is guilty of a misdemeanor in the first degree.

(b) Whoever violates Section 554.06 of the chapter is guilty of a misdemeanor of the fourth degree, for the first offense, and each day in violation shall constitute a separate offense, each with a maximum fine of \$250.

554.100. Severability

The provisions of this chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this chapter, or the application thereof, is held to be invalid, it shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.