



ORDINANCE 2022-13

OF THE VILLAGE OF ASHVILLE



AN ORDINANCE TO ADD CHAPTER 559 DISCRIMINATION PROHIBITED; GUARANTEE OF EQUALITY AND INCLUSION TO THE VILLAGE OF ASHVILLE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, Council for the Village of Ashville understands and recognizes its need to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on one's membership in a Protected Class such as age, race, color, religion, ethnicity, national origin, ancestry, disability, marital status, family status, military status, sex, gender identity or expression, or sexual orientation. The purpose of Chapter 559 is to promote the public health and welfare of all persons who live in, work in, or visit the Village. An additional purpose is to comply with this objective in every aspect of the Village of Ashville government operation and decision making; and

WHEREAS, Council for the Village of Ashville understands and recognizes its need to ensure in Chapter 559 to promote equal access to employment, housing, and public accommodations in the Village. The denial of these rights to persons in a Protected Class is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ASHVILLE, PICKAWAY, STATE OF OHIO THAT:

SECTION I

The Village of Ashville adopts Chapter 559, Exhibit A, Discrimination Prohibited; Guarantee of Equality & Inclusion.

SECTION II

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 Council and that all deliberations of Council and any of the decision-making bodies of the Village of Ashville which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

SECTION III

All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

SECTION IV

Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of this municipality and the further reason that Village Council needs to approve and enter into this Agreement as soon as possible in order to continue providing the Village with uninterrupted legal services. Wherefore, provided this Ordinance receives the required affirmative votes of Council, this Ordinance shall take effect and be in force immediately upon passage by Council and approval by the Mayor.

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Offered by: Nelson R. Embrey

Seconded to the Motion Offered by: Matt Scholl

Upon roll call on the adoption of the ordinance, the vote was as follow:

Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No
Roger L. Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nelson R. Embrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Randy S. Loveless	<input checked="" type="checkbox"/>	<input type="checkbox"/>	R. David Rainey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Scholl	<input checked="" type="checkbox"/>	<input type="checkbox"/>
												Steve Welsh	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PASSED THIS 12th DAY OF AUGUST 1, 2022

ATTEST:

April D. Grube, Clerk-Fiscal Officer

DATE: 8/2/2022

APPROVED:

Charles K. Wise, Mayor

DATE: 02 AUG 2022

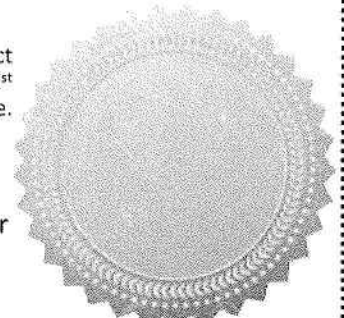
Prepared: 07/27/2022
Revised Date:
Review Date:

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of the ordinance adopted by the Village of Ashville Council held on 1st day of August 2022, and that I am duly authorized to execute this certificate.

(Original signature of April D. Grube)

Clerk-Fiscal Officer
(TITLE)



CHAPTER 559 Discrimination Prohibited; Guarantee of Equality and Inclusion

- 559.01 Human Rights Commission; diversity and inclusion.
- 559.02 Housing discrimination prohibited.
- 559.03 Unlawful discriminatory practices relating to employment.
- 559.04 Unlawful discriminatory practices relating to public accommodations.
- 559.05 Unlawful discriminatory practices relating to educational institutions.
- 559.06 Village services, facilities, transactions, and contracts.
- 559.07 Intimidation.
- 559.08 Complaint procedures.
- 559.09 Exceptions.
- 559.10 Other legal actions.
- 559.11 Separability; other remedies.

559.01 HUMAN RIGHTS COMMISSION; DIVERSITY AND INCLUSION.

(a) Statement of Intent.

- (1) It is the intent of Village of Ashville to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on one's membership in a Protected Class such as age, race, color, religion, ethnicity, national origin, ancestry, disability, marital status, family status, military status, sex, gender identity or expression, or sexual orientation ("Protected Class"). The purpose of this chapter is to promote the public health and welfare of all persons who live in, work in, or visit the Village.
- (2) It is the intent by this chapter to assure equal access to employment, housing, and public accommodations in the Village. The denial of these rights to persons in a Protected Class is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

(b) Definitions. All words utilized in this chapter shall be ascribed their ordinary meaning unless otherwise defined herein.

Additionally, the following specific terms are hereby defined:

- (1) "Commercial purpose or commercial activity" is that purpose or activity open to a broader secular market other than members, families of members, or coreligionists of the religious or denominational corporation, institution, association, or organization.
- (2) "Discriminate, discrimination or discriminatory" means any act, policy, or practice that, regardless of intent, has the effect of subjecting any person to differential treatment because of that person's race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic.
- (3) "Employer" means any person who employs four or more persons.
- (4) "Gender" means actual or perceived sex.
- (5) "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.
- (6) "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.
- (7) "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 Village.

- (8) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.
- (c) Human Rights Commission; Purpose. A non-partisan Human Rights Commission is hereby established to be known as the Village of Ashville Human Rights Commission (the "Commission"). The purpose of the Commission is not to penalize, but to encourage and endeavor to bring about mutual understanding and respect among all persons, and to safeguard the right and opportunity of all persons to be free from all forms of discrimination.
- (d) Human Rights Commission; Members.
- (1) The Village of Ashville Human Rights Commission shall be comprised of five (5) members who shall be appointed by the Mayor with the approval of a majority vote of Village Council. At least three (3) of the Commission Members shall be residents of the Village. Mayor/Council may also appoint a non-resident of the Village who has subject matter experience in investigating or addressing claims of discrimination or harassment. Mayor/Council may also appoint one (1) member to the Commission who is a non-resident of the Village, but who is the owner, operator or official in a business located within the Village.
 - (2) Members of the Commission shall serve voluntarily and without compensation, except for reimbursement of any reasonable and necessary expenses incurred in performance of duties for the Commission. No member shall be a current employee, officer, elected official, agent, or contractor with the Village.
 - (3) Except for members' initial terms which shall be staggered, each member shall serve a term of three (3) years. Of the initial appointments after enactment of this Ordinance, two (2) members shall be appointed to an initial term of three (3) years, two (2) members shall be appointed to an initial term of two (2) years, and one (1) member shall be appointed to an initial term of one (1) year. Members shall be eligible for reappointment; however, no member shall serve more than three consecutive terms. Members shall serve beyond the end of a term until a replacement is appointed by the respective authority. A member shall be deemed to have abandoned the position and resigned upon missing three consecutive regular meetings of the Commission without being excused by the Commission as reflected in the minutes. Any vacancy shall be filled by Mayor/Council. Members appointed to fill a vacancy shall serve the remainder of the term of the vacant position.
- (e) Human Rights Commission; Organization. The Village of Ashville Human Rights Commission is a non-legislative public body of the Village. The Commission shall convene the initial organizational meeting of appointed members at its earliest opportunity. The Commission shall organize at its initial meeting by electing one member as Chair, one member as Vice-Chair, and one member as Secretary to record the minutes of proceedings. The Commission may select additional members to serve as officers if found to be necessary and proper for the effective organization and operation of the Commission. Each officer shall serve for a term of one year or until a successor officer is duly elected.
- (f) Human Rights Commission; Meetings.
- (1) The Village of Ashville Human Rights Commission shall convene at least once each year to elect officers and as otherwise requested by a member of the Commission, the Village Administrator, the Village Mayor, or the Village Council. Any three (3) members of the Commission shall constitute a quorum for the transaction of business. The Commission may act upon a majority vote of members present at a meeting. The Commission shall report to the Village Council at least once every calendar year.
 - (2) Meetings of the Commission shall be open to the public except that Executive Sessions shall be allowed as permitted by the Charter and Ohio law. Public notice of any meetings must be provided at least forty-eight (48) hours in advance, and minutes must be maintained. Any documents, evidence, and other records maintained or created by the Commission or submitted to the Commission, are public records subject to the Ohio Public Records Act and any recognized exceptions.

- (3) The Village shall provide appropriate orientation and training to the Commission at its annual organization meeting to help them fully understand their duties and responsibilities, the requirements for open Meetings and Public Records, and the importance of confidentiality in the performance of their tasks.
- (g) Human Rights Commission; Powers and Duties. The Village of Ashville Human Rights Commission is hereby authorized and empowered as follows:
- (1) The Commission may create and modify rules regarding its meetings, hearings, and procedures to carry out its functions. At its discretion, the Commission may accept volunteer services, including volunteer services of private legal counsel.
 - (2) The Commission may create committees and sub-committees comprised of members and other volunteers, which in its judgment will aid in effectuating the purposes of the Commission, including, but not limited to: a committee formed to study the problem of discrimination; a committee formed to foster good will, cooperation and conciliation among the diverse groups and population of the Village; and a committee formed to make recommendations to the Commission for the development and implementation of programs of formal and informal education and public awareness.
 - (3) The Commission may, with the consent and approval of the Village Administrator, call upon other officers, departments, and agencies of the Village government to assist in its programs and projects. The Commission may recommend to Village Council policies, procedures, practices, and legislation in all relevant matters.
 - (4) The Commission may enlist the cooperation of racial, religious, ethnic, community and civic organizations, and other identifiable groups of the Village, in its programs and campaigns devoted to the education and advancement of tolerance, understanding and equal protection of the law for all groups and individuals regardless of membership in a Protected Class.
 - (5) The Commission may seek and accept contributions, financial or otherwise, on behalf of the Village from any person including but not limited to any private, public, governmental, charitable, religious, labor, civic or benevolent organizations, in furtherance of its mission.
 - A. The Ashville Foundation will be used for accepting contributions.
 - (6) The Commission may formulate and develop programs and opportunities (i.e. forums, workshops, research, and publications) to collect and disseminate information regarding the work of the Commission, to minimize or eliminate discrimination, and to promote good will among all persons who live in, work in, or visit the Village.
 - (7) The Commission shall develop a program to receive and report complaints from persons who live in, work in, or visit the Village.
 - (8) The Commission shall cooperate and work with relevant federal, state, and local government offices and agencies.
- (h) Public Contracts. The Village shall consider all contractors who have a stated inclusive policy against unlawful discrimination that is substantially like the Village's policies as set forth in this chapter.

559.02 HOUSING DISCRIMINATION PROHIBITED.

- (a) Prohibited Discrimination. No person shall attempt to or willfully injure, intimidate, or interfere with any of the following:
- (1) Any person from renting, purchasing, selling, financing or occupying any housing accommodations; from contracting or negotiating for any housing accommodations; or from applying for or participating in any service, organization, or facility relating to the business of selling or renting housing accommodations because of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, familial status as defined in Ohio R.C. 4112.01, military status as defined in Ohio R.C. 4112.01, or disability as defined in Ohio R.C. 4112.01.

- (2) Any person because that person is or has been doing either of the following:
 - A. Participating in any of the activities, services, organizations, or facilities described in division (a)(1) of this section;
 - B. Affording another person or class of persons opportunity or protection so to participate in any of the activities, services, organizations, or facilities described in division (a)(1) of this section.
 - (3) Any person because that person is or has been lawfully aiding or encouraging other persons to participate in any of the activities, services, organizations, or facilities described in division (a)(1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.
 - (b) Exemption. Unless otherwise provided by law, nothing in this section shall bar any religious or denominational corporation, institution, association or organization, or any non-profit, charitable or educational organization that is operated, supervised or controlled by or in connection with a religious or denominational corporation, institution, association or organization, from limiting the sale, rental or occupancy of housing accommodations that it owns or operates for other than a commercial purpose to persons of the same religion, or for giving preference in the sale, rental or occupancy of such housing accommodations to persons of the same religion.
- 559.03 UNLAWFUL DISCRIMINATORY PRACTICES RELATING TO EMPLOYMENT.
- (a) It shall be an unlawful discriminatory practice:
 - (1) For any employer, because of the race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status to refuse to hire that person or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment;
 - (2) For any employer, employment agency, or labor organization to establish, announce or follow a policy of denying or limiting, the employment or membership opportunities of any person or group of persons because of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status.
 - (3) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of that person's race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status in admission to employment in any program established to provide apprentice training;
 - (4) For any employer, employment agency, or labor organization to publish or circulate, or to cause to be published or circulated, any notice or advertisement relating to employment or membership which indicates any preference, limitation, specifications or discrimination based upon race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status;
 - (5) For any person providing employment to publish or to cause to be published any advertisement which specifies or in any manner indicates or expresses a limitation or preference as to race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status of any prospective employee;
 - (6) For any employment agency to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against any person because of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status;

- (7) For any employer, employment agency, or labor organization to utilize in the recruitment or hiring of persons, any employment agency, placement service, labor organization, training school or center, or any other employee-referring source, known to discriminate against persons because of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status;
 - (8) For any labor organization to discriminate against any person or limit that person's employment opportunities, or otherwise adversely affect that person's status as an employee, or that person's wages, hours, or employment conditions, because of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status;
 - (9) For an employment agency, to comply with, accommodate, or otherwise assist with locating or placing an employee related to, a request from an employer for referral of applicants for employment if the request indicates, directly or indirectly, that the employer fails, or may fail, to comply with this chapter, of the Village of Ashville Village Code;
 - (10) For any labor organization to limit or classify its membership on the basis of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status;
 - (11) For any employer, employment agency or labor organization to:
 - A. Elicit or attempt to elicit any information concerning the race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status of an applicant for employment or membership;
 - B. Use any form of application for employment or personnel or membership blank seeking to elicit information regarding race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status but an employer holding a contract containing a non-discrimination clause with the government of the United States or any department or agency thereof, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain such proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes.
 - (12) For any employer, employment agency or labor organization to discriminate against any person because that person has opposed any practice forbidden by this chapter, of the Village of Ashville Village Code, or because that person has made a complaint or assisted in any manner in any investigation or proceeding under this chapter, of the Village of Ashville Village Code.
 - (13) For any person, whether or not an employer, employment agency or labor organization, to aid, incite, compel, coerce, or participate in the doing of any act declared to be unlawful discriminatory practice by this chapter, of the Village of Ashville Village Code, or to obstruct or prevent any person from enforcing or complying with the provisions of this chapter, or to attempt directly or indirectly to commit any act declared by this chapter, to be an unlawful discriminatory practice, or to obstruct or prevent any person from enforcing or complying with the provisions of this chapter, or to attempt directly or indirectly to commit any act declared by this chapter, to be an unlawful discriminatory practice.
- (b) General Exceptions. In addition to the general Exceptions outlined in Section 559.09, this section does not apply to:
- (1) A religious or denominational corporation, institution, association, organization, educational institution, or society with respect to the employment of an individual of a particular religion to perform work connected with the carrying on of that religious or denominational corporation, institution, association, organization, educational institution, or society of its activities. (This exception recognizes the ministerial exception as reaffirmed by the U.S. Supreme Court in *Our Lady of Guadalupe School v. Morrissey-Berru* to protect religious institutions' First Amendment rights).

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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. 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:
 - A. That the discrimination is in fact a necessary result of such a bona fide condition; and
 - B. That there exists no less discriminatory means of satisfying the bona fide requirement.

559.04 UNLAWFUL DISCRIMINATORY PRACTICES RELATING TO PUBLIC ACCOMMODATIONS.

- (a) Prohibited Discrimination. It shall be an unlawful discriminatory practice:
 - (1) For any proprietor or his employee, keeper, or manager of a place of public accommodation to deny to any person except for reasons applicable alike to all persons regardless of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status the full enjoyment of the accommodations, advantages, facilities, or privileges thereof;
 - (2) For any proprietor or his 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 person on account of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status or that such person is unwelcome, objectionable, or not acceptable, desired or solicited; or
 - (3) For any person, whether or not included in divisions (a)(1) and (2) in this section, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an unlawful discriminatory practice under this section.
- (b) Exemption. Except when offering goods, services, accommodations or entertainment for Commercial Purposes or except when such offering is supported by Village resources, it shall not be an act of discrimination and/or a violation of this Ordinance for any religious or denominational institution, organization, society or association, or any nonprofit charitable or educational organization that is operated, supervised or controlled by or in connection with a religious organization, from limiting its offerings of goods, services, facilities, including places of worship, educational facilities or their contiguous facilities, and accommodations to persons of the same religion, or from giving preference to such persons.

559.05 UNLAWFUL DISCRIMINATORY PRACTICES RELATING TO EDUCATIONAL INSTITUTIONS.

- (a) Discriminatory Practices. It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason:

- (1) To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified;
 - (2) 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;
 - (3) 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, or to operate a same-sex educational institution and to limit enrollment to persons of the same sex.
- (b) Exemption. For purposes of this section, "Educational Institution" shall not include any institution or school operated by a religious or denominational corporation, institution, association, or organization.

559.06 VILLAGE SERVICES, FACILITIES, TRANSACTIONS AND CONTRACTS.

The Village 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 Village, shall abide by this chapter.

559.07 INTIMIDATION.

- (a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, or 2909.07, or Ohio R.C. 2917.21(A)(3), (4), or (5), by reason of a person or group's membership in a Protected Class, as defined in Section 559.01 of this chapter.
- (b) Whoever violates this section is guilty of intimidation. Intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In the case of an offense that is a misdemeanor of the first degree, intimidation is a felony to be prosecuted under appropriate state law.

559.08 COMPLAINT PROCEDURES.

- (a) Complaints - Consideration by the Commission.
 - (1) 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 ten (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.
 - (2) The Commission shall, within ten (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.
 - (3) The complaint must be filed within one hundred eighty (180) days after the commission of the alleged discriminatory practice.
 - (4) The Commission shall commence an investigation of the complaint within thirty (30) days after the filing of the complaint. The Commission, or designee, shall promptly investigate the matter to determine whether the discriminatory practice exists.
 - (5) The investigated complaint shall be presented to the Commission, which shall meet and review the investigation within thirty (30) days of receipt. If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall dismiss the complaint, and 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.
 - (6) The complainant, within thirty (30) days after receiving a copy of the order dismissing the complaint, may file with the Commission an application for reconsideration of the order. The Commission shall reconsider the decision and any new evidence presented within thirty (30) days of the request for reconsideration. If it is dismissed a second time the matter is concluded.

- (7) If no request for reconsideration is made within a timely manner, the complaint and Commission records may be destroyed, consistent with the Village's Records Retention and Destruction Schedule.
- (b) Conciliation Agreements.
- (1) 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. Early conciliation/mediation is encouraged.
 - (2) 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.
 - (3) 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.
 - (4) 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. To the extent permitted by law, conciliation agreements shall remain confidential.
 - (5) 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.
 - (6) 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.
 - (7) To facilitate conciliation, as allowable within the Commission's budget as established by Council, the Commission may engage an outside mediator.
- (c) Hearings.
- (1) If a conciliation agreement has not been reached within ninety (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.
 - (2) 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 Village Mayor.
 - (3) 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.
 - (4) 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.

- (5) The complainant, and, in the discretion of the Commission, any person may intervene, examine and cross-examine witnesses and present evidence.
 - (6) 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.
 - (7) Efforts at conference, conciliation and persuasion shall not be received in evidence.
 - (8) 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.
 - (9) 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.
 - (10) All hearings conducted under this section shall be conducted in accordance with Chapter 119 of the Ohio Revised Code.
- (d) Findings and Orders.
- (1) If, following a hearing held under this chapter, 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 furnished to the Complainant, the Respondent, the Mayor and such other public officers as the Commission deems proper.
 - (2) If, following a hearing held under this chapter, 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 provide such remedies 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, the Mayor and such other public officers as the Commission deems proper.
- (e) Remedies.
- (1) 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 Village 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.
 - (2) Commission Remedies.
 - A. The Commission may order a civil fine of up to five hundred dollars (\$500.00) for each violation. Each day on which a continuing violation occurs shall constitute a new and separate violation of this chapter. Provided, however, the maximum collected fine for a continuing violation shall be two thousand five hundred dollars (\$2,500). 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 Village. The Village Solicitor is authorized to pursue enforcement and collection of such fines in a separate civil action. In addition to recovery of such fines in any subsequent court proceeding, the Respondent/Defendant shall be liable for all costs of collection including reasonable Attorney fees.

- 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.
- (f) 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.

559.09 EXCEPTIONS.

Nothing in this chapter shall prohibit any:

- (a) Institution, organization, association, school, corporation, or society, that is operated, supervised, or controlled by a religious institution, organization, association, school, corporation, or society that is not organized for private profit; or
- (b) Religious institution, organization, association, school, corporation, or society that is not organized for private profit; from engaging in any activity protected under the First Amendment of the U.S. Constitution and Article 1 of the Ohio Constitution.

559.10 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.

559.11 SEPARABILITY; OTHER REMEDIES.

- (a) This chapter shall be liberally construed to accomplish its objectives and purposes. If any provision of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect or invalidate the other provisions hereof, all of which are declared and shall be construed to be separate and severable.
- (b) This chapter does not create or establish a cause of action in any court of law or equity and shall not prevent any person from exercising any right or seeking any remedy otherwise entitled to under any other law, regulation, or policy. All remedies provided by this chapter are in addition to, and not in lieu of, other remedies.

CODIFIED ORDINANCES OF VILLAGE OF ASHVILLE