

ORDINANCE NO. 4-2019 (AS), *Second Reading*

By Council Member Stein

An Ordinance amending Chapter 749, “Fair Practices,” of the Codified Ordinances of Cleveland Heights to add “age” as a protected class within the City; and declaring an emergency.

WHEREAS, in December 2013, this Council expanded the role and jurisdiction of the Fair Housing Board to investigate complaints concerning discrimination of certain protected classes occurring in places of public accommodation, in addition to in a housing context, and renamed the Fair Housing Board, “the Fair Practices Board;” and

WHEREAS, in November 2014, this Council further expanded the Fair Practices Board’s jurisdiction to additionally hear discrimination complaints in an employment and education context; and

WHEREAS, age may be a factor considered in a housing context and thus was not originally included as a protected class under the jurisdiction of the Fair Housing Board; and

WHEREAS, age should have been added as protected class when the Board expanded its powers beyond the housing context but was accidentally not included; and

WHEREAS, the Council seeks to remedy this oversight to include age as a protected class within the City of Cleveland Heights.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 749.01, “Designation of Policy,” of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended to read as follows:

**749.01 DESIGNATION OF POLICY.**

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

SECTION 2. Section 749.03, “Definitions,” of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended to enact a subsection to read as follows:

(aa) “Age” means 40 years of age and older, as recognized by the Age Discrimination in Employment Act of 1967.

ORDINANCE NO. 4-2019 (AS)

SECTION 3. Subsection (n) of Section 749.03, "Definitions," of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended to read as follows:

(n) The terms "Discriminate," "Discriminating," or "Discrimination," mean any act, policy, or practice that, regardless of intent, has or had the effect of subjecting any individual to different treatment as a result of that individual's Age, race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression, except as otherwise set forth in this Chapter, and except that Age may be the basis of different treatment concerning Housing Practices (see Section 749.07) and/or Education Practices (see Section 749.14).

SECTION 4. Subsection (j) of Section 749.07, "Unlawful Discriminatory Housing Practices," of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended enacted to read as follows:

(j) It shall not be an Unlawful Discriminatory Housing Practice to subject an individual to different treatment as a result of that individual's Age.

SECTION 5. Section 749.12, "Unlawful Discriminatory Employment Practices," of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended to read as follows:

**749.12 UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES.**

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

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

SECTION 6. Subsection (c) of Section 749.13, "Unlawful Discriminatory Education Practices," of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended enacted to read as follows:

(c) It shall not be an Unlawful Discriminatory Education Practice to subject an individual to different treatment as a result of that individual's Age.

SECTION 7. Section 749.15, "Unlawful Discriminatory Public Accommodation," of Chapter 749, *Fair Practices*, of the Cleveland Heights Codified Ordinances shall be, and is hereby, amended to read as follows:

**749.15 UNLAWFUL DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICES.**

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

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

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

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

SECTION 8. All remaining portions Chapter 749 shall remain as currently enacted.

SECTION 9. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 10. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to implement said changes to the Fair Practices Board as soon as possible so that all residents of the City of Cleveland Heights have a venue to bring discrimination claims, regardless of age. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

ORDINANCE NO. 4-2019 (AS)

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CAROL ANN ROE, Mayor  
President of the Council

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SUSANNA NIERMANN O'NEIL  
Acting Clerk of Council

PASSED: February 4, 2019