

ORDINANCE 11-17

AN ORDINANCE OF SUSQUEHANNA TOWNSHIP, DAUPHIN COUNTY, COMMONWEALTH OF PENNSYLVANIA AMENDING THE CODIFIED ORDINANCES TO PROHIBIT DISCRIMINATION BASED ON ENUMERATED CHARACTERISTICS AND CREATE THE SUSQUEHANNA TOWNSHIP HUMAN RELATIONS COMMISSION

THE SUSQUEHANNA TOWNSHIP BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

That Chapter 1, Part 12 of the Codified Ordinances of Susquehanna Township be adopted as follows:

SECTION 1.

SECTION 1. Purpose and Declaration of Policy.

A. It is hereby declared to be the public policy of Susquehanna Township, Dauphin County:

- (1.) to ensure that all persons enjoy the full benefits of citizenship, regardless of actual or perceived race, color, familial status, religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids;
- (2.) to have equal employment, housing and the use of public accommodations;
- (3.) to have equal access to any institution of post-secondary grade and any secretarial, business, vocational or trade school of secondary or post-secondary grade, which is subject to the visitation, examination or inspection of, or is, or may be licensed by the Department of Education, including any post-secondary school, college or university incorporated or chartered under any general law or special act of the General Assembly.

B. It is further declared to be the public policy of Susquehanna Township, Dauphin County:

- (1.) to foster the employment of all individuals in accordance with their fullest capacities, to safeguard their right to obtain and hold employment without such discrimination regardless of actual or perceived race, color, religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids;

- (2.) to assure equal opportunities to all individuals and to safeguard their rights to public accommodation regardless of actual or perceived race, color, religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids;
 - (3.) to secure housing accommodation and commercial property regardless of actual or perceived race, color, familial status, religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids;
 - (4.) to have equal access to post-secondary educational institutions without regard to actual or perceived race, color, religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids;
- C. Nothing in this chapter shall be construed as supporting or advocating any particular doctrine, position, point of view, lifestyle or religious view. To the contrary, it is the intention of this chapter that all persons be treated fairly and equally, and it is the express intent of this chapter to guarantee fair and equal treatment under the law to all people of Susquehanna Township, Dauphin County.
- D. This chapter shall be deemed an exercise of the police power of Susquehanna Township, Dauphin County for the protection of the public welfare, prosperity, health and peace of the Township.

SECTION 2. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this subsection. To the extent words and phrases appearing in this chapter are not expressly defined herein, the meaning of this chapter shall be construed consistent with the Pennsylvania Human Relations Act.

- A. AGE: Any person forty years of age or older and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.
- B. BOARD OF COMMISSIONERS: The Board of Commissioners of Susquehanna Township, Dauphin County.
- C. COMMERCIAL PROPERTY: Includes (1) any building, structure or facility, or portion thereof, which is used, occupied or is intended, arranged or designed to be used

or occupied for the purpose of operating a business, an office, a manufactory or any public accommodation; and (2) any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, facility, business concern or public accommodation.

- D. **DISCRIMINATION:** Any discriminatory act(s) taken by any person, employer, landlord, employment agency, labor organization or public accommodation on the basis of regardless of actual or perceived race, color, familial status (housing), religious creed, ancestry, age, sex, national origin, genetic information, sexual orientation, gender identity or expression, handicap or disability, use of guide or support animals and/or mechanical aids; or in the case of public accommodations, to have equal access to any institution of post-secondary grade and any secretarial, business, vocational or trade school of secondary or post-secondary grade, which is subject to the visitation, examination or inspection of, or is, or may be licensed by the Department of Education, including any post-secondary school, college or university incorporated or chartered under any general law or special act of the General Assembly.
- E. **DISCRIMINATORY ACTS:** All acts defined in the Pennsylvania Human Relations Act as unlawful discriminatory practices. The fact that the Pennsylvania Human Relations Act does not define a practice as unlawful when that practice is taken on the basis of actual or perceived sexual orientation, gender identity or expression, genetic information, or familial status, shall not exempt such practice from being considered a discriminatory act under this chapter.
- F. **EDUCATIONAL INSTITUTION:** Any institution of post-secondary grade and any secretarial, business, vocational or trade school of secondary or post-secondary grade, which is subject to the visitation, examination or inspection of, or is, or may be licensed by the Department of Education.
- G. **EMPLOYEE:** Does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.
- H. **EMPLOYER:** Any person who employs four or more employees, including the Township, its departments, boards and commissions, and any other government agency within its jurisdiction.
- I. **FAMILIAL STATUS:** One or more individuals who have not attained the age of eighteen years being domiciled with: (1) a parent or other person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who was not attained the age of 18 years.

- J. **GENDER IDENTITY OR EXPRESSION:** Self perception, or perception by others, as male or female, and shall include an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth, and shall include, but is not limited to, persons who are undergoing or have completed sex reassignment, are transgender or gender variant.
- K. **GENETIC INFORMATION:** Any information relating to genes, gene products and inherited characteristics that may derive from an individual or a family member. This term includes, but is not limited to: (1) Information regarding carrier status and increased likelihood of future disease or increased sensitivity to any substance. (2) Information derived from: laboratory tests that identify mutations in specific genes or chromosomes; physical medical examinations; family histories; inquiries; tests of gene products; direct analysis of genes or chromosomes.
- L. **HOUSING ACCOMMODATIONS:** Includes (1) any building, structure, mobile home site or facility, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other; and (2) any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility. The term shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker, salesperson, agent or employer.
- M. **ORDINANCE:** This chapter, which shall also be known as the "Non-Discrimination Ordinance."
- N. **PERSON:** Any natural person, fraternal, civic or other membership organization, corporation, general or limited partnership, proprietorship, limited liability company, or similar business organization, including the Township, its departments, boards and commissions, and other for-profit and nonprofit organizations.
- O. **PERSONAL RESIDENCE:** A building or structure containing living quarters occupied or intended to be occupied by no more than two individuals, two groups or two families living independently of each other and used by the owner or lessee thereof as a bona fide residence for himself and any members of his family forming his household.
- P. **PUBLIC ACCOMMODATION:** Any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public or offers goods or services, including loans, to the general public or is listed in Section 4(1) of the Pennsylvania Human Relations Act, 43 P.S. § 954(1), to include kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses and all educational institutions under the supervision of this Commonwealth, but shall not include any accommodations which are in their nature distinctly private.

Q. SEXUAL ORIENTATION: Actual or perceived homosexuality, heterosexuality and/or bisexuality.

R. TOWNSHIP: Susquehanna Township, Dauphin County, Commonwealth of Pennsylvania.

SECTION 3. Unlawful Practices.

A. Discrimination in housing, employment, public accommodations or access to educational institutions is prohibited under this chapter.

B. Retaliation against any individual because such individual has opposed any practice forbidden by this chapter, or because such individual has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this chapter is prohibited under this chapter.

C. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this chapter to be an unlawful practice, or obstructing or preventing any person from complying with the provisions of this chapter is prohibited under this chapter.

SECTION 4. Exceptions and Exclusions.

A. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for a religious corporation or association, not supported in whole or in part by governmental appropriations, to refuse to hire or employ an individual on the basis of the religion of the religious organization.

B. Nothing in this chapter shall be interpreted to prohibit a religious organization, religious denomination, or association of religious organizations or denominations that is exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code, or any organization affiliated with that religious organization, religious denomination, or association of religious organizations or denominations, from engaging in any conduct or activity that is required by, or that implements or expresses its religious beliefs or tenets of faith. Nor shall anything in this chapter be interpreted to require any such religious organization, religious denomination, or association of religious organizations or denominations, or any organization affiliated with that religious organization, religious denomination, or association of religious organizations or denominations to engage in any conduct or activity that is prohibited by its religious beliefs or tenets of faith. Nor shall any such religious organization, religious denomination, or association of religious organizations or denominations be required to engage in any conduct or activity that would violate its religious beliefs or tenets, as a condition of entering into any contract with any agency of this Township.

C. Nothing in this ordinance shall be interpreted as applying to any state or federal agencies.

- D. Nothing in this ordinance shall be interpreted as requiring or prohibiting the provision of benefits based on marital status.

SECTION 5. Establishment of Human Relations Commission.

- A. Pursuant to Section 12 of the Pennsylvania Human Relations Act, a Human Relations Commission in and for the Township of Susquehanna, Dauphin County (hereinafter referred to as the “Susquehanna Township Human Relations Commission” or the “Commission”) is established.
- B. The Commission shall consist of nine members who shall each serve a three year term. All members of the Commission shall be appointed by the Board of Commissioners of the Township and shall be residents of the Township except that no such member shall hold office in any political party. At the time of appointment of the original nine members, the Board of Commissioners shall designate which three of the original nine members shall be appointed for a three year term; which three of the original nine members shall be appointed for a two year term; which three of the original nine members shall be appointed for a one year term. Thereafter, on the expiration of a term, an appointment shall be made for a new three year term commencing at the end of the completed term. Vacancies in the office of the Susquehanna Township Human Relations Commission shall be filled for the remaining unexpired portion of the term. Members of the Commission shall serve without compensation.
- C. Before the end of each calendar year, in a timely fashion to allow advertising by the Township of meetings for the coming year, the Commission shall establish its meeting schedule for the subsequent year.
- D. At its first meeting each calendar year, the Commission shall elect from among its members a Chairperson and a Vice-Chairperson. The Chairperson shall be responsible for conducting meetings of the Commission and coordinating all business of the Commission with the Township Manager. The Chairperson may delegate responsibility for Commission duties to specific Commissioners. The Vice-Chairperson shall serve in the place of the Chairperson in the absence of the Chairperson.
- E. Any Commission member involved in any investigatory proceedings, mediation or conciliation in a specific case shall be disqualified from any adjudicatory function in that case.
- F. The Commission shall have jurisdiction over Unlawful Practices committed within Susquehanna Township.

SECTION 6. Powers.

A. The Commission shall have the following powers:

- (1.) Promote mutual understanding, respect and cooperation among all racial, cultural, religious, ethnic, nationality and other groups within the Township;
- (2.) Cooperate with and assist other organizations, public or private, to improve relationships among the citizens of the Township;
- (3.) Conduct an educational program for furtherance of the improvement of human relations in the Township;
- (4.) Act as a referral group for complaints of alleged discrimination within the Township and, wherever possible, the Commission shall refer the Complainants to appropriate social, civic or government agencies for further action;
- (5.) Encourage alternative dispute resolution of complaints by attempting to develop and make available a list of trained mediators who may provide their services at no charge or reduced cost to Complainants and Respondents who are willing to mediate a resolution of the complaint;
- (6.) Receive, investigate, process and adjudicate complaints charging unlawful discriminatory practices.

SECTION 7. Procedures.

A. Filing a complaint.

- (1.) Any person(s) claiming to be aggrieved by an unlawful practice may make, sign and file a verified complaint alleging violations of this chapter, which shall include the following information:
 - a. The name and address of the aggrieved person(s);
 - b. The name and address of the person(s) alleged to have committed the discriminatory acts;
 - c. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory acts;
 - d. If applicable, the address and a description of the dwelling or commercial property which is involved; and

e. Such other information as may be required by the Human Relations Commission.

(2.) Complaints may be filed in person at the Township Manager's office or by mailing such complaints to the Township Manager's office. All complaints must be received by the Township Manager's office within 180 days of the alleged act of discrimination to be considered timely.

(3.) The Township Manager's office shall convey all original complaints received by that office to the Chairperson of the Human Relations Commission within 10 days of the office's receipt of such complaints.

B. Notification and answer.

(1.) Within 30 days of its receipt of a complaint, the Susquehanna Township Human Relations Commission shall determine if the alleged act(s) are prohibited by the Pennsylvania Human Relations Act, or any other state or federal law for which a deferral agency has enforcement powers and if so, the Commission shall advise the Complainant in writing that the Susquehanna Township Commission will not accept the Complaint for filing but that the Complainant has the right to file with the Pennsylvania Human Relations Commission or any other state or federal deferral agency within 180 days of notice of the prohibited act. If the Susquehanna Township Commission determines that it does not have jurisdiction hereunder to hear the complaint, it shall dismiss the complaint and notify the aggrieved party in writing of such fact. If the Commission determines that it has jurisdiction to hear the complaint, it shall proceed as follows:

a. Send a copy of the complaint to the person(s) or entity (entities) charged with an Unlawful Practice (the "Respondent") with notice that they have 30 days to file a verified Answer to said Complaint.

(2.) The Respondent shall file with the Township Manager's Office a written verified answer to the complaint within 30 days of Respondent's receipt of the Complaint from the Susquehanna Township Human Relations Commission and further shall send a copy of said Answer to the Complainant.

C. Mediation.

(1.) After the answer has been received, the Commission shall, within 15 days invite the parties to voluntarily participate in the mediation of their dispute. The parties shall respond to the invitation to mediate within 15 days of being invited to mediate. Mediation shall be conducted in accordance with

procedures promulgated by the Commission and approved by the Board of Commissioners.

- (2.) If the mediation has successfully resolved the complaint, the Commission shall promptly notify the parties that it has dismissed the complaint.
- (3.) If the mediation has not successfully resolved the complaint, and only if the complaint alleges a violation of this Chapter which is not otherwise proscribed under the Pennsylvania Human Relations Act and over which the Pennsylvania Human Relations Commission does not have jurisdiction, the Commission shall proceed to investigation.

D. Investigation.

- (1.) The Commission shall, in a timely fashion, investigate the allegations of an Unlawful Practice set forth in the complaint by designating an investigator, who may be a member of the Commission. The Commission may, in the conduct of such investigation and upon review and approval by the Township Solicitor, issue subpoenas to any person charged with an Unlawful Practice, commanding such person to furnish information, records, or other documents, as necessary to assist in the Commission's investigation.
 - a. Finding of No Cause. If it shall be determined, after the Commission's investigation, that there is no probable cause for crediting the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination and dismissal of the complaint. This notice shall inform the aggrieved that he/she has the right to pursue the matter in court.
 - b. Conciliation. If the Commission, after investigation, determines that probable cause exists for crediting the allegations of the complaint, the Commission shall immediately endeavor to eliminate the Unlawful Practice complained of by persuasion, conference and conciliation. If the Commission determines that conciliation may be a useful approach, the Commission shall designate one of its members as conciliator, who shall undertake conciliation following approved procedures of the Commission.

E. Public Hearing.

- (1.) If the Commission finds it is not possible to eliminate the Unlawful Practice by persuasion, conference, and conciliation, the Commission shall cause to be issued and served a written notice scheduling a hearing before the Commission at a time and place to be specified in such notice.

- a. The Commission may designate a panel of three members to preside at such a public hearing or it may, at its election, conduct such hearing with all members. Any Commission member who acted as a mediator, investigator or conciliator or any Commission member otherwise conflicted due to an association with a party or individual in the case shall not participate in such public hearing except as a witness to present the results of the investigation or to testify to other facts relevant to the case.
- b. At the public hearing, both the Complainant and Respondent shall be given the opportunity to appear, with or without counsel, to provide testimony and submit evidence. Formal rules of evidence shall not apply, but irrelevant or unduly repetitious evidence may be excluded by the Commission in its discretion. In addition, both the Complainant and the Respondent may introduce testimony of additional witnesses and may submit documentary evidence.
- c. At the public hearing, the Commission shall be represented by the Township Solicitor. A court reporter shall make a formal record of the proceedings.

F. Findings.

- (1.) If upon all the evidence at the hearing the Commission shall find that a Respondent has engaged in or is engaging in any Unlawful Practice as defined in this chapter, the Commission shall state its findings of fact and shall issue and cause to be served on such a Respondent an order requiring such respondent to cease and desist from such Unlawful Practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act. Those remedies which may be ordered include, but are not limited to, reimbursement of certifiable travel expenses in matters involving the complaint; reimbursement of any other verifiable, reasonable out-of-pocket expenses caused by such unlawful discriminatory practice; compensation for loss of work in matters involving the complaint; hiring, reinstatement or upgrading of employees, with or without back pay; admission or restoration to membership in any respondent labor organization; the making of reasonable accommodations; the selling or leasing of specified housing accommodations or commercial property upon equal terms and conditions and with equal facilities, services and privileges; or the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations or commercial

property, upon such equal terms and conditions to any person discriminated against.

G. Private Right of Action and Nonlimitation of Remedies.

- (1.) Any person(s) aggrieved by a violation of this chapter shall have a right of action in the Court of Common Pleas of Dauphin County or any other court of competent jurisdiction and may recover, for each violation, the following remedies:
 - a. Back pay, front pay and other actual damages, as those remedies are defined in the Pennsylvania Human Relations Act and case law interpreting the same;
 - b. Reasonable attorney's fees and court costs; and
 - c. Such other relief, including injunctive relief, as the court may deem appropriate.
- (2.) The right of action created by this chapter may be brought upon receipt by the aggrieved person(s) of notice that the Commission has dismissed the complaint or, if no such notice is received, after 180 days from the date of the filing of the complaint. If the person aggrieved has received notice that the Commission has dismissed the complaint, an action under this chapter must be brought by the aggrieved person within 180 days from the date of receipt of said notice or it will be barred. Equitable principles such as waiver, estoppels and equitable tolling shall apply to the time limitations for the filing of any complaint or other pleading under this chapter.
- (3.) In the event Complainant exercises his or her right to file a private action, he or she shall notify the Susquehanna Township Human Relations Commission which shall close any ongoing investigation upon receipt of said notice.

H. Reports.

- (1.) The Susquehanna Township Human Relations Commission shall keep records of its meetings and activities. The Susquehanna Township Human Relations Commission shall provide advisory reports to the Board of Commissioners as needed, or requested.

SECTION 2. All sections or parts of sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

SECTION 3. If any provision of this Ordinance shall be determined or declared to be void or invalid in law for any reason, only that term or provision of this Ordinance shall be stricken or voided and all other terms or provisions of this Ordinance shall be valid and continue in full force, effect and operation.

SECTION 4. Effective Date.

A. This Ordinance shall become effective July 1, 2012.

ADOPTED this **8th** day of **December**, 2011.

ATTEST:

BOARD OF COMMISSIONERS

TOWNSHIP OF SUSQUEHANNA

Gary L. Myers, Manager

Diane A. Bowman, President