

Borough of New Hope, PA
Monday, July 14, 2014

Chapter 129. DISCRIMINATION IN EMPLOYMENT, HOUSING, AND PLACES OF PUBLIC ACCOMMODATION

[HISTORY: Adopted by the Borough Council of the Borough of New Hope as indicated in article histories. Amendments noted where applicable.]

Article I. Protections Against Unlawful Discrimination

[Adopted 9-10-2002 by Ord. No. 2002-4]

§ 129-1. Definitions.

[Amended 5-17-2011 by Ord. No. 2011-05; 3-18-2014 by Ord. No. 2014-02]

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

COMMERCIAL HOUSING

Housing accommodations held or offered for sale or rent (a) by a real estate broker, representative or by any person pursuant to authorization of the owner; (b) by the owner himself/herself; or (c) by legal representatives, but shall not include either rental of a room or rooms in a personal residence or the rental of one living unit other than that of the owner in a personal residence, when such room, rooms or living unit is offered for rent by the owner or by his/her broker, salesperson, agent or employee.

COMMISSION

The New Hope Borough Human Relations Commission, as established under this article.

COUNCIL

The Council of the Borough of New Hope.

DISCRIMINATION

Any difference in treatment in hiring, referring for hire, promoting, training, in membership in employee or labor organizations, in rendering service in places of public accommodation, or in the sale, lease, rental or financing of housing because of a person's sexual orientation, gender identity, race, color, religious creed, ancestry, age, sex, national origin, familial status or non-job-related handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of any individual or independent contractor.

EMPLOYER

Any person who employs one or more employees exclusive of parents, spouse or children, including the Borough, its departments, boards and commissions, but excluding any fraternal, sectarian, charitable or educational group which is operated, supervised or controlled by or in connection with a religious organization, or religious group.

EMPLOYMENT

Shall not include the employment of individuals as domestic servants or in a personal or

confidential capacity.

EMPLOYMENT AGENCY

Any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.

GENDER IDENTITY

Self-perception, or perception by others, as male or female, and shall include a person'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.

HOUSING ACCOMMODATION

Any building, structure 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, and any vacant land offered for sale or lease for commercial housing.

LABOR ORGANIZATION

Any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of other mutual aid or protection in relation to employment.

LENDING INSTITUTION

Any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

LIVING UNIT

Any room or group of rooms forming a single habitable unit used or intended to be used for living, sleeping, cooking and eating purposes and to be occupied by no more than one family, one group or one individual.

OWNER

Includes lessee, sublessee, assignee, manager, agent, or any other person having the right of ownership or possession or the authority to sell, rent, or lease any housing accommodation, including the Borough and its departments, boards and commissions.

PERSONAL RESIDENCE

A building or structure occupied by the owner thereof as a bona fide residence for himself/herself and any member of his/her family forming his/her household containing living quarters occupied or intended to be occupied by either no more than two individuals, two groups or two families living independently of each other, or no more than three roomers living independently of each other in addition to the owner thereof and any of his/her family forming his/her household.

PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT

Any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public.

SEXUAL ORIENTATION

Actual or perceived homosexuality, heterosexuality and bisexuality.

§ 129-1.1. Human Relations Commission.

[Added 5-17-2011 by Ord. No. 2011-05]

- A. There is hereby established a Human Relations Commission in and for the Borough of New Hope.
- B. The Commission shall consist of a minimum of three and a maximum of five individuals, all of whom shall be residents of or be employed in New Hope Borough.
- C. Commission members shall represent the diversity of New Hope Borough. Commission members shall not be employees of New Hope Borough, nor elected or appointed officials of New Hope

Borough.

- D. Members of the Commission shall serve terms not to exceed three years. The terms of members shall always be staggered in such a manner so at least one expires annually. The Council may appoint any member for less than a three-year term to ensure staggered terms.
- E. The Council may appoint at least one but no more than three persons to serve as alternate members of the Commission. The term of office of an alternate member shall be as provided in Subsection **D** of this section.
- F. Members of the Commission are strictly volunteers, and shall serve without compensation.
- G. The Council hereby grants to the Commission only the powers, duties and responsibilities specifically set forth in this article.

§ 129-2. Unlawful employment practices.

- A. It shall be an unlawful employment practice, except where based upon applicable national security regulations established by the United States:
 - (1) For any employer to refuse to hire, discharge, or discriminate against any person because of sexual orientation or gender identity with respect to tenure, promotions, terms, conditions or privileges of employment or with respect to 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, through a quota system or otherwise, the employment or membership opportunities, of any individual or group because of sexual orientation or gender identity.
 - (3) For any employer, employment agency or labor organization prior to employment or admission to membership to:
 - (a) Make any inquiry concerning, or make any record of the sexual orientation or gender identity of any applicant for employment or membership.
 - (b) Use any form of application for employment of personnel or membership blanks containing questions or entries regarding sexual orientation or gender identity.
 - (c) Cause to be printed, published, or circulated any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon sexual orientation or gender identity.
 - (4) For any employment agency because of a person's sexual orientation or gender identity to:
 - (a) Fail or refuse to classify properly or refer for employment; or
 - (b) Otherwise discriminate against any person.
 - (5) For any labor organization to discriminate against any individual or to limit, segregate or classify its membership in any way which would deprive such individual of employment opportunities or limit his/her employment opportunities or otherwise adversely affect his/her status as an employee or as an applicant for employment or would affect adversely his/her wages, hours or conditions of employment, because of sexual orientation or gender identity.
 - (6) For any employer, employment agency or labor organization to penalize or discriminate in any manner against any individual because he/she has opposed any practice forbidden by this article or because he/she has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder.
 - (7) For any person to aid, abet, incite, compel or coerce the doing of any unfair employment practice or to obstruct or prevent any person from complying with the provisions of this article or any order issued hereunder or to attempt directly or indirectly to commit any act declared by this article to be an unfair employment practice.
- B. Exceptions. It shall not be an unlawful employment practice for:

- (1) An employer to express a preference for a certain kind of applicant where the position to be filled requires special qualifications, skills or experience.
 - (2) An employer to express a preference for a certain kind of applicant where the position to be filled is that of a domestic or the position is of a personal or confidential nature.
 - (3) An employer, employment agency or labor organization to observe the terms of a collective bargaining agreement, bona fide seniority system or any bona fide employee benefit plan such as retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this article.
 - (4) An employer to discharge or otherwise discipline an employee for good cause.
- C. Employee benefits. Nothing in this section shall apply with respect to employee benefits offered by an employer whose employee benefits plan is governed by the Employee Retirement Income Security Act of 1974 (ERISA), including, but not limited to, employee benefits that are not part of an "employee benefits plan" as defined by ERISA.

§ 129-3. Unlawful housing practices.

A. It shall be an unlawful housing practice:

- (1) For the owner of any commercial housing, or any other real property except as provided in Subsection (c) of the definition of "commercial housing" in § 129-1 hereof, to refuse to sell, rent, lease or in any way discriminate because of sexual orientation or gender identity in the terms, conditions, or privileges of the sale, rental or lease of any commercial housing accommodation or other real property or in the furnishing of facilities or services in connection therewith.
- (2) For any lending institution, to discriminate against any person because of sexual orientation or gender identity in lending, guaranteeing loans, accepting mortgages or otherwise making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation.
- (3) For any person to make, print or circulate or cause to be made, printed or circulated any written or oral statement, advertisement, or publication, or to use any form of application for the purchase, rental or lease of housing accommodations or to make real estate appraisals, financial or credit reports or any record or inquiry in connection with the prospective purchase, rental or lease of housing accommodations which express, directly or indirectly, any limitation, specification or discrimination as to sexual orientation or gender identity or any intent to make any such limitation, specification or discrimination.
- (4) For any person being the owner, lessee, manager, superintendent, agent or broker of any commercial housing, or any other person whose duties, whether voluntary or for compensation, relate to the rental, sale or leasing of commercial housing, to establish, announce, follow a policy of denying or limiting, through a quota system or otherwise, the housing opportunities of any individual or group on the basis of sexual orientation or gender identity.
[Amended 6-13-2007 by Ord. No. 2007-08]
- (5) For any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he/she or they have complied with the provisions of this article, or because he/she or they have exercised his/her or their rights under this article, or enjoyed the benefits of this article, or because he/she or they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder.
- (6) For any person subject to this article to fail to post and exhibit prominently in any place of business where the sale or rental of housing accommodations is carried on, any fair practices notice prepared and distributed by the Council.

- (7) For any person to give false or misleading information, written or oral, with regard to the sale or rental of any commercial housing for the purpose of discriminating on the basis of sexual orientation or gender identity.
- (8) For any person to make any distinctions in the location of a house, lot, apartment or other commercial housing or to make any distinctions relating to the time of delivery of a house or the date of availability of an apartment or other commercial housing on the basis of sexual orientation or gender identity.
- (9) For any person to aid, abet, incur, induce, compel or coerce the doing of any unlawful housing practice prohibited by this article or to obstruct or prevent any person from complying with the provisions of this article or any order issued hereunder.
- (10) For any person selling, renting or leasing housing accommodations, as broker or agent or as an employee or representative of a broker or agent, to refuse or limit service to any person on the basis of sexual orientation or gender identity or to accept or retain a listing of any housing accommodation for sale, rent or lease with an understanding that discrimination may be practiced in connection with the sale, rental or lease thereof.
- (11) For any real estate broker or agent, or the employee or representative of any such broker or agent to solicit any property for sale or rental, or the listing of any property for sale or rental at any time after such broker, agent, employee or representative shall have notice that any owner of such real estate does not desire to sell such real estate, or does not desire to be solicited, either by such broker or agent, or by any and all brokers or agents. The word "solicit" shall mean any printed matter mailed or delivered to the owner or occupant of a residential property by any real estate broker or agent or representative of any such broker or agent or any oral communication made either in person or by telephone to the owner or occupant of a residential property by any real estate broker or agent which advertises the accomplishments and/or abilities of the real estate broker or agent to sell homes or rent apartments or requests or suggests that the owner list his/her house for sale or rent with the real estate broker or agent or which offers to purchase or rent the owner's house or apartment.

B. Exceptions. Nothing herein contained shall:

- (1) Bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination with regard to the occupancy, leasing, sale or purchase of real estate, or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.
- (2) Apply to the rental or leasing of a room or rooms in a personal residence or the furnishing of facilities or services in connection therewith.
- (3) Prohibit the owners of any federally regulated housing for senior citizens from operating in accordance with federal law.

§ 129-4. Unlawful public accommodations practices.

It shall be an unlawful public accommodations practice for any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement to:

- A. Refuse, withhold from, or deny to any person because of his/her sexual orientation or gender identity either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, resort or amusement.
- B. Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations,

advantages, facilities, and privileges of any such place shall be refused, withheld or denied to any person on account of sexual orientation or gender identity, or that the patronage of any person of any particular sexual orientation or gender identity is unwelcome, objectionable or not acceptable, desired or solicited.

§ 129-5. Procedure.

- A. Filing a complaint. A complaint, charging that any person has engaged in or is engaging in any unlawful practice, as set forth in this article, may be made by the aggrieved person or may be filed with the assistance of an authorized representative of the aggrieved person. Complaints shall be filed with the Borough of New Hope, Borough Manager. Complaints may be filed in person at the Borough of New Hope or be mailed to the Borough of New Hope. The complaint shall be in writing on forms provided by the Borough, signed by the aggrieved person and notarized, and shall contain the following information:
- (1) The name and address of the aggrieved person;
 - (2) The name and address of the person or persons alleged to have committed the unlawful practice;
 - (3) The address and, if appropriate, a description of the dwelling unit which is involved;
 - (4) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice; and
 - (5) Such other information as may be required by the Borough.
- B. Upon receipt of a complaint, the Borough shall promptly notify the respondent or person charged with the commission of a discriminatory practice. Such notice shall identify the alleged discriminatory practice upon which the complaint is based, including the date that it was accepted for filing, and a copy of this Borough antidiscrimination article. The notice will advise the respondent of the time limits applicable to complaint processing under this article and of the procedural rights and obligations of the respondent under this article, including the opportunity to submit an answer to the complaint in 30 days of the receipt of the notice. The notice will advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation, mediation or conciliation under this article is a discriminatory practice that is prohibited by this article.
- C. The aggrieved person must appear and respondent shall have the right, but not the obligation, to appear at any conciliation or mediation. Both the aggrieved person and respondent have the right to be represented by an attorney or any other person.
- D. Conciliation.

[Amended 5-17-2011 by Ord. No. 2011-05]

- (1) The Borough Manager shall invite the parties to a conciliation meeting before the Commission in an attempt to reconcile their differences. If both parties agree to conciliation, the Commission shall convene a meeting with the parties within 30 days of the request of the Borough Manager.
 - (2) The conciliation meeting of the Commission is strictly designed to assist the parties in attempting to reconcile their differences. The conciliation meeting before the Commission shall not be open to the public, as the Commission is not authorized to take any official action or to render advice on New Hope business.
- E. Mediation. If the parties are unable to reconcile their differences, they may attempt to resolve the dispute arising from the filing of a complaint as provided for in this article through mediation. Participation in mediation shall be voluntary. New Hope Borough may contract for the provision of mediation services.
- (1) If the parties do not reconcile differences within 60 days of the filing of the complaint, the

Borough shall notify the mediation service of the complaint. Such notice shall include the name, address, and telephone number of the complainant and respondent.

- (2) Immediately upon receipt of notification of a complaint by the Borough, the mediation service shall contact both parties and offer to mediate the dispute. Mediation shall be completed within 30 days of the date the parties are notified by the mediation service. The mediators assigned to mediate any dispute arising from a complaint filed under the provisions of the article shall not be current employees or elected officials of the Borough of New Hope. Either party to the dispute may request an alternate mediator be assigned to mediate the dispute should the party believe the said assigned mediator would be unable to conduct the mediation in a fair and impartial manner.
- (3) The parties to the dispute are responsible for payment of any fees charged by the mediation service.
- (4) (Reserved) *Editor's Note: Former Subsection E(4), which provided for the confidentiality of details and results of meetings, was repealed 5-17-2011 by Ord. No. 2011-05.*
- (5) Following the completion of mediation, the mediation service shall notify the Borough, in writing, that mediation has been completed. This notice shall include the parties to the dispute and whether or not the mediation succeeded in resolving the dispute.

F. Statute of limitations. A complaint must be filed with the Borough Manager's office within 60 days of the alleged discrimination.

G. Due to the private and sensitive nature of records generated pursuant to the provisions of this article, it is the intent that any records generated or produced pursuant to this article not be considered records of New Hope Borough or the Commission and that such records be exempt from public disclosure to the fullest extent provided by law.

[Added 5-17-2011 by Ord. No. 2011-05]

§ 129-6. Private right of action.

- A. Notwithstanding the provisions of § 129-5, any person aggrieved by a violation of this article may have a right of action in a court of competent jurisdiction as allowed under the law.
- B. Nothing in this article limits the right of an injured person to recover damages under any other applicable law or legal theory.

§ 129-7. through § 129-19. (Reserved)

Article II. Life Partnerships

[Adopted 3-18-2014 by Ord. No. 2014-02]

§ 129-20. Findings; purpose.

- A. New Hope Borough is committed to promoting justice, equality and inclusiveness to its residents, its employees and to the employees of businesses and other establishments located in New Hope Borough. The New Hope Borough Council finds that New Hope Borough is made up of a diversity of households; and that in those households relationships exist in many forms. Those forms include committed couples in same sex relationships.
- B. By and through this article, the New Hope Borough Council hereby creates the New Hope Borough Life Partnership Registry. The Council believes maintaining such a registry is the best way for New Hope Borough, its residents and businesses, and all private and public entities located in New Hope Borough, to reliably ascertain whether an individual is in such a committed relationship.

- C. By creating the Life Partnership Registry, the New Hope Borough Council declares it the policy of New Hope Borough to allow any two adults in a committed relationship who meet the Life Partnership Registry criteria set forth in this article to register with New Hope Borough and to obtain a certification of the entry of their life partnership in the Life Partnership Registry.

§ 129-21. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

LIFE PARTNER

A person involved in a life partnership.

LIFE PARTNERSHIP

A committed and long-term relationship between two life partners.

LIFE PARTNERSHIP DECLARATION

The form or forms that register a life partnership in the Life Partnership Registry pursuant to the provisions of this article.

LIFE PARTNERSHIP REGISTRY

The records repository maintained by New Hope Borough, wherein life partners with a mutual residence may register their life partnership.

MUTUALLY RESPONSIBLE

An arrangement meaning that life partners contribute to each other's maintenance, well-being and financial support.

MUTUAL RESIDENCE

The permanent home where both life partners reside and perform those tasks normally associated with one's continuing home.

§ 129-22. Life Partnership Registry; certificate of registration.

- A. The New Hope Borough Life Partnership Registry is hereby created, in conformance with the provisions of this article.
- B. A life partnership may be registered with New Hope Borough by any two life partners by filing a life partnership declaration with New Hope Borough, together with all other requirements of this article. Upon payment of any required fees, New Hope Borough shall enter the life partnership in the Life Partnership Registry, setting forth the names and mutual residence of the life partners. Upon entry in the Life Partnership Registry, New Hope Borough shall issue a certification to the life partners reflecting that their life partnership has been entered in the Life Partnership Registry.
- C. A life partnership declaration shall be on forms prescribed by New Hope Borough, and shall contain, at a minimum, the name and address of each life partner, and the signature of each life partner. In addition, to be eligible to register a life partnership with New Hope Borough, each life partner must state that:
- (1) Each person is at least 18 years of age and is competent to contract;
 - (2) Each person is unmarried according to the laws of the Commonwealth of Pennsylvania, with neither being registered in or a member of another life partner relationship, domestic partnership or civil union with anyone other than the codeclarant;
 - (3) They are not related to the other declarant by blood in any way that would prohibit marriage in the Commonwealth of Pennsylvania;
 - (4) Each person considers himself or herself to be a member of the immediate family of the other life partner and to be mutually responsible for maintaining and supporting the life partnership;
 - (5) The life partners reside together in a mutual residence; and
 - (6) Each life partner expressly declares his or her desire and intent to designate the other life

partner as his or her health care surrogate and as his or her agent to direct disposition of his or her body for funeral and burial.

- D. Any life partner to a life partnership may file an amendment with New Hope Borough to reflect a change in his or her legal name or address as shown on the Life Partnership Registry. Amendments must be signed by both life partners to the life partnership.

§ 129-23. Termination of registration.

- A. Either life partner to a registered life partnership may terminate such registration by filing a termination of life partnership statement with New Hope Borough on such forms as New Hope Borough shall prescribe. Upon the payment of any required fee, New Hope Borough shall remove the life partnership from the Life Partnership Registry, shall file the termination of life partnership statement with the public records of New Hope Borough, and shall issue a certification to each life partner of the former life partnership that their life partnership has been removed from the Life Partnership Registry.
- B. A registered life partnership shall be deemed to have been removed from the Life Partnership Registry upon the death of either life partner.

§ 129-24. Third parties.

New Hope Borough shall issue a confirmation that the life partner has registered his or her life partnership in accordance with the provisions of this article and that such life partnership registration is valid and outstanding to any health care facility, employer, funeral or burial caretaker, educational institution or any other private or public entity, to the extent such third party seeks corroboration of the life partnership of a life partner.

§ 129-25. Right and legal effect.

- A. Registration of a life partnership in the New Hope Borough Life Partnership Registry creates no legal rights or duties from one life partner to another. Nothing in this article shall affect legal rights and duties which the life partners agree in an otherwise legally enforceable writing that they will owe to each other and which are not otherwise prohibited by any applicable law or regulations.
- B. Nothing in this article shall be interpreted to alter, affect or contravene any local, county, state or federal law or to impair any court order or contractual agreement. Nothing in this article shall be construed as recognizing or treating a registered life partnership as a marriage where otherwise prohibited by law.