

Part 1 (4-100)

Chapter 4-101

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

CROSS-REFERENCES

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.). Service uniform discrimination: see Crimes Codes (18 Pa.C.S.A. § 7323).

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-101.1. Legislative findings.

- A. The population of the City consists of every race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, sexual preference, handicap or disability, and possession of a general education development certificate, some of whom by reason of their race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, possession of a general education development certificate, sexual preference/orientation, handicap and disability, or association with or advocacy on behalf of persons in these categories, are discriminated against in employment opportunities, places of public accommodation, housing facilities, education, obtaining loans, housing or housing-related financing or mortgage requirements, which may include but are not limited to insurance requirements, and the enjoyment of equality of opportunity relating thereto.
- B. Discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, sexual preference/orientation, or association with or advocacy on behalf of persons in these categories in employment, housing, public accommodations, education, and lending practices is contrary to the laws and policies of the City.
- C. Discrimination in employment prevents the gainful employment of large segments of the citizens of the City, tends to impair the City's productive capacity, reduces the public revenues, imposes substantial financial burden upon the public for relief and welfare, and tends to create breaches of the peace and depressed living conditions which breed crime, vice, juvenile delinquency, and disease, and is detrimental to the public safety, economic growth and general welfare of the City.
- D. Discrimination in housing results in overcrowded, segregated housing with substandard, unsafe and unsanitary living conditions which cause increased mortality, disease, crime, vice, juvenile delinquency, fire and risk of fire, intergroup tensions, conflicts and similar evils, all of which increase the cost of government and reduce the public revenues and result in injury to the public safety, health and welfare of the City.
- E. Discrimination involving places of public accommodation, as herein defined, causes loss of access to services, humiliation, embarrassment and inconvenience to citizens and visitors, tends to create breaches of the peace, intergroup tensions, conflicts and similar evils, and is detrimental to the public safety, general welfare and economic growth of the City.

- F. Discrimination in educational institutions precludes equality of educational opportunities for all students, whether personally experienced by them or when observed being practiced by others. It is recognized, however, that there is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith. In such institutions, students should have equal opportunity to attend therein and participate without discrimination because of race, color, ancestry, national origin, place of birth, sex, handicap or disability or the use of guide or support animals, marital status, familial status, general education development certificate, sexual preference/orientation, and age.
- G. Discrimination in lending or in other extensions of credit or in the terms or conditions of credit by lending institutions denies persons the opportunity to fulfill and maintain their economic well-being.

§ 4-101.2. Discrimination prohibited.

- A. It is hereby declared to be the policy of the City, in the exercise of its powers for the protection of the public safety and the general welfare, for the maintenance of peace and good government and for the promotion of the City's trade, commerce and manufacture, to promote the right and opportunity of all persons to participate in the social, cultural, recreational, and economic life of the City and to assure equal opportunity for all persons in employment, housing, public accommodations, education, and obtaining loans and extensions of credit, free from discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, handicap or disability or the use of guide or support animals, marital status, familial status, sexual preference/orientation, or age or association with or advocacy on behalf of any group protected by this code.
- B. To accomplish these goals it shall be the public policy of the City to prohibit discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, handicap or disability or the use of guide or support animals, marital status, familial status, sexual preference/orientation or age or association with or advocacy on behalf of any group protected by this code in areas relating to employment, housing, public accommodations, education and lending practices.

§ 4-101.3. Liberal construction.

This code shall be deemed remedial and shall be liberally construed so as to effectuate its spirit and intent.

§ 4-101.4. Scope and application.

This code applies to discriminatory practices including but not limited to discrimination in employment, housing, public accommodations, education, and lending which occur within the territorial limits of the City and to employment contracted for, performed or to be performed within these limits, or by those contracting with the City, and also applies to any county or governmental subdivision in Dauphin, Cumberland and Perry Counties which by majority vote of the proper body adopts this code or elects to be covered by its terms.

§ 4-101.5. Interpretation.

Nothing in this code shall be deemed to repeal or supersede any of the provisions of any existing or hereafter adopted City ordinance, City charter or any law of this commonwealth relating to discrimination. However, if the complainant institutes any other action based on such grievance without resorting to the procedure provided in this code, such complainant may not subsequently resort to the procedures herein. In the event of a conflict between the interpretation of this code and the interpretation of a similar provision contained in any state law, the interpretation of the provision in the state law shall apply.

§ 4-101.6. Definitions.

As used in this code, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context. Any word not defined herein shall have the definition contained in the glossary, Chapter 1-302, or the ordinary dictionary definition.

ACCESSIBLE — Being in compliance with the applicable standards set forth in the following:[**Added 12-11-2007 by Ord. No. 31-2007**]

- A. The Fair Housing Act (Public Law 90-284, 42 U.S.C. § 3601 et seq.).
- B. The Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. § 12101 et seq.).
- C. The act of September 1, 1965 (Public Law 459, No. 235), titled, as amended, "An Act Requiring That Certain Buildings and Facilities Adhere To Certain Principles, Standards, and Specifications To Make the Same Accessible To and Usable by Persons With Physical Handicaps, and Providing For Enforcement."¹

ADVERTISEMENT or ADVERTISING — Any advertisement and any similar written, printed, taped or broadcasted communication, notice, statement or the like which is disseminated (whether published, printed, circulated, issued, displayed, posted or mailed) for the purpose of promoting housing activity, including but not limited to rentals, leases, and sales.[**Added 12-11-2007 by Ord. No. 31-2007**]

ADVERTISER — Any person who places, publishes, broadcasts, or similarly causes to be disseminated by any other means an advertisement or advertising as defined in this section.[**Added 12-11-2007 by Ord. No. 31-2007**]

ADVOCACY — The advancement or assertion, not otherwise unlawful, whether written or oral, of rights protected under this code.

AGE — Person 40 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.²[**Amended 12-11-2007 by Ord. No. 31-2007**]

AGGRIEVED PERSON — Any person who claims to be injured or believes that he/she will be injured by a discriminatory practice.

ASSOCIATION WITH — Any affiliation or perceived affiliation, formal or informal, by occupancy, proximity or advocacy with or on behalf of any of the groups protected under this code.

1. Editor's Note: See now 35 P.S. § 7210.102 et seq.

2. Editor's Note: See 29 U.S.C. § 621 et seq.

BONA FIDE OCCUPATIONAL QUALIFICATION — An employment qualification that is reasonably necessary to the essence of the normal operation of a particular business enterprise. The concept is to be construed narrowly in substantial conformity with the interpretation of Title VII of the Civil Rights Act of 1964.

COMMERCIAL PROPERTY — Any building, structure or other facility, or portion thereof, which is used, occupied or intended, arranged, designed, or designated to be used or occupied for the purpose of operating a business, an office, a factory, or public accommodation and any vacant land which is offered for sale or lease or is held, intended or designated for the purpose of constructing or locating thereon any such building, facility, business, or public accommodation.

COMMISSION — The Harrisburg Human Relations Commission created by this code.

COMPLAINANT — Any person, including the Commission, who files a complaint pursuant to this code.

CONCILIATION — Any process which affords the opportunity to resolve the issues raised by either the complaint or the investigation of a complaint through informal negotiations involving the complainant, the respondent and the Commission.

CONCILIATION AGREEMENT — Any resolution of the issues through the conciliation process. All conciliation agreements must be in writing and signed by the respondent and the complainant and approved by the Commission in order to take effect.

DISCRIMINATE or DISCRIMINATION — Any act or omission, whether actually performed, attempted, or intended, which has been declared to be unlawful under this code, or any actual, attempted or intended difference in treatment based on race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, general education development certificate (GED), or sexual preference/orientation, unless otherwise specifically provided, or any actual or attempted difference in treatment based on an individual's association with or advocacy on behalf of any of the groups protected under this code. The word "discriminate" or "discrimination" also includes any acts, activities or any act or omission intended or attempting to segregate any of the groups protected under this code.

EDUCATIONAL INSTITUTION — Any institution which accepts or solicits individuals to engage in the learning process, such as day-care centers, nursery schools, kindergartens, primary and secondary schools, high schools, academies, extension schools, camps, or any secretarial, business, vocational or trade school of post-secondary grade which is subject to the visitation, examination or inspection, or is or may be licensed, by the Commonwealth 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, except any religious or denominational educational institution as defined in this code.

EMPLOYER — Includes the City or any board, department, commission, authority, or school district thereof, or any person or any entity or organization employing four or more persons within the City. Contractors, subcontractors and independent contractors performing services within the City are also included under this definition. Any religious, fraternal, charitable, or sectarian corporation or association employing four or more persons and supported in whole or in part by government appropriations shall also be included under this definition. "Employer" does not include parents, spouse or children or any number of them. "Employer" does not include religious, fraternal, charitable, or sectarian corporations or associations not supported by government appropriations. "Employment" does not include the employment of individuals in domestic services.

EMPLOYMENT AGENCY — Any person regularly undertaking, with or without compensation, to procure, recruit, refer or place employees.

FAMILIAL STATUS — One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or individuals or the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection 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 has not attained the age of 18 years. The protection afforded to familial status shall also include groups of handicapped individuals, who may or may not be related, joining together in functioning household units, provided that such units are not separate apartments, who, if necessary, may require rehabilitation services, counseling, care, supervision, and therapy.

GED — General education development certificate.

HANDICAP or DISABILITY — Any actual, perceived, recorded, or assumed mental or physical impairment which significantly limits one or more of such person's major life activities and those who are currently recovering from drug or alcohol addiction. The phrase does not include persons currently using illegal substances. The phrase does include:**[Amended 12-11-2007 by Ord. No. 31-2007]**

- A. Those who use guide or support animals; and
- B. Any individuals who live with or care for or are otherwise associated with an individual who is handicapped or disabled.

HOUSING ACCOMMODATION or DWELLING — **[Amended 12-11-2007 by Ord. No. 31-2007]**

- A. Any building, structure or facility, or portion thereof, which is used, occupied or intended, arranged or designed to be used as a residence or sleeping place of one or more individuals, groups or families, whether or not living independently of each other; and
- B. Any vacant land offered for sale or lease or held for the purposes of constructing or locating thereon any such building, structure, mobile home site or facility.

HOUSING FOR OLDER PERSONS — Housing provided under any federal or state program that the Secretary of the United States Department of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons (as defined in the federal or state program), housing intended for and solely occupied by persons 62 years of age or older, or housing intended and operated for occupancy by at least one person 55 years of age or older per unit.**[Added 12-11-2007 by Ord. No. 31-2007]**

- A. In determining whether housing qualifies as "housing for older persons" under this definition, the Harrisburg Human Relations Commission's requirements shall include, but not be limited to, the following:
 - (1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; or

- (2) A requirement that at least 80% of the units are occupied by at least one person 55 years of age or older per unit and the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

B. Housing shall not fail to meet the requirements for older persons by reason of:

- (1) Persons residing in such housing as of the date of enactment of this code who do not meet the age requirements of Subsection A(1) or (2); or
- (2) Being an unoccupied unit, provided that such units are reserved for occupancy by persons who meet the age requirements in Subsection A(1) or (2).

INDEPENDENT CONTRACTOR — Any person who is subject to the provisions governing any of the professions and occupations regulated by state licensing laws enforced by the Bureau of Professional and Occupational Affairs in the Department of State or is included in the Fair Housing Act (42 U.S.C. § 3601 et seq., Public Law 90-284).**[Added 12-11-2007 by Ord. No. 31-2007]**

LABOR ORGANIZATION — Any group or association which exists for the purpose in whole or in part of collective bargaining or in 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 organization engaged in making loans; any person or organization regularly engaged in the business of lending money, granting or extending credit or guaranteeing loans; and credit rating bureaus which supply information used to determine the eligibility for such loans or credit, including but not limited to real estate mortgages and financing or financing involving, using or otherwise relying upon real estate.

MARITAL STATUS — Includes:

- A. The presence or absence of a religiously or civilly recognized marital union;
- B. Single, divorced or separated status; or
- C. Any association of two or more adults unless otherwise illegal under established and reasonable occupancy requirements.

NON-JOB-RELATED HANDICAP OR DISABILITY — As it relates to employment practices means any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the position which a handicapped person applied for, is engaged in or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job-related.

OWNER — Includes any person or entity who is the owner, co-owner, lessee, sublessee, mortgagee, assignee, manager, agent, or any other person having an equitable or security interest in any housing accommodation or any person who otherwise has the authority to recommend or grant for consideration the right to use or occupy a housing accommodation. This definition shall include the City and its departments, boards, commissions and authorities.

PUBLIC ACCOMMODATION or PLACE OF PUBLIC ACCOMMODATION — Any place which is open and accepts or solicits the patronage of the general public, including but not limited to inns, taverns, resorts, places of recreation or amusement, hotels, motels, clinics,

hospitals, swimming pools, barbershops, beauty parlors, retail stores, parks, bowling alleys, gymnasiums, public libraries, and all governmental facilities.

REAL ESTATE BROKER — Any person, partnership, corporation or any other organization or association which sells, purchases, exchanges, rents, negotiates, or in any way grants for consideration the right to purchase, use or occupy a housing accommodation, or offers or attempts to negotiate the sale, purchase, exchange, or rental of the real property of another, including real estate salespersons or agents or any person employed by a real estate broker to perform or assist in the performance of such broker's business.

RELIGION — A person's religious creed or the practices or observances with which a person expresses a religious creed.

RELIGIOUS OR DENOMINATIONAL EDUCATIONAL INSTITUTION — Any educational institution which is operated, supervised, controlled, or sustained primarily by a religious, sectarian or denominational organization; or one which is stated by the parent church or denomination to be and is, in fact, officially related to it by being represented on the board of that institution from which it has received substantial financial assistance; and one which has certified, in writing, to the Commission that it is a religious or denominational educational institution.

RENT — Includes lease, sublease, let or otherwise grant for consideration the right to occupy premises not owned by the occupant. **[Amended 12-11-2007 by Ord. No. 31-2007]**

RESPONDENT — Any person or entity accused in a complaint of violating the provisions of this code or any other person or entity identified in the course of investigation.

SEX — The gender, male or female, of a person, including those persons who are changing or have changed their sex.

SEXUAL PREFERENCE/ORIENTATION — Male or female homosexuality, heterosexuality and bisexuality, by preference, practiced or as perceived by others.

STUDENT — Any person seeking admission to or in attendance at a school or educational institution.

Chapter 4-103

HARRISBURG HUMAN RELATIONS COMMISSION

CROSS-REFERENCES

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.). **Service uniform discrimination: see Crimes Code (18 Pa.C.S.A. § 7323).**

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-103.1. Creation.

There is hereby established the Harrisburg Human Relations Commission to administer, implement and enforce the provisions of this code.

§ 4-103.2. Appointment. [Amended 7-19-2000 by Ord. No. 20-2000]

The Commission shall consist of nine members, eight of whom shall be appointed by the Mayor as provided below, and one of whom shall be appointed by City Council by resolution. The Mayor shall appoint or reappoint a Commissioner within 90 days of the occurrence of a vacancy or the expiration of a term of a member. If the Mayor does not act on a vacancy or expired term within 90 days, Council may appoint a person by resolution to fill such vacancy. Should the Council fail to make its appointment within 90 days of the occurrence of a vacancy or the expiration of the term of its member, the Mayor may nominate a citizen to fill the vacancy.

§ 4-103.3. Residency; terms of office.

The Mayor shall, with the advice and consent of Council, appoint the members from a broadly representative cross section of the racial, ethnic and economic groups of the City. Members shall be residents of the City. Members may be reappointed. Persons appointed and qualified as Commissioners shall serve for a term of three years; provided, however, that in making the first appointments to the Commission three members shall be appointed for a term of one year each, three members shall be appointed for terms of two years each, and three members shall be appointed for terms of three years each.

§ 4-103.4. Officers.

The Commission shall elect one of its members as Chairperson and may elect such other officers as it deems necessary. The Chairperson may, with the approval of the Commission, appoint such committees as may be necessary to carry out the powers and the duties of the Commission, and the Commission may authorize such committees to take any necessary action for the Commission.

§ 4-103.5. Rules and regulations.

The Commission shall adopt such rules and regulations for its own organization, operations, and procedures as it deems necessary to administer, implement and enforce this code.

§ 4-103.6. Meetings.

- A. The Commission shall hold at least 10 meetings in different months during each calendar year. Five members of the Commission shall constitute a quorum for the transaction of business, and a majority vote of those present at any meeting shall be sufficient for any official action taken by the Commission, except that approval of a majority of all members shall be required before any public hearing may be held.
- B. Commission members failing to attend three consecutive meetings shall forfeit their seats, unless the Chairperson of the Commission receives written notification from the member involved that the absence was due to personal illness or the death or illness of an immediate family member. Should any Commission member fail to attend three consecutive meetings without providing the notification set forth above, the Chairperson of the Commission (or the Executive Director, if the absent member is the Chairperson) shall notify the Mayor and the City Council of a vacancy on the Commission by virtue of said member's unauthorized absences.

- C. When gathering for monthly meetings, the Commission shall comply with all commonwealth or local public notice requirements.

§ 4-103.7. Compensation; reimbursement for expenses.

The members of the Commission shall serve without compensation, but they may be reimbursed for all necessary expenses incurred in the performance of their duties in accordance with appropriations made by Council.

§ 4-103.8. Powers and duties.

The Human Relations Commission shall have the power and duty to:

- A. Initiate, receive and investigate charges of unlawful practices as set forth in this code and seek satisfactory adjustment of the same, including conciliation;
- B. Initiate or receive and investigate other complaints of discrimination against any person because of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, general education development certificate (GED), or sexual preference/orientation and seek the satisfactory adjustment of such complaints, including conciliation;
- C. Certify to the City Solicitor or other appropriate public official(s) for such action as may be proper any complaint filed under this code which the Commission believes may constitute a violation of a law of the United States of America or the commonwealth;
- D. Issue subpoenas and subpoenas duces tecum, either at its instance or upon written application of any party to a proceeding, whenever necessary to compel the attendance of witnesses or to require the production for examination of any books, payrolls, personnel records, correspondence, documents, papers or any other evidence relating to any matter under investigation or in question before the Commission or any member thereof. The issuance of such subpoenas and subpoenas duces tecum at the instance of a party to the proceeding shall depend upon a showing of necessity therefor;
- E. Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith, require the production of evidence relating to any matter under investigation or any question before the Commission, make findings of fact, issue orders, publish findings of fact and orders and do all other things necessary and proper for the enforcement of this code. The Commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity. The testimony taken at the hearing shall be under oath and shall be transcribed;
- F. Hold an investigatory hearing on its own motion whenever any problem of racial discrimination or racial tension arises. The hearing may be public or private, and the Commission shall have the same powers provided in Subsection E hereof. The Commission shall gather all the facts from all the interested parties and make such recommendations as may be necessary. Should the recommendations of the Commission not be accepted within a reasonable time, the Commission may, with the consent of the majority of members, initiate a complaint based upon the findings resulting from the hearings, and thereafter the procedure shall be the same as if an individual complaint had been filed, or, if the Commission believes that federal or commonwealth law has been violated, it may refer the

matter to the City Solicitor or other appropriate public official for such action as may be proper;

- G. Institute and conduct education and other programs to promote the equal rights and opportunities of all persons, regardless of their race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, sexual preference/orientation, or GED, and to promote understanding among persons of different races, colors, religions, ancestries, national origins, or places of birth. In the performance of its duties, the Commission may cooperate with interested citizens, private agencies and agencies of the federal, commonwealth and local governments;³
- H. Issue publications, reports of investigation and research in the field of human relations and cooperate with and accept grants from public and private agencies, including foundations, agencies of the commonwealth and federal government, and colleges and universities engaged in similar research;
- I. Establish a program for the collection and dissemination of information designed to dispel rumors and halt their circulation and establish programs designed to increase communication between and eliminate prejudice among the various racial, religious and nationality groups;
- J. Appoint an Executive Director and such other employees and agents as it may deem necessary, fix their compensation within the limits provided by law and prescribe their duties;
- K. Assure and assist the enforcement of fair employment practices by persons contracting directly or indirectly with the City;
- L. Render from time to time, but not less than once a year, a written report of its activities and recommendations to the Mayor and to Council; and
- M. Adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this code.

Chapter 4-105

UNLAWFUL PRACTICES

CROSS-REFERENCES

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.).

Service uniform discrimination: see Crimes Code (18 Pa.C.S.A. § 7323).

Rental housing discrimination: see 35 P.S. § 1680.402a.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1-303).

§ 4-105.1. Unlawful employment practice.

The following shall be unlawful employment practices, except where based upon a bona fide occupational qualification or applicable security regulations established by the United States of America, the Commonwealth of Pennsylvania or the City:

- A. For any employer to refuse to hire any person or otherwise to discriminate against any person with respect to hiring, tenure, compensation, promotion, or discharge or any terms, conditions or privileges directly or indirectly related to employment because of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, familial status, marital status, GED or sexual preference/orientation;
- B. For any employer, labor organization, employment agency, or joint labor-management committee controlling apprentice training programs to deny to or withhold from any person the right to be admitted to or participate in a guidance program, an apprenticeship training program, an on-the-job training program, or any other occupational training program because of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, familial status, GED, or sexual preference/orientation;
- C. For any employer, employment agency or labor organization to require any applicant for employment or membership to provide any information concerning race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, familial status, GED, or sexual preference/orientation, except that the Commission may order the maintenance of such records as may be relevant to the determination of whether unlawful employment practices have been or are being committed. To determine whether a present handicap or disability substantially interferes with the ability to perform the essential functions of the employment for which application has been made, is being engaged in, or has been engaged in, the employer must inquire beyond the mere existence of a handicap or disability;
- D. 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 discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, GED, or sexual preference/orientation;
- E. For any employment agency to fail or refuse to classify properly or refer for employment or otherwise to discriminate against any person because of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, familial status, GED, or sexual preference/orientation;
- F. For any employer substantially to confine or limit recruitment or hiring of employees to any employment agency, employment service, labor organization, training school, training center, or other employee-referring source which serves persons who are predominately of the same race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, familial status, GED, or sexual preference/orientation;
- G. For any labor organization to discriminate against any person in any way which would deprive or limit employment opportunities or otherwise adversely affect status as an applicant for employment or as an employee with regard to tenure, compensation,

promotion, discharge, or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job-related handicap or disability, marital status, familial status, GED, or sexual preference/orientation;

- H. For any employer, employment agency or labor organization to penalize or discriminate or in any way retaliate against any person because he or she has opposed any practice forbidden by this code or because he or she has made a complaint or testified or assisted in any manner in any investigation or proceeding under this code;
- I. 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 an unlawful employment practice by this section, or to obstruct or prevent any person from enforcing or complying with the provisions of this code or any rule, regulation or order of the Commission, or attempt, directly or indirectly, to commit any act declared by this section to be an unlawful employment practice, or to penalize, discriminate, or otherwise retaliate against any person for complying with the orders of the Commission or in any way participating with the Commission in the enforcement of this code;
- J. For any employer to fail to take reasonable measures to assure a working atmosphere free of bias with regard to an employee's race, color, sex, age, non-job-related handicap or disability, GED, religion, ancestry, national origin, marital status, familial status, or sexual preference/orientation; or
- K. For any employer, employment agency or labor organization, prior to the employment or admission to membership, to deny employment because of prior handicap or disability.

§ 4-105.2. Unlawful housing and commercial property practices.

- A. The following shall be an unlawful housing or commercial property practice, except as otherwise provided in this section:
 - (1) For any owner, real estate broker or any other person to refuse to sell, lease, sublease, rent, assign, or otherwise transfer or to refuse to negotiate for the sale, lease, sublease, rental, assignment, or other transfer of the title, leasehold or other interest in any housing accommodation or commercial property to any person, or to represent that any housing accommodation or commercial property is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available, or otherwise to deny or withhold or make unavailable any housing accommodation or commercial property from any person because of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, GED, familial status, or sexual preference/orientation, or to discriminate against, segregate or assign quotas to any such person or group of persons in connection with the sale, lease, sublease, rental, assignment or other transfer of title, leasehold, or other interest in any housing accommodation or housing accommodations or commercial property or to require, utilize or compel or entice another to require or utilize restrictive covenants or zoning provisions which discriminate or are intended to discriminate against any individuals because of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation;

- (2) For any person or individual, including any owner or real estate broker or any other person dealing in real estate transactions, to include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing accommodation or commercial property any clause, condition, restriction or other restrictive covenant or zoning provision discriminating against or requiring any other person to discriminate against any person in the use or occupancy of such housing accommodations or commercial property because of race, color, age, national origin, sex, religion, ancestry, marital status, familial status, GED, sexual preference/orientation, or handicap or disability or the use of guide or support animals;
- (3) For any person, including any owner or real estate broker or any other person dealing in real estate transactions, to discriminate in the furnishing of any facilities or services for any housing accommodation or commercial property or in connection therewith or to discriminate in the brokering, appraising, assignment or other transfer of any real property, housing accommodation, or commercial property, whether or not secured by mortgage, because of race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, sexual preference/orientation, handicap or disability or use of a guide or support animal, or possession of a GED certificate; **[Amended 12-11-2007 by Ord. No. 31-2007]**
- (4) For any person, including any owner or real estate broker, to make, print, publish, circulate, issue, or display, or cause to be made, printed, published, circulated, issued, or displayed, any communication, notice, advertisement, or sign, or to make any oral statements of any kind, relating to the sale, rental, lease, sublease, assignment, transfer, or listing of any housing accommodation or accommodations or commercial property which state or otherwise indicate or imply any preference, limitation, specification, or discrimination based on race, color, religion, ancestry, national origin, age, handicap or disability, marital status, familial status, GED, or sexual preference/orientation;
- (5) For any person, including any bank, banking organization, mortgage company, insurance company, or other financial or lending institution, or any agent or employee thereof, or anyone else dealing in real estate transactions to whom application is made for a loan, credit or other financial assistance for the purchase, lease, acquisition, construction, rehabilitation, improvement, repair, maintenance, assignment or other transfer of any housing accommodation or commercial property, whether or not secured by mortgage: **[Amended 12-11-2007 by Ord. No. 31-2007]**
 - (a) To discriminate against any person or group of persons because of race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, sexual preference/orientation, handicap or disability or use of a guide or support animal, or possession of a GED certificate of such persons or group of persons or of the prospective occupants or tenants of such housing accommodation or commercial property in granting, withholding, extending, modifying or renewing of, or in the rates, terms, conditions or privileges of, any such financial assistance or the extension of services in connection therewith; or
 - (b) To use any form of application for such financial assistance or make any record or inquiry in connection with application for such financial assistance which indicates, directly or indirectly, any limitation, specification or discrimination because of race, color, religion, ancestry, national origin, place of birth, sex,

age, marital status, familial status, sexual preference/orientation, handicap or disability or use of a guide or support animal, or possession of a GED certificate, except that nothing in this section prevents the maintaining of records as permitted or required by reasonable federal and state law and this chapter;

- (6) For any real estate broker or real estate salesperson or agent or any other person dealing in real estate transactions to induce or attempt to induce a person, for commercial profit, to sell or rent a dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, national origin, handicap, or sexual preference/orientation. To establish a discriminatory housing practice under this subsection it is not necessary that there was in fact a profit as long as profit was intended when engaging in the blockbusting activity; **[Amended 12-11-2007 by Ord. No. 31-2007]**
 - (7) For any person, whether or not a real estate broker, real estate salesperson or agent, owner, or lending institution, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an unlawful housing or commercial property practice under this section or to obstruct or prevent enforcement or compliance with the provisions of this code or any rule, regulation or order of the Commission, or attempt, directly or indirectly, to commit any act declared by this section to be an unlawful housing or commercial property practice or to coerce, intimidate, threaten, interfere with, or otherwise retaliate against any person for exercising or enjoying the rights provided by this code or any other applicable federal or state law or for his or her having aided or encouraged any other person to exercise rights under law or for having assisted the Commission in any way in the enforcement of this code;
 - (8) For any person to make, print, publish, or cause to be made, printed or published any notice, statement or advertisement, or to make any oral statements, with respect to the sale, rental or other transfer or negotiation of a housing accommodation or commercial property that states, implies or indicates any preference, limitation, restriction, or discrimination based on race, color, religion, age, sex, handicap or disability or the use of guide or support animals, marital status, familial status, GED, sexual preference/orientation, or national origin, or an intention to make any such preference, limitation, or discrimination; or
 - (9) For any person to deny, restrict or otherwise limit any other person access to or membership in or participation in any multiple-listing service, real estate brokers' organization or other service or organization or facility relating to the business of selling, renting, negotiating for the sale or rental or otherwise transferring or negotiating for the transfer of any housing accommodation or commercial property, or to discriminate against such other person in the terms or conditions of such access, membership, or participation, on account of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation.
- B. Nothing in this section shall limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of persons permitted to occupy a dwelling. **[Amended 12-11-2007 by Ord. No. 31-2007]**
- C. Nothing in this section regarding familial status shall apply with respect to housing for older persons: **[Amended 12-11-2007 by Ord. No. 31-2007]**

- (1) Provided under any local, state or federal program that the Secretary of the United States Department of Housing and Urban Development, or in the event such determination is not within the jurisdiction of the Secretary, then by the appropriate local or state agency, has determined is specifically designed and operated to assist elderly persons (as defined in the local, state or federal program);
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Intended and operated for occupancy by at least one person 55 years of age or older per unit.
- D. In determining whether housing qualifies as housing for older persons under this section, the following factors shall be considered:
- (1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, a finding that such housing is necessary to provide important housing opportunities for older persons;
 - (2) At least 80% of the units are occupied by at least one person 55 years of age and older per unit; and
 - (3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- E. Nothing in this section shall prohibit a religious organization, association or society or any nonprofit institution, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin, nor shall anything in this section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings, which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. **[Amended 12-11-2007 by Ord. No. 31-2007]**
- F. Nothing in this section shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.
- G. Nothing in this section shall apply to any single-family house sold or rented by a private individual owner; provided, however, that such owner does not own more than three such single-family houses at any one time; provided, further, that, in the case of the sale of any such single-family house by an owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exception granted herein shall apply only with respect to one such sale within any twenty-four-month period; provided, further, that such owner does not own any interest in, nor is there owned or reserved on his or her behalf under any express or voluntary agreement, title to or any

right to all or a portion of the proceeds from the sale or rental of more than three such single-family dwellings at any one time; provided, further, that the sale or rental of any such single-family dwelling shall be exempted from the application of this section only if such house is sold or rented: **[Amended 12-11-2007 by Ord. No. 31-2007]**

- (1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of such broker, agent, salesperson, or other person; and
 - (2) Without the publication, posting or mailing of any advertisement or written notice in violation of Subsection A(8) of this section, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect transfer of title.
- H. Discrimination in housing and commercial property practices with respect to handicap or disability shall also include:
- (1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or intended to be occupied by the handicapped person if the modifications are necessary to afford the handicapped person full use and enjoyment of the premises. In the case of rental property, the landlord may, where it is reasonable to do so, condition permission to modify on the renter's agreement to restore the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 - (2) A refusal to make reasonable accommodations in the rules, policies, practices, or services when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy the housing accommodation or commercial property.
 - (3) In connection with the design or construction of a multifamily dwelling for first occupancy after the enactment of this code:
 - (a) The failure to design and construct in such a manner that the premises has at least one building entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site.
 - (b) The failure to have public and common use portions which are accessible to and usable by the handicapped person.
 - (c) The failure to have doors which allow passage into and within the premises that are sufficiently wide to allow passage by handicapped persons in wheelchairs.
 - (d) The failure to have accessible routes in and through the premises and light switches, electrical outlets, thermostats, and other environmental controls that are in accessible locations and have reinforcements in the bathroom walls to allow the later installation of grab bars and have usable kitchen and bathrooms such that an individual in a wheelchair can maneuver about the space. Compliance with the American National Standard for Buildings and Facilities (ANSI A117.1-1986) will satisfy this requirement.

- (e) Nothing in this section will be considered to take precedence over the law as set forth in City ordinances governing building and development.
- I. Nothing in this section shall apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other if the owner actually maintains and occupies one of such living quarters as such owner's residence.

§ 4-105.3. Unlawful public accommodations practice.

It shall be an unlawful public accommodation practice:

- A. For the owner, lessee, proprietor, manager, superintendent, agent, or employee for or of any place of public accommodation to:
 - (1) Refuse, withhold from or deny to any person because of race, color, religion, ancestry, national origin, place of birth, sex, handicap or disability or the use of guide or support animals, sexual preference/orientation, age, familial status, GED, or marital status, either directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges, products or goods of such public accommodation; or
 - (2) 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, goods, products, services, or privileges of any such place shall be refused, withheld or denied to any person on account of race, color, religion, ancestry, national origin, place of birth, sex, handicap or disability or the use of guide or support animals, sexual preference/orientation, age, GED, familial status, or marital status or that the patronage of any person of any particular race is unwelcome or objectionable or not accepted, desired or solicited;
- B. For any person, whether or not included in Subsection A hereof, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an unlawful public accommodations practice under this section.

§ 4-105.4. Unlawful educational practice.

- A. It shall be an unlawful educational practice for any educational institution, except a religious or denominational educational institution, to:
 - (1) Exclude or limit or otherwise discriminate because of race, religion, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation against any persons seeking admission as students to such institutions; provided, however, it shall not be an unlawful educational practice for any educational institution to use criteria other than race, religion, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, GED, or sexual preference/orientation in the admission of students;
 - (2) Make any written or oral inquiry prior to admission concerning or designed to elicit information as to the race, religion, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation of a student seeking admission

to such institution, provided that nothing in this section shall prevent the maintenance of records as required by reasonable state and federal laws;

- (3) Expel, suspend, punish, deny facilities to, or otherwise discriminate against any student because of race, religion, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation;
 - (4) Penalize, discriminate against or otherwise retaliate against any individual because he or she initiated, testified, participated or assisted in any proceedings under this code; or
 - (5) Fail to preserve for a period of three years any records, documents and data dealing with or pertaining to the admission, rejection, expulsion, or suspension of students or to refuse to make such records, documents and data available at all reasonable times for the inspection of the Commission upon request.
- B. It shall be an unlawful educational practice for any religious or denominational educational institution which receives any state or federal funds to:
- (1) Exclude or limit or otherwise discriminate because of race, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation against any persons seeking admission as students to such institutions; provided, however, that it shall not be an unlawful educational practice for any religious educational institution to use criteria other than race, religion, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, GED, or sexual preference/orientation in the admission of students;
 - (2) Make any written or oral inquiry prior to admission concerning or designed to elicit information as to the race, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation of a student seeking admission to such institution;
 - (3) Expel, suspend, punish, deny facilities to, or otherwise discriminate against any student because of race, color, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation; or
 - (4) Penalize, discriminate or otherwise retaliate against any individual because he or she initiated, testified, participated or assisted in any proceedings under this code.
- C. It shall be an unlawful educational practice for any person to aid, abet, incite, compel, or coerce the doing of any act that is declared by this section to be an unlawful educational practice, or to obstruct or prevent any person from complying with the provisions of this code or any order issued hereunder, or to attempt, directly or indirectly, to commit any act declared by this section to be an unlawful educational practice.
- D. Nothing in this section shall be deemed to affect in any way the right of bona fide religious groups, sects, or denominational educational institutions to select their students exclusively

or primarily from members of such sects, religions or denominations or from giving preference in such selection to such members.

- E. Nothing in this section shall prohibit any educational institution from accepting and administering any inter vivos or testamentary gift upon such terms and conditions as may be prescribed by the donor to the extent that the acceptance and administration thereof do not violate the Constitution or laws of the United States of America or the Commonwealth of Pennsylvania.

§ 4-105.5. Unlawful lending practices. [Amended 12-11-2007 by Ord. No. 31-2007]

It shall be an unlawful lending practice for a lending institution to:

- A. Deny, withhold, limit or otherwise discriminate against any person or group of persons because of race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, sexual preference/orientation, handicap or disability or use of a guide or support animal, or possession of a GED certificate in lending money or extending credit;
- B. Establish unequal terms or conditions in the contract for loans and mortgages or insurance, or other extensions of credit, because of race, color, religion, ancestry, national origin, place of birth, sex, age, marital status, familial status, sexual preference/orientation, handicap or disability or use of a guide or support animal, or possession of a GED certificate; or
- C. Deny, withhold, limit or otherwise not make available a loan or other financing, whether or not secured by mortgage, for the acquisition, construction, improving, repairing or maintaining of any housing accommodation or commercial property, because of race, color, religion, ancestry, national origin, place of birth, sex, age, handicap or disability or the use of guide or support animals, marital status, familial status, GED, or sexual preference/orientation.

§ 4-105.6. City contracts. [Amended 7-19-2000 by Ord. No. 19-2000]

- A. All contracts entered into by the City and its purchasing and contracting agencies shall obligate the contractor to comply with this code relating to fair employment practices and any state or federal law or laws or regulations relating to unlawful employment practices in connection with any work to be performed thereunder and shall require the contractor to include a similar provision in all subcontracts. Nothing herein shall be deemed to prevent lawful/remedial affirmative actions or contracting set-asides mandated by local, federal or state law.
- B. Within 90 days of the effective date of this section, the Harrisburg Human Relations Commission shall promulgate rules and regulations for all City contracts over \$100,000. To the extent that this section conflicts with § 2-901.3, the provisions of this section shall govern.
- C. Prior to implementation, all rules and regulations written and/or put forth by the Human Relations Commission with respect to this specific legislation shall be reviewed and approved by vote of the Harrisburg City Council.

§ 4-105.7. Encouragement of unlawful practices; obstruction of Commission orders; retaliation.

It shall be unlawful for any person, whether or not within the named classifications set forth in this code, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an unlawful practice under this code or to obstruct or prevent enforcement of compliance with the provisions of this code or any rule, regulation or order of the Commission, or to attempt, directly or indirectly, the commission of any act declared by this code to be an unlawful practice, or for any person to aid, incite, compel, coerce, require, or in any way participate in any acts of intimidation, threats, or interference, or to direct other retaliation against any person because such person has sought to or is seeking to comply or attempting to comply with this code, or because such person has sought or is seeking to enforce the rights granted under this code, or because any person aided, attempted to aid, or is currently aiding or attempting to aid another in seeking enforcement of the rights granted under this code.

Chapter 4-107**PROCEDURES****CROSS-REFERENCES**

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.).

Service uniform discrimination: see Crimes Code (18 Pa.C.S.A. § 7323).

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-107.1. Complaint; notice of filing; timeliness.

- A. A complaint charging that any person has engaged in or is engaging in any unlawful practice as set forth in this code may be made by the Commission, by the aggrieved person or by any organization which has as one of its purposes the combating of discrimination or the promotion of equal opportunities; any complaint may be amended any time before final action has been taken by the Commission in accordance with such rules and regulations as the Commission shall prescribe.
- B. Upon the filing of a complaint, the Commission shall serve notice upon a complainant within 10 days:
 - (1) Acknowledging such filing;
 - (2) Advising the complainant of the time limits; and
 - (3) Advising the complainant of other options provided under the law.
- C. Upon the filing of a complaint, the Commission shall promptly serve notice on the respondent or person charged with the commission of a discriminatory practice, advising the respondent of his or her procedural rights and obligations, including the obligation to file a written answer to the complaint within 30 days, together with a copy of the complaint.
- D. The complaint and answer shall be in writing, signed and verified, and shall include the name and address of the person or persons alleged to have committed the unlawful

practice and the particulars thereof and such other information as may be required by the Commission.

- E. No complaint shall be considered unless it is filed with the Commission within 180 days after the complainant learned or should have learned of the occurrence of the alleged unlawful practice.

§ 4-107.2. Commencement of proceedings.

- A. The Commission shall commence investigation with respect to a complaint before the end of the 30th day after receipt of the complaint.
- B. Investigations of complaints regarding discriminatory housing accommodations shall be completed in no more than 100 days after the receipt of a complaint, and if the Commission is not able to complete the investigation within 100 days it shall notify the complainant and the respondent in writing of the reasons for not doing so. In the event that the Commission is unable to complete the investigation within 100 days after the receipt of any complaint, the Commission will, upon written request of the complainant, close the case.

§ 4-107.3. Disposition.

Final disposition of complaints regarding discriminatory housing accommodations shall be made within one year after receipt of the complaint, unless it is impracticable. As to all other complaints, the Commission will attempt to achieve final administrative disposition within one year after receipt of the complaint unless it is impracticable to do so. If the Commission is unable to do so, it shall notify the complainant and respondent in writing of its reasons for not doing so.

§ 4-107.4. Dismissal.

If the Commission determines that there is no basis for the allegations in the complaint, the complaint shall be dismissed and the complainant so notified in writing, which notice shall contain the following information:

- A. Within 10 days from the receipt of such notice of dismissal, the complainant or his or her attorney may file with the Commission a request for review, and the Commission shall provide the complainant an opportunity to appear before the Commission or a member thereof. After such review the Commission may reverse its decision or, if the Commission or its representative determines that there is no basis for the complaint, the dismissal of the complaint shall be affirmed, and there shall be no further review of such decision by the Commission.
- B. Any final order of the Commission is reviewable in the Court of Common Pleas within 30 days of its issuance.
- C. Unless otherwise ordered by the Court of Common Pleas, any timely appeal shall operate as a supersedeas of the Commission's order, provided that any order or portion of any order of the Commission requiring the preservation of the subject matter of the complaint (e.g., housing unit) shall remain in force unless specifically negated by the Court of Common Pleas.

§ 4-107.5. Probable cause.

- A. If the Commission determines after investigation that probable cause exists for the allegations made in the complaint, it may attempt to eliminate the unlawful practice by means of private conferences or by reaching a conciliation agreement with all parties.
- B. The Commission shall not make public any matters relating to efforts to adjust the complaint, but it shall publish the terms of an agreement once a complaint has been satisfactorily adjusted. Once a conciliation agreement is reached, it shall be made public unless the complainant and the respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this code.
- C. Any conciliation agreement arising out of the efforts of the Commission shall be an agreement between the respondent and complainant but shall be subject to the approval of the Commission.

§ 4-107.6. Public hearing. [Amended 12-11-2007 by Ord. No. 31-2007]

- A. In any case of failure to resolve the complaint by means of informal proceedings, or in advance thereof, and if in the judgment of the Commission the facts so warrant, the Commission shall hold a public hearing to determine whether or not an unlawful practice has been committed or, without holding such a hearing, direct its Solicitor to take action in accordance with Chapter 4-109.
- B. When a public hearing is ordered, the Commission shall designate one or more members to conduct such a hearing. The Commission shall serve upon the respondent, if it has not already done so, a copy of the complaint and any amended complaint and a notice of the time and place of the hearing. The hearing shall ordinarily be held not less than 10 days after the service of such notice.
- C. The Commission shall, upon serving the respondent with the complaint, inform the respondent of his or her rights and obligations, including the obligation to file an answer to the complaint within 30 days, to appear at any hearing in person or be represented by an attorney or, subject to the approval of the hearing panel, by any other person, and to examine and cross-examine witnesses.
- D. The complainant shall also have the right to be represented by an attorney or, subject to the approval of the hearing panel, any other person.
- E. When notice of hearing is given in cases alleging unlawful housing practices, either party may elect to have the claim asserted in a civil action brought under the original jurisdiction of the Dauphin County Court of Common Pleas or the Court of Common Pleas for the county in which the alleged practice occurred. The written notice of the Commission shall be sent to all parties and will inform them of their right to take civil action. An election shall notify the Commission and all other parties.

§ 4-107.7. Commission findings.

- A. If, upon all the evidence presented, the Commission finds that the respondent has not engaged in any unlawful practice, it shall state its findings of fact and conclusions in writing and dismiss the complaint.
- B. If, upon all the evidence presented, the Commission finds that the respondent has engaged or is engaging in an unlawful practice, it shall state its findings of fact and conclusions in

writing and shall issue an order in writing as the facts warrant to effectuate the purposes of this code. Such order may provide for any remedy that is available to the Commission under common law (law or equity), federal law or state law which regulates actual damages or other civil remedies and which may include but is not limited to:

- (1) Requiring the respondent to cease and desist from such unlawful practice and to take affirmative action, including but not limited to the hiring, reinstatement or upgrading of employees, with or without back pay and with or without damages;
 - (2) Admission or restoration to membership in any respondent labor organization;
 - (3) The selling, renting, or leasing of a housing accommodation or housing accommodations upon equal terms and conditions and with such equal facilities, services, and privileges as the Commission may determine;
 - (4) The tendering of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation; or
 - (5) The granting, permitting, selling or admitting to any of the accommodations, advantages, facilities, services or privileges, products, or goods of any respondent place of public accommodation upon such terms and conditions to any person discriminated against, or to all persons as, in the judgment of the Commission, will effectuate the purposes of this code and are warranted by the facts presented at the hearing, including a requirement for a report or reports of the manner of compliance.
- C. In cases of discrimination in housing accommodation, the Commission may, if necessary, arrange to have adjudicated in court, at Commission expense, an award of punitive damages against the respondent.
- D. Copies of all orders shall be served on all parties.

§ 4-107.8. Final order.

If the Commission enters any final order, whether it is to dismiss the complaint, grant an award of relief, compensation or other remedy in favor of the complainant or grant an award in favor of the respondent, the party aggrieved by this final order may seek judicial review of that decision in a court of competent jurisdiction. The court may then make any other order that it determines to be just and proper based upon the record of the proceedings before the Commission, including to set aside, affirm, modify, or remand, in whole or in part, the decision of the Commission or to grant any temporary relief that it deems appropriate.

Chapter 4-109

ENFORCEMENT AND JUDICIAL REVIEW

CROSS-REFERENCES

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.). **Service uniform discrimination: see Crimes Code (18 Pa.C.S.A. § 7323).**

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-109.1. Enforcement and judicial review.

- A. The complainant, the Commission or its Solicitor may secure enforcement of the order of the Commission or other appropriate relief by the Court of Common Pleas of Dauphin County. When the Commission has heard and decided any complaint brought before it, enforcement of its orders shall be initiated by the filing of a petition in such Court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of such petition as in proceedings in equity. When enforcement of a Commission order is sought, the Court may make and enter, upon the pleadings, testimony and proceedings set forth in the transcript, an order or decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the Commission, and the jurisdiction of the Court shall not be limited by acts pertaining to equity jurisdiction of the courts. The decision of the Court of Common Pleas shall be subject to appeal as in other civil actions.
- B. Any failure to obey an order of the Court may be punished by the Court as civil or criminal contempt thereof.

§ 4-109.2. Copy of testimony.

The Commission's copy of the testimony shall be available at all reasonable times to all parties for examination, without cost, and for the purpose of enforcement or judicial review of the order. The case shall be heard without requirement of printing.

§ 4-109.3. Appeal of Commission order.

Except as otherwise provided herein, any order of the Commission may be reviewed under the provisions of Local Agency Law, 2 Pa.C.S.A. §§ 105, 551 to 555 and 751 to 754.

§ 4-109.4. Solicitor action.

In addition to the remedies provided in this chapter relating to enforcement of Commission orders, the Commission may certify the case to its Solicitor with a direction that action be instituted in accordance with the provisions of Chapter 4-115.

§ 4-109.5. Injunctive relief.

The Commission shall also have the authority to seek injunctive relief through the Court of Common Pleas of Dauphin County.

§ 4-109.6. Private right of action.

If a complainant invokes the procedures set forth in Chapter 4-107, the individual's right of action in the courts of the commonwealth shall not be foreclosed. The complainant shall be able to bring the action in the Courts of Common Pleas of the commonwealth not less than one year after occurrence or termination of the alleged unlawful practice based on the rights granted in this code. If the Court finds that the respondent has violated any provision of this code, the Court may grant, but is not limited to, any relief available under § 4-107.7B of this Code.

§ 4-109.7. Injunctions in certain housing complaints.

When the Commission determines that any housing accommodation or accommodations involved in a complaint of unlawful housing practice may be sold, rented or otherwise disposed of or otherwise compromised or eliminated before determination of the case has been made, or the Commission otherwise concludes that prompt action is necessary to carry out the purposes of this code and the Commission finds probable cause for the complaint, the Court of Common Pleas of Dauphin County may issue an injunction restraining the sale, rental or other disposition of the housing accommodation or accommodations. In every such case, the Court shall address any issues involving such an injunction in accordance with the Pennsylvania Rules of Civil Procedure. The Court may attach to any injunction such conditions as it deems necessary and proper. No injunction issued shall be for more than 30 days' duration. If, however, an extension of the injunction beyond 30 days is required by the Commission, this extension may be granted at the discretion of the Court. A reasonable bond may be required by the Court before granting any such extension.

Chapter 4-111**ADDITIONAL JURISDICTION****CROSS-REFERENCES**

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, Service uniform discrimination: see Crimes Code (18 P.L. 744, as amended (43 P.S. § 951 et seq.). Pa.C.S.A. § 7323).

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-111.1. Application to other government units.

County governments or other political governmental subdivisions (government units) of Dauphin, Perry and Cumberland Counties may elect to be affiliated with the Commission in accordance with the following procedure:

- A. A statement of intent and a record of the proceedings shall be certified to the Solicitor of the City by a representative of the governmental unit seeking affiliation.
- B. Amendments to this code shall be drafted by the City Solicitor on behalf of the government unit, the City Council of Harrisburg, the Commission and the governmental unit electing to affiliate, in order to resolve problems of affiliation relating to financial support, representation, reporting, changes in name and other relationships.
- C. The governmental unit electing to affiliate shall, after the conditions of participation have been agreed upon by its representative as provided in Subsection B hereof, transmit to the City Solicitor the resolutions and proceedings of the governmental unit evidencing agreement to the conditions of affiliation.
- D. Upon acceptance of such affiliation by City Council, by legislation duly adopted which shall include the conditions of affiliation, the provisions of this code shall be applicable to any such governmental unit in accordance with the conditions of affiliation.

§ 4-111.2. Additional coverage.

- A. In order to effectuate the purposes of this code and recognizing that discriminatory and other practices exist outside of the City, which practices have over the years served to harm, adversely affect and discriminate against both the City and the people who live within the City, the Commission is empowered by this chapter to identify and aggressively pursue both instances and patterns of such conduct as may exist in the region.
- B. Subsequent to the 1954 United States Supreme Court decision relative to public school segregation, practices and effects from zoning, real estate, housing, public accommodation, education, and other laws and activities have developed in various other municipalities such that disparity, separation and exclusion along largely racial, ethnic and economic bases now exist in the region, with the most notable example being between the City and most of its suburban neighbors. Such practices and activities have created and do create the real potential for an environment within which discrimination can and does exist in the region to the detriment of affected classes within the City. The Commission shall diligently review such practices and activities to identify their effects and shall undertake the steps necessary to bring about their end.
- C. In the course of such review and activities, the Commission may utilize all remedies available by law, including securing the assistance of or filing appropriate actions before the Pennsylvania Human Relations Commission, the United States Department of Housing and Urban Development, the United States Department of Justice, the United States Equal Opportunity Commission and the county, state and federal courts.

Chapter 4-113**AUTHORIZATION TO RECEIVE DONATIONS****§ 4-113.1. Commission authorized to receive donations.**

The authorization and appropriation of public funds to the Harrisburg Human Relations Commission shall not preclude the Commission from accepting donations to be used in administering this code from any other sources, public or private.

Chapter 4-115**PENALTY****CROSS-REFERENCES**

Pennsylvania Human Relations Act: Act of Oct. 27, 1955, P.L. 744, as amended (43 P.S. § 951 et seq.).

Service uniform discrimination: see Crimes Code (18 Pa.C.S.A. § 7323).

Rental housing discrimination: see 35 P.S. § 1680.402a.

§ 4-115.99. Penalty.

- A. In addition to the entry of an order under the provisions of § 4-107.7B, any person who willfully violates any provision of this code relating to unlawful practices, or any rule or

regulation duly adopted by the Commission relating thereto, or who fails to comply with any order of the Commission, shall be punished as provided in this chapter.

- B. The power of the Commission to award damages in cases of discriminatory housing practices shall derive from state law and/or City ordinance. To the extent that the Commission is authorized to act pursuant to law, the Commission may assess a civil penalty including but not limited to: **[Amended 12-11-2007 by Ord. No. 31-2007]**
- (1) Fine in an amount not to exceed \$11,000 if the respondent has not been adjudged to have committed any prior discriminatory practices.
 - (2) Fine in an amount not to exceed \$32,500 if the respondent has been adjudged to have committed one other discriminatory practice during the five-year period prior to the date of the order.
 - (3) Fine in an amount not to exceed \$60,000 if the respondent has been adjudged to have committed more than one discriminatory practice during the seven-year period prior to the date of the order.
- C. In any proceeding brought under this code, the Commission or the court may grant reasonable attorney fees and costs to the prevailing party, provided that no such award of attorney fees or costs shall, in the opinion of the Commission or the court, constitute an excessive burden or discourage the filing of complaints under this code. Any complainant who has prevailed before the Commission shall be deemed a prevailing party for purposes of this subsection. The Commission's decisions regarding the assessment of attorney fees and costs shall not be disturbed unless there is a demonstrable abuse of the Commission's discretion.
- D. The Commission shall also have the authority to grant injunctive relief, including any such relief as it deems necessary to preserve its jurisdiction and authority pending appeal.
- E. Any person who willfully violates any provision of this code relating to unlawful practices, or any rule or regulation duly adopted by the Commission relating thereto, or fails to comply with any order of the Commission, shall, upon conviction thereof before any magisterial district judge having jurisdiction of such offense, pay a fine of not more than \$1,000 and, in default of payment of any such fine and costs, shall be imprisoned in the Dauphin County jail for a period not exceeding 90 days.

Part 2 (4-200), Life Partnership Registry

Chapter 4-201

GENERAL

§ 4-201.1. Purpose.

The City is committed to promoting justice, equality and inclusiveness in the provision of health care and other benefits to its citizens, City employees, and employees of private businesses located in the City. The City finds that it is made up of a diversity of households and that in those households relationships exist in many different forms. Those forms include committed, unmarried couples in either same or opposite sex relationships; parent and child relationships;

other familial relationships; and committed friendships. The City wishes to promote the public health, safety, welfare, and prosperity of its citizens and generally improve the overall quality of life by allowing for the efficient and streamlined disposition of health care benefits or other benefits that the City or businesses located in the City might offer to their employees and dependents, including an employee's designee listed on the Life Partnership Registry. The City finds that a City-maintained list is the best way for the City and for businesses located in the City to reliably ascertain whether an employee's designee listed on the Life Partnership Registry and other dependents are eligible for such benefits. Therefore, it is the policy of the City to allow any two adults in a committed relationship who meet the Life Partnership Registry criteria to register with the City and to obtain a certificate attesting to their status.

§ 4-201.2. Definitions.⁴

As used in this Part 2, unless otherwise expressly stated or clearly indicated by the context, the following terms shall have the meanings indicated:

CITY — The City of Harrisburg, a municipal corporation organized pursuant to the laws of the Commonwealth of Pennsylvania and operating pursuant to the Optional Third Class City Charter Law, 53 P.S. § 41101 et seq.

DECLARANTS — Two individuals making or who have made application with the City to become life partners.

DECLARATION OF LIFE PARTNERSHIP or DECLARATION — The registration of a life partner relationship on the Life Partnership Registry, pursuant to the requirements of § 4-201.3.

DEPENDANT —

A. An individual who lives within the household of a life partnership and is:

- (1) A biological or adopted minor child of either life partner;
- (2) A dependant of a life partner as "dependant" is defined by Internal Revenue Service regulations; or
- (3) A ward of a life partner as determined in a guardianship proceeding.

B. The creation of a life partnership does not in itself create a legal dependency.

HEALTH CARE FACILITY — Every place, institution, building or agency, whether organized for profit or not, which provides medical services, nursing services, health screening services, other health-related services, and supervisory care services.

LIFE PARTNERS — Those persons registered on the Life Partnership Registry under § 4-201.3.

LIFE PARTNERSHIP — Those persons involved in a relationship as life partners.

LIFE PARTNERSHIP REGISTRY — The records repository maintained by the City Clerk's office, wherein persons who meet the criteria of § 4-201.3 may register their relationship.

MUTUAL SUPPORT — That declarants contribute to each other's maintenance and well-being and financial support.

NOTICE OF TERMINATION — The process by which a life partnership ends for purposes of registration, pursuant to the provisions of § 4-203.2.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1-303).

PRIMARY RESIDENCE — The permanent home where both declarants reside and perform those tasks normally associated with one's permanent home.

§ 4-201.3. Requirements for Life Partnership Registry.

To be eligible to register a relationship of life partnership with the City of Harrisburg, the two declarants must meet all of the following criteria:

- A. Freely declare that they are solely and mutually committed to each other;
- B. Be persons 18 years of age or older and be unmarried according to the laws of the Commonwealth of Pennsylvania, with neither being registered in another life partner relationship;
- C. Are not related to the other declarant by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania;
- D. Be competent to contract;
- E. Be directly dependent upon, or interdependent with, each other, sharing common financial obligations. Acceptable documentation shall include at least three of the following:
 - (1) Common ownership of property or lease;
 - (2) Common ownership of a vehicle;
 - (3) Driving licenses listing common address;
 - (4) Joint bank, investment or credit account;
 - (5) Designation as a beneficiary of life insurance, retirement benefits or under the will of each other; or
 - (6) Assignment of each other as agent under a durable power of attorney or health care power of attorney;
- F. Currently reside in the City, or one of the declarants works in the City;
- G. Agree under penalty of law to notify the City of any change in the status of the life partnership; and
- H. Execute a declaration of life partnership attesting to the foregoing requirements and attesting that the parties are in a relationship of mutual commitment, support, and caring; are responsible for each other's physical and financial welfare; and have the present intention to remain in that relationship.

Chapter 4-203

DECLARATION, MODIFICATION AND TERMINATION

§ 4-203.1. Declaration of life partnership.

- A. Life partnership declarants shall make an official record of their relationship by executing a declaration of life partnership on the form prescribed by the City.

- B. The declaration must include a statement that the persons are in a relationship of mutual support and caring and are responsible for each other's welfare.
- C. The declaration must include a statement that the declarants agree to file a termination of the relationship if there is a change in the status of their relationship such that they cease to meet the criteria for registration on the Life Partnership Registry.
- D. The sworn declaration shall include the date on which the life partnership registration was made, the mailing address of both declarants, and the notarized signatures of both declarants. The declaration shall further state that the declarants meet all the criteria for the Life Partnership Registry set forth in § 4-201.3.
- E. The City shall have no duty to verify the authenticity of the information provided by the individuals filing the declaration of life partnership if the documents provided appear to be valid on their face.
- F. In the event the City Clerk denies the request for life partner registration, the declarants may immediately appeal this adverse decision to the Harrisburg Human Relations Commission.

§ 4-203.2. Termination of life partnership.

Life partnership ends for purposes of registration on the Life Partnership Registry when:

- A. Either of the declarants dies; or
- B. One or both declarants execute and file a notice of termination, on a form prescribed by the City, stating that one or more of the criteria listed in § 4-201.3 no longer applies. If only one of the declarants executes the notice of termination, the City Clerk shall send a copy of the notice of termination to the other declarant at his or her last known address of record, which shall be deemed sufficient notice of said termination and shall take effect 30 days after the declarant executes the notice of termination. This requirement does not apply if the termination of the life partnership is due to the death of one of the declarants.

§ 4-203.3. Registration and fees.

- A. The City Clerk's office will keep a record of all declarations of life partnership and of all notices of termination of a life partnership. All information contained in a declaration of life partnership or notice of termination shall be open to public inspection.
- B. The fee for filing a declaration of life partnership shall be \$25, which entitles the persons filing the declaration of life partnership to two certified copies of the official declaration. Additional certified copies will be available at a cost of \$5 each. Fees may be adjusted by resolution.
- C. No fee will be charged for filing a notice of termination.
- D. An amendment to a declaration may be filed by a declarant with the City Clerk's office at any time to show a change in his or her mailing address or a legal name change, to correct clerical errors, to add a dependent child of a declarant, or for any other applicable reason. The record will be maintained so that amendments and notices of termination are filed with the declaration of life partnership to which they apply. No fee will be charged for filing an amendment to a declaration. Only a party to a registered life partnership may

apply to amend the declaration. Applications to amend a declaration must be supported by documentary evidence regarding the change and signed and acknowledged by both declarants.

Chapter 4-205

RIGHTS

§ 4-205.1. Health care visitation.

When a declarant is a patient in any health care facility operating within the City, such health care facility shall allow the other life partner the same policies, rights and privileges of visitation as are granted to a married spouse or parent. A dependant of a registered life partnership shall have the same visitation rights as a patient's child.

§ 4-205.2. Other benefits.

Employers located within the City may request verification of life partner status to facilitate the provision of benefits which meet the goals of this Part 2 for its employees. The City Clerk shall cooperate with such requests.

§ 4-205.3. Real estate.

When used in any residential lease, rental agreement or other contract for the possession or use of leased residential real estate located within the City, the definition of the term "family" shall be interpreted to include within a person's family a life partner. When the term "family" is used in such an agreement and includes within its scope the parents, children or other blood relatives of a spouse, the term shall also include the parents, dependants or other blood relatives of the person with whom the individual has filed a declaration of life partnership in the City registry. This section shall not affect any laws of the United States or the Commonwealth of Pennsylvania regarding real estate.

§ 4-205.4. Bereavement leave.

An employer located within the City which allows an employee bereavement leave for the death of a spouse, child or parent shall allow employees the same terms of leave for life partners and dependants of a life partnership.

- A. Proof of life partner registration. Any employer covered by this section may require its employees to submit proof of registration of their life partner status. A certified copy of a declaration of life partnership which has been issued by the City Clerk must be accepted as such proof.⁵
- B. Application to public entities. Since the City itself is an employer in the City, to the full extent allowed by law, this section shall apply with full force and effect to the City and any of its newly created authorities. This section shall not apply to any other public entity, including but not limited to the United States, the Commonwealth of Pennsylvania, and the County of Dauphin.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1-303).

§ 4-205.5. Health care benefits for City of Harrisburg employees.

All health care benefits available to the spouse and dependants of a married City of Harrisburg employee shall also be available to an employee's life partner and/or any dependants of an employee's life partnership. This section shall not apply to any private employer located within the City nor to any other public entity, including but not limited to the United States, the Commonwealth of Pennsylvania, and the County of Dauphin.

§ 4-205.6. Enforcement.

- A. Legal effect of declaration of life partnership. A declaration of life partnership will create no legal rights or duties from one declarant to the other except those legal rights and duties specified in this chapter or other ordinances or resolutions of the Harrisburg City Council which specifically refer to declarations of life partnership in the Life Partnership Registry or as otherwise permitted pursuant to the laws of any other jurisdiction. Nothing in this chapter shall affect legal rights and duties which the declarants agree in a legally enforceable writing they will owe to each other and which are not otherwise prohibited by this or any other applicable law or regulation.
- B. Enforcement. Disputes arising under or concerning this chapter shall first be submitted to mediation with the Harrisburg Human Relations Commission. If mediation is unsuccessful, this chapter may be enforced by civil action. This chapter shall not be construed to require the City or the City Solicitor to enforce its provisions.