

**File of the
Council of the City of Easton, Pa.**

Ordinance No. 4826 SESSION 2006 Bill No. 62

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Introduced by: Carole Heffley – June 14, 2006
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Enacted by Council - July 12, 2006
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AN ORDINANCE: AN ORDINANCE OF THE CITY OF EASTON, COUNTY OF NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE CODIFIED ORDINANCES OF THE CITY OF EASTON BY ADDING A CHAPTER RELATING TO DISCRIMINATION IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATION, CREATING A HUMAN RELATIONS COMMISSION, PROHIBITING CERTAIN PRACTICES AND PROVIDING REMEDIES FOR VIOLATIONS

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF EASTON, NORTHAMPTON COUNTY, PENNSYLVANIA.

WHEREAS, equality of all individuals is a basic tenet upon which the United States of America was founded; and

WHEREAS, the population of the City of Easton is reflective of the general population of the United States of America, and consists of people possessing a number of different personal characteristics regarding their actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids; and

WHEREAS, the City of Easton prides itself on the diversity of its citizenry, and the harmonious relations which have been fostered in the City by a widely practiced and recognized attitude of tolerance and accommodation among all people regardless of their actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids; and

WHEREAS, the direct negative and secondary effects of discriminatory practices involving the personal characteristics described above in matters of employment, housing, and public accommodation are well known and have been extensively studied and demonstrated; and

WHEREAS, the practice or policy of discrimination against such individuals or groups is a matter of public concern that threatens the rights and privileges of the inhabitants, guests and visitors of the City and undermines the foundations of a free democratic society; and

WHEREAS, the City Council and Mayor of Easton desire to establish and adopt an official policy of non-discrimination in the City in all matters involving employment, housing and use of public

accommodations.

NOW THEREFORE, the Council and the Mayor of the City of Easton, County of Northampton, Commonwealth of Pennsylvania do hereby enact and ordain to ensure all persons are protected against discrimination on the basis of actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids and afforded equal opportunities for employment, housing and use of public accommodations, by providing for the resolution of discrimination disputes at the local level in a timely, efficient and cost-effective manner as follows:

SECTION 1. Part One, Administrative Code, of the Codified Ordinances of the City of Easton, Pa., be and it is hereby amended by adding Article 183, Human Relations Commission, and the Article shall read as per Exhibit "A"

SECTION 2. All Ordinances or parts of Ordinances, inconsistent herewith be and the same are hereby repealed.

SECTION 3. This Ordinance shall become effective 20 days following passage by Council and approval by the Mayor.

Signed the 12th day of July, 2006

BY: _____

President of City Council

ATTEST: _____

City Clerk

This ordinance approved this _____ day of _____, 2006

Mayor

EXHIBIT "A"

Title Eleven- Human Relations Commission
Article 183 – Human Relations Commission

Article 183 – Human Relations Commission

183.01 Purpose and Declaration of Policy

183.02 Definitions

183.03 Unlawful Practices

183.04 Exception

183.05 Establishment of Human Relations

183.06 Procedures Commission

183.07 Private Right of Action and

183.08 Severability Non-Limitation of Remedies

183.01 Purpose and Declaration of Policy

a) In order to ensure that all persons, regardless of actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and the use of public accommodations, it is necessary that appropriate legislation be enacted.

b) It is hereby declared to be the public policy of the City of Easton to foster the employment of all individuals in accordance with their fullest capacities regardless of actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, use of guide or support animals and/or mechanical aids, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all individuals and to safeguard their rights to public accommodation and to secure housing accommodation and commercial property regardless of actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids.

c) Nothing in this Ordinance shall be construed as supporting or advocating any particular doctrine, position, point of view, lifestyle or religious view. To the contrary, it is the intention of this Ordinance that all persons be treated fairly and equally, and it is the express intent of this Ordinance to guarantee fair and equal treatment under the law to all people of the City.

d) This Ordinance shall be deemed an exercise of the police power of the City

of Easton for the protection of the public welfare, prosperity, health and peace of the Easton community.

Section 183.02 Definitions

The following words and phrases appearing with initial capital letters when used in this Ordinance shall have the meanings given to them in this subsection.

- a) City - means the City of Easton, County of Northampton, Commonwealth of Pennsylvania.
- b) City Council - means the City Council of the City of Easton.
- c) Discrimination - means any Discriminatory Act(s) taken by any Person, Employer, employment agency, labor organization or Public Accommodation on the basis of actual or perceived race, color, sex, religion, ancestry, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids.
- d) Discriminatory Acts - means all acts defined in the Pennsylvania Human Relations Act as Unlawful Discriminatory Practices. The fact that the Pennsylvania Human Relations Act would not define a practice as unlawful when that practice is taken on the basis of actual or perceived sexual orientation, gender identity or expression, or marital status shall not exempt such practice from being considered a Discriminatory Act under this Ordinance.
- e) Gender Identity or Expression - means self perception, or perception by others, as male or female, and shall include an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth, and shall include, but is not limited to, persons who are undergoing or have completed sex reassignment.
- f) Employee - does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.
- g) Employer - means any Person who employs one or more employees, including the City, its departments, boards and commissions, and any other government agency within its jurisdiction.
- h) Ordinance - means this Ordinance which shall also be known as the Anti- Discrimination Ordinance.
- i) Person - means any natural person, fraternal, civic or other membership organization, corporation, general or limited partnership, proprietorship, limited liability company, or similar business organization, including the City, its departments, boards and commissions, and other for profit and non-profit organizations.
- j) Sexual Orientation - means actual or perceived homosexuality, heterosexuality and/or bisexuality.
- k) Public Accommodation - means any accommodation, resort or amusement which is open to,

accepts or solicits the patronage of the general public or offers goods or services, including loans, to the general public or is listed in Section 4(l) of the Pennsylvania Human Relations Act, 43.P.S. § 954(l), but shall not include any accommodations which are in their nature distinctly private.

To the extent words and phrases appearing in this Ordinance are not expressly defined herein, the meaning of this Ordinance shall be construed consistently with the Pennsylvania Human Relations Act.

183.03 Unlawful Practices

a) Discrimination in housing, employment or public accommodations is prohibited under this Ordinance.

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

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

183.04 Exception

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

183.05 Establishment of Human Relations Commission

a) Pursuant to § 962.1 of the Pennsylvania Human Relations Act, there is hereby established a Human Relations Commission in and for the City of Easton (hereinafter referred to as the Easton Human Relations Commission or the "Commission").

b) The Easton Human Relations Commission shall consist of nine (9) members, who shall serve overlapping terms of three (3) years each. Five (5) members of the Commission shall be appointed by the Mayor, and four (4) members of the Commission shall be appointed by City Council. The Commission may elect up to six (6) non-voting, ex-officio members to broaden the diversity that serves on the Commission. Members shall be residents of the City, or individuals who work full time within the City of Easton. No member of the Easton Human Relations Commission shall hold any office in any political party. Members of the Easton Human Relations Commission shall serve without salary but may be paid expenses incurred in the performance of their duties as approved by the City Council. Paid staff may be hired, as approved by City Council, to assist in the performance of the duties of the Commission.

c) One of the Commission's members shall be appointed as the Chairperson of the Commission by the Mayor. The Chairperson will be responsible for setting Commission meetings, coordinating with the Easton City Clerk regarding received complaints and answers, and generally ensuring that the duties of the Commission are fulfilled. The Chairperson may delegate responsibility for Commission duties to specific Commissioners or to paid staff, if applicable.

d) The City Council hereby grants to the City Human Relations Council all of the powers necessary to the execution of its duties (as set forth below), provided that those powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

183.06 Procedures

a) Filing a Complaint. Any Person(s) claiming to be aggrieved by an unlawful practice may make, sign and file a verified complaint alleging violations of this Ordinance, which shall include the following information:

- 1) The name and address of the aggrieved Person(s);
- 2) The name and address of the Person(s) alleged to have committed the prohibited practice;
- 3) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice;
- 4) If applicable, the address and a description of the dwelling unit which is involved; and
- 5) Such other information as may be required by the City.

Complaints may be filed in person at the City Clerk's office, or by mailing such complaints to the City Clerk's office or to the Chairperson of the Human Relations Commission. All complaints must be received by the City Clerk's office or by Human Relations Commission within three hundred (300) days of the alleged act of discrimination to be considered timely.

The City Clerk's office shall convey all original complaints received by that Office to the Chairperson of the Human Relations Commission within ten (10) days of the Office's receipt of such complaints.

b) Notification and Answer. Within thirty (30) days of its receipt of a Complaint, the Human Relations Commission shall:

- 1) send a copy of the complaint to the Person(s) charged with a discriminatory practice (the "Respondent(s)"); and
- 2) send a notice to the Person(s) aggrieved, informing them that their complaint has been received. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the Person(s) aggrieved shall also inform them of their right to file with the state Human Relations Commission and/or with the federal Equal Employment Opportunity Commission.

The Respondent(s) shall file a written verified answer to the complaint within sixty (60) days of their receipt of the complaint. An answer to a complaint may be filed in the same manner as an original complaint. If the answer is filed with the City Clerk's office, it shall be conveyed by the City Clerk to the Chairperson of the Human Relations Commission within ten (10) days of the City Clerk's office's receipt thereof. The Commission shall promptly send a copy of the answer to the Person(s) aggrieved.

c) Mediation. After the answer has been received, the Commission shall, within sixty (60) days, invite the parties to voluntarily participate in the mediation of their dispute. The parties shall respond to the invitation to mediate within thirty (30) days of being invited to mediate their dispute.

If mediation is elected by the parties, the parties may jointly select a mediation service, in which case the parties shall be financially responsible for all costs and expenses associated with mediation. If the parties do not jointly select a mediator, the Commission shall select a mediator, who may be a member of the Commission, a volunteer from the community, or a contracted mediation service.

The parties shall notify the Commission of whether the mediation was successful in resolving the complaint. Mediation proceedings shall otherwise be confidential and shall not be made public unless agreed to in writing by both parties to the dispute.

d) Dismissal of the Complaint. Provided the Commission has not elected under subsection e) of this Section to use expanded procedures, the Commission shall, following the mediation, promptly notify the parties that they have dismissed the complaint. If the complaint was not resolved through mediation, this notice shall also indicate that the Person aggrieved has a right to pursue the matter in court by filing a lawsuit.

e) Option of the Commission to Elect for Expanded Procedures. The Commission shall have the authority, to elect to adopt expanded procedures, as set forth in subsections

f) – l) of this Section subject to approval by City Council and appropriation of funding for such procedures. A majority of Commission members must vote in favor of adopting expanded procedures in order for such procedures to be adopted. In the event that such procedures are adopted, they must, while in effect, be applied to all complaints that are not resolved through mediation. If the Commission has adopted expanded procedures it may also by majority vote, and in its sole discretion, eliminate such procedures.

f) Expanded Procedures: Dismissal or Non-Dismissal of the Complaint. If mediation was successful in resolving the complaint, the Commission shall follow the procedures set forth in subsection d) of this Section for dismissing the complaint. If mediation was not successful in resolving the complaint, the Commission shall not dismiss the complaint, but shall instead undertake the procedures set out in subsections g) – l) of this Section.

g) Expanded Procedures: Investigation. The Commission shall, in a timely fashion, investigate the allegations of discrimination set forth in the complaint. The Commission may, in the

conduct of such investigation, issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents, as necessary to assist in its investigation.

h) Expanded Procedures: Finding of No Cause. If it shall be determined after the Commission's investigation that there is no basis for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination. This notice shall inform the Person aggrieved that they have the right to pursue the matter in court by filing a lawsuit.

i) Expanded Procedures: Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful practice complained of by persuasion, conference and conciliation.

j) Expanded Procedures: Public Hearing. If the Commission, in its discretion, finds it is not possible to eliminate the unlawful practices by persuasion, the Commission shall cause to be issued and served a written notice, together with a copy of the complaint, which informs the respondent that they must answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice.

The Commission may designate one or more of its members to preside at such a hearing, or it may at its election conduct such hearing en banc.

At the public hearing, the case in support of the complaint shall be presented to the Commission by pro bono counsel, by Commission staff or by the City Solicitor's Office. The case in support of the complaint may instead be presented by the complainant's attorney, if the complainant is represented. Both the complainant and the respondent may appear at the hearing with or without counsel, and provide testimony. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses, and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing.

k) Expanded Procedures: Findings. If upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this act, the Commission shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

l) Expanded Procedures: Finding of No Discrimination. If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful discriminatory

practice, the Commission shall state its findings of fact, and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent.

183.07 Private Right of Action and Non-Limitation of Remedies

a) Any Person(s) aggrieved by a violation of this Ordinance shall have a right of action in the Northampton Court of Common Pleas or any other court of competent jurisdiction, and may recover for each violation the following remedies: 1) Back pay, front pay and other actual damages; 2) Emotional distress damages; 3) Exemplary damages; 4) Reasonable attorney's fees and court costs; and 5) Such other relief, including injunctive relief, as the court may deem appropriate.

b) The right of action created by this Ordinance may be brought: 1) upon receipt by the aggrieved Person(s) of notice that the Commission has dismissed the complaint; or 2) if no such notice is received, after one (1) year from the date of the filing of the complaint. If the Person aggrieved has received notice that the Commission has dismissed the complaint, an action under this Ordinance must be brought by the aggrieved Person within one (1) year from the date of receipt of said notice or it will be barred. Equitable principles such as waiver, estoppel and equitable tolling shall apply to the time limitations for the filing of any complaint or other pleading under this Ordinance.

c) Nothing in this Ordinance limits the right of an aggrieved Person to recover under any other applicable law or legal theory.

Article 183.08 Severability

If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.