

Borough of Carlisle

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF CARLISLE, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF CARLISLE TO ESTABLISH A HUMAN RELATIONS CHAPTER.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Carlisle, Cumberland County, Pennsylvania, as follows:

SECTION 1: The Code of the Borough of Carlisle is hereby amended to establish the following new Chapter:

CHAPTER 83

HUMAN RELATIONS

Article I

§83-1. Short title.

This ordinance shall be known as the "Borough of Carlisle Human Relations Ordinance."

§83-2. Purpose; declaration of policy.

A.
The Borough of Carlisle finds that it is of high public importance to adopt appropriate legislation to insure that all persons, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or sexual orientation, gender identity or gender expression, enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing, commercial property and public accommodation.

B.
The Council of Carlisle Borough hereby declares it to be the public policy of the Borough to foster equality and equal opportunity for all citizens, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression, in all matters affecting employment, housing and commercial property and public accommodation, and to safeguard the right of all persons to remain free from discrimination or discriminatory practices in any of the foregoing aspects of their lives.

C.
Nothing in this ordinance shall be construed as supporting, endorsing or advocating any particular doctrine, point of view, or religious belief. On the contrary, it is the express purpose and intent of this ordinance that all persons be treated fairly and equally and that all persons in Carlisle Borough be guaranteed fair and equal treatment under law.

D.

This ordinance shall be deemed an exercise of the police power of the Borough of Carlisle, as provided under the Pennsylvania Municipal Code, for the protection of the public welfare, prosperity, health and peace of the community of Carlisle Borough.

§83-3. Definitions; construal of terms.

A.

The following words and phrases, when appearing in this ordinance, shall have the meanings given to them under this section:

Borough

Means the Borough of Carlisle, County of Cumberland, Commonwealth of Pennsylvania

Borough Council

Borough Council of the Borough of Carlisle.

Discrimination

Any discriminatory act(s) taken by any person, employer, entity, employment agency, or labor organization, with respect to or involving a transaction related to employment or public accommodations, housing or commercial property on the basis of a person's actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

Discriminatory acts

All acts or actions defined in the Pennsylvania Human Relations Act[1] as unlawful discriminatory practices as related to employment, public accommodations, publicly offered commercial property or housing accommodations on the basis of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression. The below rights are hereby recognized as and declared to be civil rights, which shall be enforceable as set forth in Section 3 of the Pennsylvania Human Relations Act.

(1)

Employment

The opportunity for an individual to obtain employment for which he is qualified.

(2)

Public accommodation

The opportunity for an individual to access food, beverages, lodging, resort or amusement which is open to, accepts or solicits the patronage of the general public, but shall not include any accommodations that are in their nature distinctly private.

(3)

Commercial property or housing

The opportunity for an individual to obtain any commercial property or housing accommodation for which he is qualified.

Employee

Does not include (1) any individual employed in agriculture or in the domestic service of any person, (2) any individuals who, as a part of their employment, reside in the personal residence of the employer, (3) any individual employed by said individual's parents, spouse or child.

Employer

Any person who employs one or more employees, including the Borough, its departments, boards and commissions, and any other government agency within the jurisdiction of the Borough, save those of any government agency whose laws may be deemed preemptive of this ordinance.

Gender identity or expression

Self-perception, or perception by others, as male or female, including an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or assigned sex at birth, and that shall include, but is not limited to, persons who are undergoing or who have completed sex reassignment, are transgender, or are gender-variant.

Ordinance

This ordinance, which shall be referred to as the "Borough of Carlisle Human Relations Ordinance."

Person

Any natural person, fraternal, civic or other membership organization, corporation, general or limited partnership, proprietorship, limited-liability company, or similar business organization, including the Borough, its departments, boards and commissions, and any other for-profit and nonprofit organization.

Sexual orientation

Actual or perceived homosexuality, heterosexuality and/or bisexuality.

[\[1\]](#)

See 43 P.S. § 951 et seq.

B.

Any terms of this ordinance not expressly defined herein shall be construed in a manner consistent with the Pennsylvania Human Relations Act.

§83-4. Prohibited acts.

A.

Discrimination in employment, housing and commercial property or any public accommodation is prohibited under this ordinance.

B.

Retaliation against any individual because such person has opposed any practice forbidden by this ordinance or because such person has made a charge, testified, or assisted in any manner in any investigation or proceeding 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.

Exception.

It shall not be a prohibited act for a religious corporation or association to commit any of the acts as defined in Section 83-4 of this ordinance if based upon the religious corporation's or association's religious beliefs.

§83-5. Human Relations Commission.

A.

Pursuant to the authority set forth under § 962.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission for the Borough of Carlisle, which shall be known as the "Borough of Carlisle Human Relations Commission."

B.

The Borough of Carlisle Human Relations Commission shall consist of four members, who shall be appointed to terms of four years by the Carlisle Borough Council. The terms of the members of the Commission shall be staggered, such that the terms of one-quarter of the members of the Commission shall expire each year. All members of the Commission shall be residents or business owners of the Borough of Carlisle and shall serve without compensation.

C.

The Chairperson of the Commission will designate one member as needed to receive a complaint and conduct an intake meeting with the complainants. The member charged with this duty shall not participate in any mediations involving parties to the complaint for which they handled the intake, nor shall this member vote on complaints brought in front of the Commission.

D.

The Human Relations Commission shall, annually, designate one member to serve as Chairperson of the Commission. The Chairperson shall be responsible for coordinating the activities, meetings, and operations of the Commission, as set forth under this ordinance. The Chairperson shall also report, quarterly, to the Borough Manager regarding the activities of the Commission.

E.

Members of the Commission shall, as soon after their appointment as practical, attend such training and education seminars or sessions as deemed necessary to acquaint themselves with the functioning of the Borough of Carlisle Human Relations Commission under this ordinance, as well as the terms, conditions and provisions of the Pennsylvania Human Relations Act, and the operation of the Pennsylvania Human Relations Commission. Such training and education shall be as directed by the Chairperson and shall be performed in conjunction with the State Human Relations Commission.

F.

The Carlisle Borough Human Relations Commission shall have all of those powers necessary to execute the duties set forth under this ordinance, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

G.

The Carlisle Borough Human Relations Commission shall operate within the scope of funds that may be allocated, on an annual basis, by the Borough Council and shall not exceed the annual allocation in any year, except upon prior approval by the Borough Council. In adopting this ordinance, the Borough Council hereby expresses its intention that the operation of the Carlisle Borough Human Relations Commission under this ordinance shall be supported by volunteers, unpaid staff, and volunteer efforts and shall be as close to "zero cost" to the Borough as reasonably feasible.

§83-6. Procedures for filing complaints.

A.

Any person claiming to be aggrieved by a practice that is made unlawful under this ordinance may make, sign and file a verified complaint, as provided under Subsection **B** of this section, alleging violations of this ordinance. Such complaint shall, at a minimum, contain the following information:

(1)

The name, telephone number, mailing address and e-mail address (if applicable) of the aggrieved person(s);

(2)

The name, telephone number, mailing address and e-mail address (if applicable) of the person(s) alleged to have committed the prohibited practice;

(3)

A concise statement of the facts, including pertinent dates, time, locations, people, and acts involved constituting the alleged discriminatory practice;

(4)

Such other information as may be required by the Commission.

B.

Complaints may be filed in person at the office of the Borough Manager or by mailing such complaints to the Borough offices to the attention of the Borough Manager or the member of the Commission designated to handle intake. All such complaints must be received by the Borough within 180 days of the occurrence of the last act giving rise to the complaint, or such complaint shall be dismissed as untimely.

C.

The Borough Manager shall transmit all complaints received to the Chairperson of the Commission not later than 10 days after receipt of the complaint. The Borough Manager shall conspicuously mark the face of the complaint with the date the document was first received in the Borough offices.

D.

The Commission may promulgate forms for use by persons wishing to file a complaint; however, complaints that are prepared without the use of an approved form shall be deemed acceptable under this ordinance so long as the facts set forth under Subsection A of this section can be clearly determined from the document submitted as a complaint.

E.

The Commission may provide for a process by which persons seeking to file a complaint may consult with a volunteer or other staff person affiliated with the Commission who is trained to assist the prospective complainant in discerning the facts relevant to the prospective complaint. Such process shall also include referral of additional information to the prospective complainant concerning the content of this ordinance, the content of the Pennsylvania Human Relations Act, and the availability of the Pennsylvania Human Relations Commission as an additional venue within which the prospective complainant may seek redress when possible.

§83-7. Notifications by Commission; filing of answer by respondent.

A.

Within 30 days of the receipt of a complaint, the Commission shall:

(1)

Send a copy of the complaint to the person(s) charged with a discriminatory act or practice under this ordinance (the "respondent"), together with a copy of this ordinance.

(2)

Send a notice to the complainant, informing him or her that the complaint has been accepted and processed by the Commission. If the complaint alleges discrimination on a basis proscribed under federal or state law, the notice shall also inform the complainant of his or her right to file a complaint with the Pennsylvania Human Relations Commission or the federal Equal Employment Opportunity Commission, as well as the United States Department of Housing and Urban Development, where applicable.

(3)

Notify the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of that Commission, as required under the Human Relations Act.

(4)

Include a notice to both the complainant and the respondent(s) of their option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint.

B.

The respondent(s) shall file a written verified answer to the complaint within 30 days of service of the complaint. An answer shall be filed in the same manner as a complaint.

§83-8. Mediation.

A.

Within 30 days of receipt of an answer to a complaint or, where no answer is filed, within 60 days of service of the complaint upon the respondent(s), the Commission shall proceed in accordance with the following options, in the event that both parties have consented to mediation under **Section 83-7.A(4)**:

(1)

The Commission shall refer the matter to a recognized alternative dispute-resolution service, which same service may be provided through Cumberland County, the Cumberland County Bar Association, or any other professional mediation service provider, or may refer the matter to a licensed member of the Pennsylvania Bar who may be willing to perform service to the Commission as a volunteer mediator. Any costs or expenses that may be associated with the mediation shall be the responsibility of the parties.

(2)

The parties shall jointly select the mediator, however, the Commission shall retain the authority to act as the mediator in the event that the parties have agreed to mediation but cannot jointly agree on a mediator. Mediation sessions conducted by the Commission may proceed with a minimum of two eligible Commission members. Mediation sessions shall remain private and not otherwise subject to public attendance.

B.

When mediation has resulted in an amicable resolution of the complaint and the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed and shall record the result of the mediation in the notice of dismissal.

C.

In the event that the complaint has not been resolved through mediation, the parties are entitled to proceed to the Court of Common Pleas in Cumberland County.

§83-9. Nonlimitation of remedies.

Nothing contained in this ordinance shall be deemed to limit the right of an aggrieved person to recover under any other applicable law or legal theory.

§83-10. Effect on other filings.

This ordinance shall have no jurisdiction over matters that are the subject of pending or prior filings made by an aggrieved person before any state or federal court or agency of competent jurisdiction.

§83-11. Violations and penalties.

Any person who shall violate any provision of Section 83-4 of this ordinance may be subject by the Cumberland County Court of Common Pleas, or by any court of competent jurisdiction, to the penalties enumerated in Section 9(f)(1) and (2) and Sections 9.2, 9.3, 10 and 11 of the Pennsylvania Human Relations Act.^[1] The penalties contained in this ordinance shall mirror any future changes to the Pennsylvania Human Relations Act as adopted by the General Assembly and approved by the Governor.

A.

This ordinance extends the protections of the Pennsylvania Human Relations Act to include actual or perceived sexual orientation, gender identity or gender expression.

B.

The penalties included in the Pennsylvania Human Relations Act shall be extended to include all protected classes enumerated in the Borough of Carlisle Human Relations Ordinance.

SECTION 2: In all other respects, the Code of the Borough of Carlisle shall remain as previously enacted and amended, which said Code, as amended, is hereby re-enacted in its entirety.

SECTION 3: All ordinances or parts of ordinances or parts of the Code of the Borough of Carlisle inconsistent herewith are hereby repealed.

SECTION 4: The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Ordinance or any other provision, section, article or chapter of the Code of the Borough of Carlisle.

SECTION 5: This Ordinance shall become effective on March 1, 2017.

ENACTED AND ORDAINED this 8th day of December, 2016.

ATTEST:

BOROUGH OF CARLISLE

Joyce E. Stone, Secretary

Timothy A. Scott, Mayor

(Borough Seal)