

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF GETTYSBURG, ADAMS COUNTY, PENNSYLVANIA, PROHIBITING DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATION, HOUSING AND COMMERCIAL PROPERTY; ESTABLISHING THE GETTYSBURG BOROUGH LOCAL HUMAN RELATIONS COMMISSION, ESTABLISHING PROCEDURES FOR FILING COMPLAINTS WITH THE BOROUGH HUMAN RELATIONS COMMISSION, AND PROVIDING A MEDIATION REMEDY FOR FILED COMPLAINTS.

NONDISCRIMINATION AND LOCAL HUMAN RELATIONS COMMISSION

SECTION 1. PREAMBLE.

WHEREAS, the equality of all individuals is a basic tenet of the Constitution of the United States; and

WHEREAS, the population of the Borough of Gettysburg 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 race, color, sex, religion, religious creed or belief, ancestry, national origin, familial status, marital status, age, veteran status, mental or physical disability or handicap or the use of service or assistance animals or the handler or trainer of such service animals; and

WHEREAS, the direct negative and secondary effects of discriminatory practices involving the personal characteristics set forth herein in matters of employment, public accommodation, housing and commercial property in this country 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 residents, guests and employees, who respectively live, visit or work in the Borough of Gettysburg; and

WHEREAS, the Borough Council of the Borough of Gettysburg desires to establish and adopt an official policy of nondiscrimination within the Borough in all matters involving employment, public accommodation, housing and commercial property; and

WHEREAS, the Pennsylvania Human Relations Act, at 43 P.S. 962.1, authorizes the legislative body of a political subdivision to establish a local human relations commission

with certain powers similar to those of the Pennsylvania Human Relations Commission;
and

WHEREAS, the Borough Council of the Borough of Gettysburg recognizes the Pennsylvania Human Relations Commission Guidance on Discrimination on the Basis of Sex under the Pennsylvania Human Relations Act as an important interpretative resource;
and

WHEREAS, the Borough Council of the Borough of Gettysburg desires to establish a local human relations commission pursuant to the authority set forth in 43 P.S. §962.1 of the Pennsylvania Human Relations Act.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, by virtue of the power and authority vested in said Borough Council, as follows:

SECTION 2. SHORT TITLE.

This Ordinance may be cited as the "Borough of Gettysburg Nondiscrimination and Local Human Relations Commission Ordinance."

SECTION 3. PURPOSE; DECLARATION OF POLICY.

- A. The Borough of Gettysburg finds that it is of high public importance to adopt appropriate legislation to ensure that all persons, regardless of race, color, sex, religion, religious creed or belief, ancestry, national origin, familial status, marital status, age, veteran status, mental or physical disability or handicap or the use of service or assistance animals or the handler or trainer of such service animals, enjoy the full benefits of citizenship and are afforded equal opportunities for employment, public accommodation, housing and commercial property.
- B. The Borough Council of the Borough of Gettysburg hereby declares it to be the public policy of the Borough of Gettysburg to foster equality and equal opportunity for all citizens, regardless of race, color, sex, religion, religious creed or belief, ancestry, national origin, familial status, marital status, age, veteran status, mental or physical disability or handicap or the use of service or assistance animals or the handler or trainer or such service animals, in all matters affecting employment, public accommodation, housing and commercial property, 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. It is the express purpose and intent of this Ordinance that all persons be treated fairly and equally and that all persons within the Borough of Gettysburg be

guaranteed fair and equal treatment under law.

- D. This Ordinance shall be deemed an exercise of the police power of the Borough of Gettysburg, as provided under the Borough Code, for the protection of the public safety, welfare, health and peace of the community of the Borough of Gettysburg.

SECTION 4. DEFINITIONS.

- A. The following words and phrases when used in this Part shall have the meanings given to them in this section.

ACT – The Pennsylvania Human Relations Act, Act of 1955, P.L. 744, No. 222, 43 P.S. § 951 et seq., as amended.

BOROUGH - The Borough of Gettysburg, County of Adams, Pennsylvania.

BOROUGH COUNCIL - The Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

BOROUGH OFFICE – The municipal office building of the Borough of Gettysburg located at 59 East High Street, Gettysburg, Pennsylvania 17325.

COMMISSION – The Gettysburg Borough Human Relations Commission as established by this Ordinance pursuant to 43 P.S. § 962.1 of the Pennsylvania Human Relations Act.

COMPLAINANT(S) – Any person or persons filing a complaint alleging discriminatory acts committed in violation of this Ordinance.

DISCRIMINATION: Any discriminatory act or acts taken within the Borough of Gettysburg by any person, employer, employment agency, labor organization or public accommodation on the basis of race, color, sex, religion, religious creed or belief, ancestry, national origin, familial status, marital status, age, veteran status, mental or physical disability or handicap or the use of service or assistance animals or the handler or trainer of such service animals.

DISCRIMINATORY ACTS: Including, but not limited to, all acts set forth in the Human Relations Act, at 42 P.S. § 955, as unlawful discriminatory practices.

EMPLOYER: Any person, as defined in this section, including the Borough of Gettysburg, its departments, boards and commissions, and any other government agency or school district within its jurisdiction, employing four or more employees.

FAIR HOUSING ACT – The Fair Housing Act, P.L. 90-284, 42 U.S.C. § 3601 et seq., as amended.

GUIDANCE – The Pennsylvania Human Relations Commission Guidance on Discrimination on the Basis of Sex under the Pennsylvania Human Relations Act, issued on August 2, 2018, and any subsequent amendments thereto.

PERSON – One or more individuals, partnerships, associations, organizations, corporations, limited liability entities, or similar business entities including the Borough, its departments, authorities, boards and commissions, and other for-profit and nonprofit organizations.

PUBLIC ACCOMMODATION - Any accommodation including, but not limited to those set forth in the Pennsylvania Human Relations Act, at 43 P.S. § 954, which is open to, accepts or solicits the patronage of the general public or offers goods or services to the general public, but shall not include accommodations which are in their nature distinctly private.

RESPONDENT(S) – Any person or persons alleged to have committed discriminatory acts in violation of this Ordinance.

SEX – May refer to sex assigned at birth, sexual orientation, gender identity, gender expression, gender transition and/or transgender, defined as follows:

- (a) Sex assigned at birth – The assignment and classification of individuals at birth, including but not limited to male, female, intersex and the related physical differences between the sexes, such as pregnancy;
- (b) Sexual Orientation – An inherent or immutable enduring emotional, romantic or sexual attraction to other people, including but not limited to heterosexual, homosexual and bisexual;
- (c) Gender Identity – One’s innermost concept of self as male, female, a blend of both or neither. How individuals perceive themselves and what they call themselves. One’s gender identity can be the same or different from their sex assigned at birth.
- (d) Gender Expression – External appearance of one’s general identity, usually expressed through behavior, clothing, haircut or voice, which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

- (e) Gender transition – The process by which some people strive to more closely align their internal knowledge of gender with its outward appearance. Some people socially transition, whereby they might begin dressing, using names and pronouns and/or be socially recognized as another gender. Others undergo physical transitions in which they modify their bodies through medical interventions and procedures.
- (f) Transgender – An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation.

B. Any terms not expressly defined herein shall be construed in accordance with the Pennsylvania Human Relations Act and consistent with the Guidance issued by the Pennsylvania Human Relations Commission.

SECTION 5. UNLAWFUL PRACTICES/PROHIBITED ACTS.

- A. Discrimination in employment, public accommodations, housing and commercial property, within the Borough of Gettysburg, 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 or proceeding under this Ordinance is prohibited.
- 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.

SECTION 6. EXCEPTIONS.

- A. Nothing contained herein shall apply to a religious corporation, association, educational institution or society, not supported in whole or in part by governmental appropriations, with respect to the employment of individuals of a particular religion to perform work directly connected to carrying on its religious activities.
- B. Nothing contained herein shall bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious

organization, not supported in whole or in part by governmental appropriations, from limiting admission to or giving preference to persons of the same religion or denomination with regard to the occupancy, leasing, sale or purchase of any housing accommodation.

SECTION 7. ESTABLISHMENT OF LOCAL HUMAN RELATIONS COMMISSION.

The Gettysburg Borough Human Relations Commission (hereinafter referred to as the “Commission”) is hereby established pursuant to the authority set forth in 43 P.S. §962.1 of the Pennsylvania Human Relations Act.

- A. The Commission shall consist of five (5) members. The terms of office of the Commission members shall be five (5) years and the terms shall be so fixed that the term of office of one (1) member of the Commission shall expire each year, and members may succeed themselves. The membership of the Commission shall be appointed by resolution adopted by the Borough Council. The Borough Council may also appoint at least one, but no more than three individuals to serve as an alternate member or members of the Commission. The term of office of an alternate member shall be three (3) years. The Commission shall promptly notify the Borough Council of any vacancies which occur in the membership of the Commission. Appointments by the Borough Council to fill vacancies shall be only for the unexpired portion of the term of membership.
- B. Members or alternate members of the Commission must be either residents of the Borough or must be employed on a full-time basis within the Borough with their principal office or primary place of employment located within the Borough. The full membership of the Commission shall be comprised of at least three residents of the Borough. In making its appointments to the membership of the Commission, the Borough Council may provide due consideration to an individual who is an attorney or who has a background of service within the legal community of the Borough and Adams County; and may also provide due consideration to an individual from the Gettysburg Ministerium of Churches. A member or alternate member of the Commission shall not hold another Borough office, either elected or appointed, and shall not be an employee of the Borough. Members or alternate members of the Commission may not hold office in any political party. Members or alternate members of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in the performance of their duties.
- C. The Commission shall elect from its membership a chairperson who shall serve an annual term and, if elected, may serve successive terms as Chairperson. The Chairperson shall be responsible for setting Commission meetings, coordinating with the Borough 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 Commission members. The Chairperson shall report to the Borough Council quarterly regarding the activities of the Commission.

- D. 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 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 may be performed in conjunction with the Pennsylvania Human Relations Commission or such other qualified trainer or educator in any such related fields to include that of mediation.
- E. The Commission shall have all authority and powers necessary to carry out the purposes of this Ordinance and the duties of the Commission hereunder, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.
- F. The 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 of the Borough Council. In adopting this Ordinance, the Borough Council hereby expresses its intention that the operation of the Commission shall be supported by volunteers and volunteer efforts and shall be as close to “zero cost” to the Borough as is reasonably feasible.

SECTION 8. PROCEDURES FOR FILING COMPLAINT.

- A. Any person(s) claiming to be aggrieved (the “Complainant(s)”) by discriminatory acts may make, sign and file a verified complaint alleging violations of this Ordinance, which shall include the following information:
 - 1) The name, phone number, and address of the Complainant(s);
 - 2) The name, phone number, and address of the person(s) alleged to have committed the discriminatory act or acts (the “Respondent(s)”);
 - 3) A concise statement of the facts, including pertinent dates and locations, constituting the alleged discriminatory act or acts;
 - 4) If applicable, the address and a description of any residential or commercial property or public accommodation that is involved; and
 - 5) Such other information as may be required by the Commission.

B. Complaints shall be filed in person at the Borough Office or by mailing such complaints to the Borough Office.

- 1) All complaints must be received by the Borough Office within sixty (60) days of the alleged discriminatory act or acts in order to be considered timely.
- 2) All complaints shall be directed to the Borough Manager's Office.
- 3) The Borough Manager's Office shall convey the complaint to the Chairperson of the Commission within ten (10) days of receipt of the complaint.
- 4) The Commission may designate forms for use by persons to file a complaint; however, complaints submitted in other formats will be accepted provided that such formats include all information required in subsection A. herein relative to the filing of complaints.

SECTION 9. NOTIFICATIONS BY COMMISSION; FILING OF ANSWER

A. Within thirty (30) days of its receipt of a complaint, the Commission shall:

- 1) Provide a copy of the complaint to the Respondent(s) together with a copy of this Ordinance;
- 2) Provide notice to the Complainant(s), confirming that the complaint has been received and processed. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the Complainant shall also provide information of a possible right to file with the Pennsylvania Human Relations Commission and/or with the federal Equal Employment Opportunity Commission; and
- 3) Provide notice to the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of the Pennsylvania Human Relations Commission.

B. Within thirty (30) days of receipt of the complaint, the Respondent(s) shall file a written verified answer. An answer to a complaint may be filed in the same manner as an original complaint. If the answer is filed with the Borough Office, it shall be conveyed by the Borough Manager to the Chairperson of the Commission within ten (10) days of filing.

- C. Within ten (10) days of receipt of the answer, the Commission shall provide a copy of the answer to the Complainant(s).
- D. Within thirty (30) days of the filing of the answer, the Commission shall provide notice to both the Complainant(s) and the Respondent(s) of the option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint. The Commission shall assist in facilitating said mediation.

SECTION 10. MEDIATION.

- A. Within forty-five (45) days of receipt of an answer to a complaint or, where no answer is filed, within sixty (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 9.D.
- B. The Commission shall refer the matter to a recognized alternative dispute-resolution service, organization or any other professional mediation service provider. Any costs or expenses that may be associated with the mediation shall be the responsibility of the parties.
- C. The parties shall jointly select the mediator; however, the Commission shall retain the authority to act as the mediator if the parties have agreed to mediation but cannot jointly agree on a mediator. A minimum of three (3) Commission members must be present in order to conduct a mediation session.
- D. Mediation sessions, whether conducted by a third-party mediator or by the Commission, shall be confidential and are not subject to public participation under the Sunshine Act (65 Pa. C.S. § 701 et seq.). Neither the mediation sessions nor the results thereof shall be subject to public access under the Right-to-Know Law (65 P.S. § 67.101 et seq.) or any other applicable law or regulation except upon written consent of all of the parties to the mediation.
- E. The parties shall notify the Commission whether the mediation was successful in resolving the complaint.
- F. If 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 a notice of dismissal.
- G. If mediation has not resulted in an amicable resolution of the complaint, and if the complaint alleges a violation of this Ordinance which is also prescribed under the

Act, the Commission shall notify the parties that the complaint has been dismissed and, at the election of the Complainant, may refer the complaint to the Pennsylvania Human Relations Commission for further proceedings, if allowed and authorized to do so pursuant to the Act.

- H. If the complaint has not been resolved through mediation, the Complainant(s) may elect to proceed to the Court of Common Pleas of Adams County, Pennsylvania.
- I. In the event the complaint proceeds to either the Pennsylvania Human Relations Commission or to the Court of Common Pleas of Adams County, the Commission shall dismiss the complaint and notify the parties that the Commission no longer has jurisdiction over the matter. The notification shall reference the filing requirements and deadlines set forth in section 962 of the Act (43 P.S. § 962), and any amendments thereto.

SECTION 11. PRIVATE RIGHT OF ACTION AND NO LIMITATION OF REMEDIES.

Nothing contained in this Ordinance shall be deemed to limit the right of any Complainant(s) from pursuing any applicable civil, state, or federal remedy following exhaustion of the administrative mediation remedy under this Ordinance.

SECTION 12. EFFECT ON OTHER FILINGS.

This Ordinance shall have no jurisdiction over matters that are the subject of pending or prior filings made by Complainant(s) before any state or federal court or agency of competent jurisdiction.

SECTION 13. VIOLATIONS AND PENALTIES.

Any person who shall violate any provision of this Ordinance may be subject to any of the penalties enumerated in the Pennsylvania Human Relations Act imposed by the Pennsylvania Human Relations Commission, the Court of Common Pleas of Adams County or by any other court having competent jurisdiction over the matter. Because mediation is the sole administrative remedy provided for herein, the Gettysburg Borough Human Relations Commission shall not have jurisdiction to enter any penalty or enforce the same against a person for a violation of this Ordinance.

SECTION 14. SEVERABILITY.

The provisions of this Ordinance or Part are severable, and if any section, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of that court shall not affect or impair the remaining

sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council of the Borough of Gettysburg that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included in this Ordinance or Part.

SECTION 15. REPEALER. All other ordinances or parts of ordinances inconsistent herewith are hereby repealed insofar as the same affect this Ordinance.

SECTION 16. EFFECTIVE DATE. This Ordinance shall take effect upon enactment.

THIS ORDINANCE DULY ENACTED AND ORDAINED according to law on this 14th day of December, 2020, at a duly advertised monthly general business meeting of the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

BOROUGH OF GETTYSBURG

By: _____
Jacob W. Schindel
President of Borough Council

ATTEST:

By: _____
Sara L. Stull, Secretary

APPROVED this ___ day of December, 2020.

By: _____
Theodore H. Streeter, Mayor