

ORDINANCE NO. 20-947

**AN ORDINANCE OF THE BOROUGH OF
SHIPPENSBURG, CUMBERLAND AND FRANKLIN
COUNTIES, PENNSYLVANIA, PROHIBITING
DISCRIMINATION BASED ON ENUMERATED
CHARACTERISTICS AND CREATING THE BOROUGH
OF SHIPPENSBURG HUMAN RELATIONS COMMISSION.**

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Borough of Shippensburg, Cumberland and Franklin Counties, Pennsylvania, as follows:

WHEREAS, the Council of the Borough of Shippensburg desires that all residents and visitors be treated fairly and equally; and

WHEREAS, the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963 (the "Act"), provides that the legislative body of a political subdivision may authorize the establishment of a local Human Relations Commission; and

WHEREAS, the Act provides the Borough of Shippensburg the authority to grant to the local commission powers and duties similar to those now exercised by the Act; and

WHEREAS, the Borough Code, 8 Pa. C.S. §§ 101-3501, provides in Section 1202(5) thereof that the Council of the Borough of Shippensburg may make regulations as may be necessary for the health, safety, morals, general welfare, and cleanliness, beauty, convenience, comfort, and safety of the Borough; and

WHEREAS, the Council of the Borough of Shippensburg finds it to be in the health, safety, and welfare of the Borough of Shippensburg to establish a Local Human Relations Commission.

SECTION 1: The above recitals are incorporated herein by reference.

SECTION 2: The Code of the Borough of Shippensburg is hereby amended by changing the title of Chapter 43 from "(Reserved)" to "Human Relations Commission" with the contents thereof to be as follows:

§ 43-1 Purpose and Declaration of Policy

- A. The practice or policy of discrimination against individuals or groups by reason of their race, color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender identity, national origin, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals is a matter of concern of the Borough of

Shippensburg. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Borough of Shippensburg, and undermines the foundations of a free democratic state. The denial of equal employment, housing and public accommodation opportunities because of such discrimination, and the consequent failure to utilize the productive capacities of individuals to their fullest extent, deprives large segments of the population of the Borough of Shippensburg of earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts, thereby resulting in grave injury to the public health and welfare, compels many individuals to live in dwellings which are substandard, unhealthful and overcrowded, resulting in racial segregation in public schools and other community facilities, juvenile delinquency and other evils, thereby threatening the peace, health, safety and general welfare of the Borough of Shippensburg and its inhabitants

- B. It is hereby declared to be the public policy of this Borough of Shippensburg to foster the employment of all individuals in accordance with their fullest capacities regardless of their race, color, religious creed, ancestry, age, sex, sexual orientation, gender identity, national origin, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, 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 race, color, familial status, religious creed, ancestry, age, sex, national origin, handicap or disability, use of guide or support animals because of blindness or deafness of the user or because the user is a handler or trainer of guide or support animals
- C. Nothing in this Ordinance shall be construed as supporting or advocating any particular doctrine, position, point of view, or religious view. To the contrary, it is the intention of this Ordinance that all individuals 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 residents and visitors of the Borough.
- D. This Ordinance shall be deemed an exercise of the police power of the Borough for the protection of the public health, safety, and welfare.

§ 43-2 Short title

This Ordinance shall be known and may be cited as the "Shippensburg Borough Anti-Discrimination Ordinance."

§ 43-3 Definitions

A. Interpretation & Guidance.

- (1) These definitions shall be interpreted consistent with the Pennsylvania Human Relations Commission Guidance or interpretation under the Pennsylvania Human Relations Act, where applicable.
- (2) In the event of a conflict between the interpretation of a provision of the Pennsylvania Human Relations Act (the "Act") and the interpretation of a provision contained

within this Ordinance, the interpretation of the provision of the Act shall apply to this Ordinance.

- B. Borough – the Borough of Shippensburg, Cumberland County, Pennsylvania.
- C. Borough Council – the Borough Council of the Borough of Shippensburg.
- D. Discrimination – any discriminatory act(s) taken by any person, employer, employment agency, labor organization, or public accommodation on the basis of race, color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender identity, national origin, handicap or disability, or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals.
- E. Discriminatory acts – 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 gender expression, genetic information, or marital status shall not exempt such practice from being considered a discriminatory act under this Ordinance.
- F. Employee – does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.
- G. Employer – Includes the Borough of Shippensburg or any board, department, or commission thereof and any person employing four or more persons within the Borough,, but except as hereinafter provided, does not include religious, fraternal, charitable or sectarian corporations or associations, except such corporations or associations supported, in whole or in part, by governmental appropriations. The term “employer” with respect to discriminatory practices based on race, color, age, sex, national origin or non-job-related handicap or disability, includes religious, fraternal, charitable and sectarian corporations and associations employing four or more persons within the Borough.
- H. Ordinance – This ordinance, the Shippensburg Borough Anti-Discrimination Ordinance
- I. Pennsylvania Human Relations Act or the “Act” – The legislation known as the Pennsylvania Human Relations Act found at 43 P.S. § 951-963.
- J. Person – Includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees in bankruptcy or receivers. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, independent contractor, lending institution and the Borough of Pennsylvania, and all political subdivisions, authorities, boards and commissions thereof.
- K. Public accommodation – 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.

§ 43-4 Unlawful practices

- A. Discrimination in housing, employment, or Public Accommodations, or in access to educational institutions, 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.
- D. Advertisements or signs indicating that a business discriminates based on characteristics protected under this ordinance are prohibited under this chapter.

§ 43-5 Exceptions

- A. Nothing in this Ordinance, regarding age or familial status, shall apply with respect to housing for older persons, as that phrase is defined in 43 P.S. § 954. A person shall not be held personally liable for monetary damages for a violation of this Ordinance if the person reasonably relied, in good faith, on the application of the exemption of this subsection. A person may only prove good faith reliance on the application of the exemption of this subsection by proving that at the time of the act complained of all of the following applied:
 - (1) The person had no actual knowledge that the housing was not eligible for exemption under this subsection.
 - (2) The owner or manager of the housing had stated formally, in writing, that the housing complied with the requirements for exemption under this subsection.
- B. Nothing in this Ordinance shall bar any religious or denominational institution or organization or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization from giving preference to persons of the same religion or denomination or to members of such private or fraternal organization or from making such selection as is calculated by such organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained. Nor shall it apply to the rental of rooms in a landlord-occupied rooming house with a common entrance, nor with respect to discrimination based on sex, the advertising, rental or leasing of housing accommodations in a single-sex dormitory or rooms in one's personal residence in which common living areas are shared.
- C. Nothing in this Ordinance limits the applicability of the Fair Housing Act and reasonable State or local restrictions on the maximum number of occupants permitted to occupy a dwelling or a reasonable restriction relating to health or safety standards or business necessity. Owners and managers of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit so long as the standards do not violate the Fair Housing Act or State or local restrictions.

§ 43-6 Establishment of Human Relations Commission

- A. Pursuant to 43 P.S. § 962.1 of the Pennsylvania Human Relations Act, there is hereby established a Human Relations Commission in and for Shippensburg Borough (hereinafter referred to as the "Shippensburg Borough Human Relations Commission" or the "Commission").
- B. The Shippensburg Borough Human Relations Commission shall consist of five (5) members who shall serve overlapping terms of three years each. Of the initial five (5) members, one member shall serve a term for a period of one (1) year; two members shall serve a term for a period of two (2) years; and two members shall serve a term for a period of three (3) years; each of these terms shall begin with the effective date of this Ordinance. There shall be an odd number of members, though the Commission may continue to operate with an even number of members pending appointment of new members, if necessary. All members of the Commission shall be appointed by the Borough Council. The Commission may elect up to three non-voting, *ex officio* members to broaden the diversity that serves on the Commission. Members shall be residents of the Borough or individuals who work full time within Shippensburg Borough.
- C. The 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.
- D. The Shippensburg 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 Shippensburg 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.

§ 43-7 Procedures

- A. Filing a Complaint.
 - (1) 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:
 - (a) The name and address of the aggrieved person(s);
 - (b) The name and address of the person(s) alleged to have committed the prohibited practice;
 - (c) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice;
 - (d) If applicable, the address and a description of the dwelling unit that is involved; and
 - (e) Such other information as may be required by the Borough.

- (2) Complaints may be filed in person at the Borough of Shippensburg municipal building or by mailing such complaints to the Borough of Shippensburg or to the chairperson of the Commission. All complaints must be received by the Borough Manager or by the Commission within 180 days of the alleged act of discrimination to be considered timely.
- (3) The Borough Manager shall convey all original complaints received by that office to the Chairperson of the Commission within 10 days of the Borough's receipt of such complaints.

B. Notification and Answer.

- (1) Within 30 days of its receipt of a complaint, the Commission shall:
 - (a) Send a copy of the complaint to the person(s) charged with a discriminatory practice (the "Respondent"); and
 - (b) Send a notice to the person(s) aggrieved, informing them that the complaint has been received. If the complaint alleges discrimination on a basis proscribed under federal or state law, the notice sent to the person(s) aggrieved shall also inform them of the right to file with the Pennsylvania Human Relations Commission and/or with the Federal Equal Employment Opportunity Commission.
 - (c) Send a notice to the Pennsylvania Human Relations Commission of the complaint received involving the alleged discriminatory act.
- (2) The Respondent(s) shall file a written verified answer to the complaint within 60 days of receipt of the complaint. An answer to the complaint may be filed in the same manner as an original complaint. If the answer is filed at the Borough of Shippensburg municipal building, it shall be conveyed by the Borough Manager to the Chairperson of the Commission within 10 days of the Borough's receipt thereof. The Commission shall promptly send a copy of the answer to the person(s) aggrieved.

C. Mediation.

- (1) After the answer has been received, the Commission shall, within 60 days, invite the parties to voluntarily participate in the mediation of their dispute. The parties shall respond to the invitation to mediate within 30 days of being invited to mediate their dispute.
- (2) If mediation is elected by the parties, the parties may jointly select a qualified mediation service, in which case the parties shall share financial responsibility for all costs and expenses associated with mediation, by direct arrangement with the mediation service. If the complaint concerns employment or public accommodation, the parties may select the mediation service of the Pennsylvania Human Relations Commission. If the parties elect mediation, but do not jointly select a mediator, the Commission shall select a mediator who may be a trained member of the Commission, a trained volunteer from the community, or a contracted mediation service with human relations expertise. The Commission shall assign cost-free mediators only unless the parties agree to share the costs of the mediator, or funds are approved for contracted mediation services by the Borough Council, or are obtained from an outside funding source.

- (3) If the parties elect not to participate in mediation, the Commission shall notify the parties that the complaint has been dismissed and shall record in the Notice of dismissal that the parties have elected not to participate in mediation.
- (4) 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.
- (5) In the event the complaint has not been resolved through mediation, the parties are entitled to proceed to the Court of Common Pleas of Cumberland County or the Court of Common Pleas of Franklin County.

SECTION 3. In all other respects, the Code of the Borough of Shippensburg shall remain as previously enacted and amended, which said Code, as amended, is hereby reenacted in its entirety.

SECTION 4. All ordinances or parts of ordinances or parts of the Code of the Borough of Shippensburg inconsistent herewith shall be repealed.

SECTION 5. 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 Shippensburg.

SECTION 6. This Ordinance shall become effective on January 1, 2021.


ATTEST:



Secretary


Mayor

BOROUGH OF SHIPPENSBURG


Council President