

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 46 - 2025

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May 7 , 2025

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AN ORDINANCE

Repealing and Replacing Chapter 27 DISCRIMINATION AND HUMAN RELATIONS COMMISSION of the City's Code with updated provisions expanding protected classes and prohibitions and establishing various other regulations.

**WHEREAS** the history of the United States is made up of a broad and diverse assembly of both indigenous people and those traveling to America to seek opportunities for a better life open to all, free from hate and religious persecution, and

**WHEREAS** this nation was founded on the principal that all are created equal, and...

**WHEREAS** the Commonwealth of Pennsylvania was one of the first states in the nation to pass a Human Relations Ordinance banning discrimination on such classes as race religion, national origin, and sex, in 1955; and

**WHEREAS** within this legislated state ordinance the framers of that law specifically provided for municipalities, such as the City of Allentown and so far, 75 other municipalities, the right to create, pass, and from time to time modify their own local Human Relations Ordinance for the good of its own constituents, and

**WHEREAS**, the population of the City of Allentown consists of people of every race, ethnicity, color, religion, national origin, sex, sexual orientation, gender identity and expression, ancestry, age, disability, source of income, marital status, and family status, and

**WHEREAS** the City of Allentown is committed to preventing discrimination in employment opportunities, public accommodations, education, healthcare, and housing; and has enacted local ordinances prohibiting discrimination in employment, housing, public accommodation, and believes that all individuals add to the quality of our community's lives and should be treated fairly, with respect and dignity, and with full rights and...

**WHEREAS**, the residents, students, employees, families, business owners, visitors, and people who are from all walks of life, work, live, study, do business, seek healthcare within the City, are of many races, ethnic origins, religions, and are from other countries, are from the Disability Community, are LGBTQ, are of all ages, all contribute, and the rich and radiant diversity of the City, and

**WHEREAS**, the City of Allentown was on of the very cutting edge of the passage of non-discrimination ordinances, being just the sixth City in the State to create such a law in 1963, and...

**WHEREAS**, the City of Allentown made history in 2002 by being the very first municipality in the Commonwealth of Pennsylvania to legally protect the rights of transgender people by specifically including Gender Identity in its list of protected class and...

**WHEREAS**, the City of Allentown has modified and updated the language of its Human Relations Ordinance to conform to the needs of those in society who are discriminated against solely based on bias against their minority or disenfranchised class that has nothing to do with their ability to perform a job, be a good tenant or neighbor, have the right to healthcare, their ability to be a good student or teacher, or their to equal access to public accommodation, including adding protections based on sex, disability, veteran status, GED education, genetic information, and sexual orientation and gender identity, and other classes, and

**WHEREAS**, Lehigh County has recently adopted a Human Relations Ordinance with additional protected classes; and

**WHEREAS**, Allentown City Council is committed to working hand in hand with Lehigh County's Human Relations Commission and recognizes and supports that there may be times when the County's Human Relations Commission may not be able to handle an Allentown claim, or may be in a better position to handle a case of discrimination that took place in the City of Allentown especially when there may be a conflict of interest, but also recognizes its own responsibility to provide protection from discrimination for its own citizens in every way it is able to do so, and commits to continuing to offer these layers of protection to all the people of Allentown in these uncertain times, and

**WHEREAS**, Allentown City Council desires to further enhance and update prohibitions against discrimination in employment, housing, and public accommodations; and also, specifically to also extend those protection into the areas of Healthcare and Education, and...

**WHEREAS**, Allentown City Council fully understands that current situations in our society today require that legislators who care about the health, security, safety, and well-being of ALL people within the borders of its jurisdiction need legal protection from unfair bias without further ado...

**NOW THEREFORE BE IT RESOLVED THAT ALLENTOWN CITY COUNCIL HEREBY ADOPTS THE FOLLOWING ALLENTOWN HUMAN RELATIONS COMMISSION ORDINANCE:**

**SECTION ONE:** Chapter 27, Discrimination and Human Relations Commission, of the City's Codified Ordinances, be hereby repealed and replaced with the following:

## **Allentown Human Relations Ordinance**

### **PURPOSE**

A. Be it known to all that the City of Allentown does hereby declare its intent to promote the rights and opportunities of all persons to participate in the social, cultural, recreational, and economic life of the City and to assure equal opportunity for all persons concerning employment, housing, education, healthcare, and use of public accommodations without regard to actual or perceived race, ethnicity, color, religion, creed, national origin or citizenship status, ancestry, sex (including pregnancy, childbirth, and related medical conditions), gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, GED rather than high school diploma, physical or mental disability, relationship or association with a disabled person, source of income, age, height, weight, veteran status, use of guide or support animals and/or mechanical aids, or domestic or sexual violence victim status.

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

C. Nothing in this Ordinance shall be construed to require any person to violate existing laws of local municipalities, the County, the State or the United States.

### **DEFINITIONS**

The following words, terms and phrases when used in this Ordinance shall be defined as follows, unless the context clearly indicates otherwise:

#### **1 Accessible**

Being in compliance with the applicable standards set forth in the following:

A. The Fair Housing Act (Public Law 90-284 as amended, 42 U.S.C. § 3601 et seq.);

B. Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. § 12101 et seq.);

C. Pennsylvania Construction Code Act, 35 P.S. §7210.101 et seq.

## **2 Advertisement or advertising**

As defined in the Pennsylvania Human Relations Act – 43 P.S. §954.

## **3 Advertiser**

Any person who places, publishes, broadcasts or similarly causes to be disseminated by

any other means an advertisement or advertising as defined herein.

## **4 Age**

Includes any person over the age of thirty-five (35) years and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.

## **5 AIDS**

Acquired Immunodeficiency Syndrome.

## **6 Citizen Status of National Origin**

Individuals protected by Section 1324b of the Immigration and Nationality Act, 8 U.S.C. §1324b.

## **7. City**

The City of Allentown, Pennsylvania

## **8 Commercial Property**

A. Any building, structure or facility, or portion thereof, which is used, occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a manufactory or any public accommodation; and

B. Any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, facility, business concern or public accommodation.

## **9 Commercial Housing**

Housing accommodations held or offered for sale or rent:

A. by a real estate broker, salesperson or agent or by any person pursuant to authorization of the owner;

B. by the owner themselves, or their legal representative, but shall not include either the rental of a room or rooms in a personal residence where the rental includes shared space in the personal residence.

## **10 Commission**

The City of Allentown Human Relations Commission.

## **11 Common Carrier**

A person holding themselves out to the general public to provide transportation for compensation.

## **12 County**

The County of Lehigh, Pennsylvania.

## **13 Disability**

A. The term “handicap or disability,” (hereafter referred to as disability) with respect to a person, means:

1. a physical or mental impairment which substantially limits one or more of such person’s major life activities;
2. a record of having such an impairment; or

3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. §802).

B. The term “non-job-related disability” means any disability which does not substantially interfere with the ability to perform the essential functions of the employment for which a disabled person applies, 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 disability job-related.

C. As used herein, the phrase: “physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss;

2. Any mental or psychological disorder, including, but not limited to, autism spectrum disorder, emotional or mental illness, and intellectual and learning disabilities.

3. Contagious and non-contagious diseases and conditions, including but not limited to orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, AIDS, Long COVID, and any other conditions protected under the Americans with Disabilities Act, 42 U.S.C. §12101 et seq.

## **14 Discrimination**

Any exclusion, denial, intimidation, coercion, difference or segregation in treatment because of an individual’s membership in a protected class in the following areas:

A. hiring, referring for hire, promoting, training, including apprenticeship programs;

B. membership in employee or labor organizations;

C. the advertisement, sale, lease, rental, financing or zoning of housing;

D. the provision of healthcare;

E. education; or

F. rendering service in places of public accommodation.

G. It is illegal to discriminate or harass a person in the areas of employment, housing, public accommodation, education, or healthcare based on their natural hair or hairstyle, as long as natural hair or hairstyle poses no danger or impedes job performance.

## **15 Educational Institution**

Public or private education provider, charter school, college, university, trade or training school, pre-school, daycare provider, or other educational entity,

## **16 Employee**

A. An employee is an individual who works under the supervision or control of an employer.

B. The term “employee” does not include an individual employed by said individual’s parents, spouse, or child.

## **17 Employer**

Any person or organization who employs one or more employees, exclusive of parents, spouse, or children. This term includes the City, its departments, authorities, boards, and commissions, as well as political subdivisions and school districts.

## **18 Employment Agency**

Any person regularly undertaking with or without compensation to procure opportunities to

work or to procure, recruit, refer or place employees.

## **19 Fair Housing Act**

Public Law 90-284, 42 U.S.C. § 3601 et seq.

## **20 Familial Status**

A. One or more individuals who have not attained the age of 18 years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals; or

2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

B. The protections 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.

## **21 Gender Expression**

The external appearance of one's gender identity, usually expressed through behavior, clothing, haircut, voice, chosen name, and/or pronouns, and which may or may not conform to socially defined behaviors and characteristics typically associated with being male or female.

## **22 Gender Identity**

Self-perception, or perception by others, as male, female, non-binary, or gender diverse, and shall include an individual's appearance, behavior, or physical characteristics, may refer to gender expression, sex assigned at birth, transgender identity, gender transition, that may be in accord with, or opposed to, physical anatomy, DNA, chromosomal sex, or sex assigned at birth, and shall include, but is not limited to, persons who are gender variant, persons who have completed or are in the process of gender transition, or who are undergoing or have completed sex affirmation hormonal treatments or gender affirming surgeries.

## **23 Genetic Information**

That information which is defined as genetic information in the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff et seq.

## **24 Discrimination Based on Genetic Information**

A. to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

B. to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities, or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.



## **25 Health Care Provider**

Means a licensed healthcare provider and their assistants and staff, including but not limited to a medical doctor, osteopath, dentist, podiatrist, optometrist, optician, chiropractor, psychologist, social worker, pharmacist, nurse, midwife, emergency medical technician, radiologist, x-ray technician, therapist, physician's assistant, or dental hygienist. This term also includes a group or institutional provider of healthcare, such as a hospital, skilled nursing facility, assisted living facility, clinic, laboratory, home healthcare provider, medical office and the employees of such entities.

## **26 HIV**

Human Immunodeficiency Virus, also referred to as HIV Disease. The spectrum of disease clinically associated with HIV infection, encompassing both the symptomatic and asymptomatic forms of the infection.

## **27 Housing Accommodations**

- A. Any building, structure, mobile home site, hotel, motel, campground, shelter, dormitory or facility, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families, whether or not living independently of each other.
- B. Any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility.
- C. The term "housing accommodation" shall not include any owner-occupied personal residence offered for rent by the owner thereof when personal living space is to be shared with the owner.

## **28 Housing for Older Persons**

Housing which satisfies the requirements set forth in the Fair Housing Act and its regulations for housing for older persons.

## **29 Independent Contractor**

An individual providing services who is free from direction or control over the performance of the services, both under the contract of service and in fact, and is customarily engaged in an independently established trade occupation profession or business. Includes 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 (Public Law 90-284, as amended, 42 U.S.C. § 3601 et seq.).

### **30 Labor Organization**

Any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.

### **31 Lending Institution**

Any bank, insurance company, savings and loan association, credit union, or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

### **32 Licensed Common Carrier**

Includes transportation provided by buses, trolleys, taxis, limousines, and shuttles.

### **33 Marital Status**

The status of being single, married, separated, divorced, widowed or a life partner.

### **34. National origin or citizenship status**

Individuals protected by Section 1324b of the Immigration and Nationality Act, 8 U.S.C. §1324b.

### **35. Ordinance**

The City of Allentown Human Relations Ordinance.

### **36 Owner**

Includes lessee, sublessee, assignee, manager, agent, or any other person or organization having the right of ownership or possession or the authority to sell, rent or

lease any housing accommodation, including political subdivisions and the County and its authorities, boards and commissions.

### **37 Pennsylvania Human Relations Act**

Public Law 744, No. 322, 43 P.S. §951 et seq., as amended.

### **38 Person or Organization**

Includes one or more individuals, a general or limited partnership, association, organization, for profit and not-for-profit corporation, sole proprietorship, limited liability company, legal representative, trustee in bankruptcy or receiver. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, agent, employee, independent contractor, volunteer, lending institution, political subdivision, and the County and its authorities, boards and commissions.

### **39 Political Subdivision**

Any city, borough, incorporated town or township located within Lehigh County.

### **40 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 by membership within a not-for-profit mission-driven organization whose mission requires a narrowed provision of services not based on race.

### **41 Protected Class**

Actual or perceived race, ethnicity, color, religion, creed, national origin or citizenship status, ancestry, sex (including pregnancy, childbirth, and related medical conditions), gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, GED rather than high school diploma, physical or mental disability, relationship or association with a disabled person, source of income, age, height, weight, veteran status, use of guide or support animals and/or mechanical aids, or domestic or sexual violence victim status.

## **42 Real Estate-Related Transaction**

Includes any of the following:

- A. The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or
- B. The purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or
- C. The selling, brokering, using as collateral or appraising of real property.

## **43 Religion**

The term "religion" includes all aspects of religious observance and practice, as well as belief.

## **44 Sex**

Male, female, or non-binary. Includes the gender of a person, gender identity, gender expression, affectional or sexual orientation, transgender identity, intersex, gender transition, sex assigned at birth, natal sex, as perceived, presumed or assumed by others. Sex as a class includes pregnancy, childbirth, breastfeeding, and related medical conditions.

## **45 Sexual Orientation**

Inherent or immutable enduring emotional, romantic, or sexual attraction to other people. Includes being gay, lesbian, bisexual, pansexual, heterosexual, asexual, by preference, practice, or as perceived by others.

## **46 Source of Income**

Any lawful source of income, including but not limited to, earned income, child support, alimony, insurance and pension proceeds, unemployment insurance, social security, and all forms of public assistance, including social security disability insurance and supplemental security income, Temporary Assistance for Needy Families (TANF) and any successor legislation, and housing assistance programs.

## **Unlawful Practices**

It shall be unlawful for any person to engage in discrimination against any person on the basis of a protected class in the areas of employment, housing, public accommodation, access to educational institutions or provision of healthcare.

It is illegal to discriminate or harass a person in the areas of employment, housing, public accommodation, education, or healthcare based on their natural hair or hairstyle, as long as natural hair or hairstyle poses no danger or impedes job performance.

## **Employment discrimination protections**

The intent of this section is to prevent bias and discrimination on the basis of an employee's or prospective employee's protected class which is unrelated to their ability to perform the job.

1 The following actions are prohibited with regard to any employee or independent contractor who is a member of a protected class as defined herein.

- A. An employer may not refuse, based on protected classes, to hire or employ or contract with, or to bar or discharge from employment, or to otherwise discriminate against individuals or independent contractors with respect to compensation, hiring, volunteering, tenure, terms, conditions or privileges of employment or contract, if the individual or independent contractor is the best able and most competent to perform the services required.
- B. An employment agency, employment service, labor organization, training school, or training center, or any other employee-referring source may not confine or limit recruitment or hiring of individuals with intent to circumvent the spirit and purpose of this Ordinance.
- C. An employer may not elicit any information or make or keep a record of, or use any form of application or application blank, containing questions or entries concerning the protected class of any applicant for employment. Nothing in this subsection shall preclude an employer from collecting demographic data after hiring so long as such information is voluntarily provided by the employee and its provision is not made a condition of employment.
- D. Prior to an offer of employment, an employer may not inquire as to whether an individual has a disability, or inquire as to the severity of such disability. An employer may inquire about the applicant's ability to perform the essential functions of the position or positions sought.

- E. An employer may not deny employment because of a prior disability.
- F. A labor organization may not deny full and equal membership rights to any individual or group of individuals, or to discriminate against such individuals with respect to hiring, tenure, terms, conditions or privileges of employment, participation in apprenticeship programs, or any other matter, directly or indirectly related to employment, because of protected class.
- G. An employer may not exclude or otherwise deny an employee or applicant for employment equal jobs or benefits because of the disability of an individual with whom an employee or applicant is known to have a relationship or association.
- H. An employer or labor organization may not discriminate in any manner against any individual because that individual has made a charge, testified, or assisted in any manner in any discrimination investigation, proceeding or hearing under this Ordinance, or any other non-discrimination laws or regulations.
- I. A person or employer may not, directly or indirectly, prohibit, coerce or prevent any person from complying with the provisions of this Ordinance.
- J. An employment agency may not refuse to refer for employment or otherwise discriminate against any individual because of protected class.
- K. An employer, employment agency, labor organization, or advertiser may not print or publish or cause to be printed or published any notice or advertisement relating to employment or membership, indicating any preference, limitation, specification or discrimination based upon protected class.
- L. An employer may not ask, on an employment application, whether the applicant has ever been convicted of a crime. An employer may include in its job requirements that an applicant have a clean driving record or be able to pass a child abuse clearance check.
- M. An employer may not require a job applicant to disclose prior criminal convictions until after an initial interview.
- N. Employers are prohibited from considering conviction records which do not relate to an applicant's suitability for employment. After a first interview, employers may use background checks and prior history to determine suitability for employment. Pennsylvania State law requires employers to provide written notification if a denial of employment was based in whole or in part on the applicant's criminal history. Failure to provide such notice will also be a violation of this Ordinance.
- O. An employer may not ask a job applicant what their salary is or was from any current or previous employment.

P. Nothing in this Ordinance shall prohibit any institution or organization for persons with disabilities from limiting or giving preference in employment or membership to disabled persons.

Q. Nothing in this Ordinance shall require an employer to hire, promote or retain an employee who is not qualified or not able to perform the job for which they are applying or were hired to do.

## **Housing Discrimination Protections**

1 The following actions are prohibited. A person or organization may not:

A. because of protected class refuse to sell, lease, finance, or otherwise to deny or withhold any housing accommodation or commercial property, or to refuse to furnish facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodation or commercial property, from any tenant, owner, prospective owner, occupant or user of such housing accommodation or commercial property.

B. evict or attempt to evict an occupant of any housing accommodation before the end of the term of a lease because of pregnancy or the birth of a child.

C. refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property or otherwise withhold financing of any housing accommodation or commercial property from any person because of protected class.

D. refuse to permit, at the expense of a tenant, owner, renter, or legal occupant with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, grant permission for a modification if the renter agrees to, at their expense, restore the premises to the condition that existed before the modification, with reasonable wear and tear excepted.

E. refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a tenant, owner, renter, or legal occupant equal opportunity to use and enjoy a housing accommodation.

F. print, publish, circulate or cause to be made any statement or advertisement relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing

accommodation or commercial property, which indicates any preference, limitation, specification, or discrimination based upon protected class.

G. make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning protected class in connection with the sale or lease of any housing accommodation or commercial property or loan of any money whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing combination or commercial property.

H. deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or commercial property, or to discriminate against that person in the terms or condition of such access, membership, or participation, because of protected class.

I. for any person or organization whose business includes engaging in real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of protected class.

J. induce, solicit, or attempt to induce or solicit for commercial profit, any listing, sale, or transaction involving any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or do not reside, persons of any particular protected class.

K. discourage, or attempt to discourage, the purchase or lease of any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or may in the future reside, in increased or decreased numbers, persons of any protected class.

L. for any person to harass, threaten, intimidate, harm, damage or otherwise penalize any person, group, or business because they exercised or encouraged others to exercise their rights under this section, or because they have complied with the provisions of this section, or enjoyed the benefits of this section, or because they have made a charge, testified, or assisted in any manner in any investigation, proceeding or hearing hereunder.

M. for any person to aid, abet, incite, induce, compel or coerce the doing of an unlawful practice prohibited by this section or to obstruct or prevent any person from complying with the provisions of this section or any order issued hereunder.



N. for any person who, with intent to mislead in any proceeding under this section to destroy or mutilate, falsify, alter or refuse to supply records and documents produced pursuant to subpoena or other lawful order under this section.

## 2 - Exemptions

A. Nothing in this section shall be construed to apply with respect to housing for older persons to the extent such language refers to age or familial status.

B. Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

C. Nothing in this section shall prohibit a mission-driven private club not in fact open to the public, which as an incident to its primary mission provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its bona fide members or from giving preference to its members.

D. Nothing in this section shall require a landlord to participate in any government housing programs, such as Section 8 housing.

E. The rental or leasing of a room or rooms in a personal residence in which the owner currently resides, when the renter or lessee will be sharing some or all of the space with the owner, shall be exempt from this Ordinance.

## Unlawful Public Accommodations Practices

1 The following actions are prohibited. A person or an organization may not:

A. refuse, withhold from or deny to any person because of protected class, either directly or indirectly, any of the accommodations, advantages, facilities, services or privileges of such place of public accommodation, resort or amusement.

B. 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 and privileges of any such place shall be refused, withheld or denied to any person on account of protected class.

C. prohibit a breastfeeding mother from, or segregate a breastfeeding mother within, any public accommodation where she would otherwise be authorized to be.

D. when providing licensed common carrier service, discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to

individuals with disabilities who can use such vehicles, refusing to accommodate such individuals in the use of a service animal due to blindness or deafness, or refusing to assist with the stowing of mobility devices, or charging higher fares or fees for carrying individuals with disabilities and their service animals and/or equipment which are not charged to other persons.

E. exclude or otherwise deny services because of the disability of an individual with whom a patron, client, or customer is known to have a relationship or association.

F. Businesses and Organizations are prohibited from refusing cash for all goods and services, including rent, and including payment for Healthcare and Education.

G. Businesses and Organizations are prohibited from charging more for cash payments than for other payment methods.

H. Upon cash payment, those paying have the right to request and receive an immediate, dated, hard copy receipt, confirming payment.

## **2 - Exemption**

Nothing in this Section shall be applied or interpreted to require an individual to create speech or artistic expression which is contrary to their sincerely held religious beliefs.

### **Unlawful Education Practices**

1 It is unlawful for an educational institution to refuse, based on a protected class, access to enrollment, equal treatment, participation in programs, or to otherwise discriminate against students, families, faculty, staff, administrators, or others legitimately involved with the function of the educational institution and including faculty, staff, and administrators with respect to compensation, hiring, volunteering, tenure, conditions or privileges of employment or contract based on protected classes.

2 It is unlawful for an educational institution to exclude or otherwise deny access to enrollment, equal treatment or participation in programs because of the disability of an individual with whom a student is known to have a relationship or association.

### **Unlawful Healthcare Practices**

It is unlawful for a healthcare provider to refuse or limit, based on a protected class, access to treatment, surgery, medication, healthcare insurance benefits, participation in health programs, or access to other healthcare services.

### **Retaliation**

Filing a complaint under this Ordinance is a protected activity. It is unlawful for any person to retaliate against an individual who files a complaint under this Ordinance, regardless of the merits of the complaint. Unlawful retaliation occurs when a person takes an adverse action against an individual either in response to the exercise of rights under this Ordinance or to deter or prevent such protected activity in the future. To establish retaliation the individual shall demonstrate:

- A. The individual or someone on behalf of the individual has or engaged in a protected activity under this Ordinance or person retaliating believed the individual or someone on behalf of the individual might engage in such a protected activity in the future;
- B. The individual experienced an adverse action caused by the person retaliating; and
- C. There is some evidence of a causal connection between the protected activity and adverse action.

### **Enforcement**

The Commission shall be responsible for receiving and investigating complaints filed pursuant to this Ordinance.

### **Filing a complaint**

1 Any person(s) claiming to be aggrieved by an unlawful practice within the scope of this Ordinance may make, sign, and file a complaint, verified in accordance with PA Rule of Civil Procedure 1024, alleging violations of this Ordinance. The Commission, upon its own initiative, may in like manner sign, verify and file a complaint. The complaint shall include the following information:

- A. The name and address of the aggrieved person(s) (Complainant(s));
- B. The name and address of the person(s) alleged to have committed the prohibited practice (Respondent(s));

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 place of employment, or dwelling unit, or public accommodation which is involved; and

E. Such other information as may be required by the Commission.

The Commission or the Complainant shall have the power reasonably and fairly to amend any complaint, or withdraw it, and the Respondent shall have like power to amend their answer.

2 Complaints may be filed in person at the City of Allentown Human Resources or online at the Commission's website. Complaints shall be marked with the date and time received.

3 All complaints must be received by the City of Allentown Human Resources or by the Human Relations Commission website within one hundred eighty (180) days of the most recent alleged act(s) of discrimination.

4 The City of Allentown Human Resources shall convey all the original complaints it receives to the Human Relations Complaint Investigator and the Chairperson of the Commission within ten (10) days of the Office's receipt of such complaints.

### **Preliminary Jurisdictional Review**

1 Within thirty (30) days of its receipt of a complaint, the Commission shall conduct a review to determine if the complaint is within the jurisdiction of the Commission, including a determination as to whether the complaint sets forth a prima facie case of discrimination.

2 If the complaint is not determined to be within the jurisdiction of the Commission, no further review or investigation will take place. The Commission shall send a notice to the Complainant informing them that the Commission does not have jurisdiction to hear the complaint.

3 If the complaint is determined to be within the jurisdiction of the Commission, the Commission shall send a notice to the Complainant informing them that the complaint

has been received and will be investigated. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the Complainant shall also inform them of the right to file with the Pennsylvania Human Relations Commission and/or with the federal Equal Employment Opportunity Commission, or any other relevant entity.

4 If the complaint is found to be within the jurisdiction of the Commission, the Commission will send a copy of the complaint to the Respondent by USPS first-class mail.

### **Response to the Complaint**

1 The Respondent(s) shall file a written, signed and verified answer to the complaint within sixty (60) days of the mailing date of the complaint. The answer to a complaint shall be filed in the same manner as an original complaint, in-person or online.

2 The City of Allentown Human Resources Office shall convey Respondent's answer to the Human Relations Commission within ten (10) days of the City of Allentown Human Resources Office's receipt thereof. The Commission shall send a copy of the answer to the Complainant within ten (10) business days.

### **405 – Investigation**

1 The Commission, through its investigator, shall review the complaint and the answer and gather such additional information as deemed necessary. Such information may include interviews, record and/or document review and data collection.

2 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, or to give sworn testimony, as necessary to assist in its investigation. The Commission may seek enforcement of its subpoena by Petition to the Court of Common Pleas of Lehigh County if needed.

405.3 If the investigator determines that no unlawful practice has occurred, they will present that finding to the Commission, and if the Commission agrees, the Commission shall notify the Complainant and Respondent that the Commission has determined that the Ordinance has not been violated.

405.4 If the investigator determines there is probable cause that an unlawful practice has occurred, the investigator will present the facts regarding the complaint to the Commission for further proceedings. The Commission shall send notice of the determination of probable cause to both the Complainant and the Respondent.

405.5 Either Complainant or Respondent may request that the Commission help to determine a conciliation and resolution. If so, the Commission may appoint a mediator to meet with the parties. If the parties are able to concur on a conciliation and a resolution, the parties will agree in writing to the resolution of the complaint. The resolution of the complaint shall be provided to the Commission for review and approval.

405.6 In the event that the mediator reports that the complaint cannot be resolved with a voluntary conciliation plan, the Commission will schedule the matter for adjudication within thirty (30) days of such report.

#### **406 - Public hearing**

1 If the Commission determines it is not possible to resolve the complaint informally, the Commission shall schedule and hold a public hearing on the complaint. A minimum of ten (10) days' notice of the hearing shall be provided to both the Complainant and the Respondent.

2 The Commission may designate one Commissioner to serve as a master to preside at such a hearing or it may, at its election, conduct such hearing with a quorum of the Commission.

3 At the public hearing, the case in support of the complaint shall be presented by the County Solicitor's office if the complaint has been filed by the Commission, or by the Complainant or their attorney, if they are represented. Both the Complainant and the Respondent may appear at the hearing with or without counsel and testify. In addition, both the Complainant and the Respondent may introduce the testimony of witnesses and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing. The testimony shall be taken under oath and shall be recorded.

#### **4 Finding Discrimination**

If, upon consideration of all the evidence presented at the hearing, the Commission finds that the Respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the Respondent an order requiring the 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 under the Pennsylvania Human Relations Act, or the Commission may act directly to ensure there is a remedy to the discrimination by requiring the respondent to change practices, make restitution, and, in egregious instances, pay a fine of no more than \$500.00.

## **5 Finding No Discrimination**

If, upon consideration of all the evidence presented at the hearing, the Commission finds that the 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 the Respondent.

**6** Except as otherwise provided, any order of the Commission may be reviewed under the provisions of the Act of December 2, 1968, P.L. 1133 (53 P.S. §11300) known as the "Local Agency Law", as amended.

## **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 Court of Common Pleas of Lehigh County or any other court of competent jurisdiction and may recover for each violation any remedies provided under the Pennsylvania Human Relations Act or Federal law, including reasonable attorney's fees.

B. The right of action created by this Ordinance may be brought upon receipt by the aggrieved person(s) of notice that the Commission has dismissed the complaint or, if no such notice is received, after one 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 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 shall limit the right of an aggrieved person to recover under any other applicable law or legal theory.

## **Penalty for Interference**

Any person who shall willfully resist, prevent, impede or interfere with the Commission, its members, agents or agencies in the performance of duties pursuant to this Ordinance, or shall willfully violate an order of the Commission, shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not

less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), in the discretion of the Court, but procedure for the review of an order shall not be deemed to be such willful conduct.

### **Protection of Religious Exercise**

A. Nothing contained in this Ordinance shall be interpreted to require an individual or Religious entity to engage in conduct which constitutes a substantial burden on the free exercise of religion without compelling justification under the act of December 9, 2002 (P.L.1701, No.214), known as the "Religious Freedom Protection Act."

B. As used in this Ordinance, the term "religious entity" means a church, association of churches or other religious order, body or institution which qualifies for exemption from taxation under section 501(c)(3) or 501(d) of the Internal Revenue Code of 1986, P.L. 99-514, 26 U.S.C. §501.

### **Exemption**

The provisions of this Ordinance shall not apply in the limited circumstances where a not-for-profit mission-driven religious, educational, fraternal, or charitable organization or association:

A. Requires an employee's adherence to said organizations or association's mission as part of their job, or wherein membership is a bona fide occupational qualification;

B. Offers rooms or housing to members of the organization, or within the organization's mission.

This exemption does not include discrimination based on factors which are not specified as part of the organization's mission.

### **Conflict of Laws**

Where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of the County, or any regulation issued under the authority of such ordinance, the provisions which establish the higher standard for the protection of health, safety and welfare shall prevail. The Commission, acting with the advice of legal counsel, shall make a determination on all ordinance conflicts related to this Ordinance.

4. The City of Allentown Administrative Code is hereby amended to add the following new sections 704 and 705:



## **HUMAN RELATIONS COMMISSION**

A. The Allentown Human Relations Commission was established pursuant to 43 P.S. §962.1 of the Pennsylvania Human Relations Act, by Ordinance No. 2024 - , and may be referred to as the “City of Allentown Human Relations Commission” or the “Commission”.

B. The Commission shall be composed of volunteers and shall consist of no fewer than seven (7) and no more than thirteen (13) members. The members shall serve terms of three (3) years each, with the initial terms for one third of the members being one (1) year, one third being two (2) years and the remainder being three (3) years. At all times there shall be an odd number of members. Members shall be appointed by the Mayor and confirmed by City Council. Members of the Commission shall be residents of Allentown, individuals working in Allentown, or business owners who operate within Allentown. Members of the Commission may not be elected officers in any political party.

C. Members of the Commission shall serve without salary but may be paid expenses incurred in the performance of their duties, as approved by the Commission.

D. The Commission is hereby vested with the authority to administer and enforce the City of Allentown Human Relations Ordinance and shall be given sufficient administrative and legal support from the City of Allentown of Human Resources and the City of Allentown Law to carry out its powers and duties, including assistance with intake of complaints and investigation of filed complaints of discrimination.

E. Any Commission member missing three (3) meetings in a row or missing more than three (3) meetings in a twelve (12) month period will be deemed as having resigned their position as Human Relations Commissioner, and the remainder of their term will be filled by appointment in accordance with this section.

F. If the number of Human Relations Commissioners serving on the Commission drops below seven (7) because of resignation or lack of attendance, additional Human Relations Commission members shall be appointed by the Mayor and confirmed by City Council, within sixty (60) days. If the Mayor does not appoint new Human Relations Commissioners within sixty (60) days of the Commission dropping below seven (7) members, City Council shall appoint sufficient Commissioners to ensure the Human Relations Commission has seven (7) members.

G. The Commission may select up to three (3) additional non-voting, ex-officio members to broaden the diversity that serves and advises the Commission. Such ex-officio members will not be counted toward the seven (7) member Commission

minimum, will not count toward establishing a quorum and shall serve for no more than three (3) years.

H. The Commission shall select one (1) of its members as the Chair of the Commission, one (1) as Vice Chair, and one (1) as Secretary.

I. The Chair of the Human Relations Commission will be responsible for setting Commission meetings, coordinating with the Office of Human Resources regarding received complaints and answers, and generally ensuring that the duties of the Commission are fulfilled. The Chair may delegate responsibility for Commission duties to specific Commissioners or to paid staff. The Vice Chair will serve as Chair when the Chair is otherwise unavailable in emergency situations. The Commission Secretary shall coordinate minute-taking at meetings which may be done by paid staff or a Commissioner. Meetings may be recorded to assist with the preparation of the minutes.

J. A voting quorum of the Commission will be no less than half of the currently serving Commission members and may be no less than four (4) Commissioners.

K. Meetings of the Commission shall be duly advertised and conducted in accordance with the Pennsylvania Open Meetings Law.

L. Should the City of Allentown be designated as a respondent in a complaint of discrimination, the Commission is authorized to engage outside legal counsel for the Commission to take the place of the County solicitors who regularly advise the Commission. Outside legal counsel shall be required to agree to all the County's standard terms and conditions, including insurance requirements. Notice of the engagement shall be provided to the Board of Commissioners in writing.

## **DUTIES OF THE HUMAN RELATIONS COMMISSION**

The Commission shall:

A. Meet monthly in-person or virtually on-line. When meeting on-line, Human Relations Commissioners must have their cameras on and be on screen and be attentive during the formal meeting.

B. Promote mutual understanding and work to improve relationships among all parts of the Allentown community, inclusive but not limited to those representing the protected classes covered by the Human Relations Ordinance.

C. Make studies into the status of human relations in the County.

D. At its discretion, cooperate with and assist other organizations, public or private, to improve relationships among the citizens of the County.

- E. Provide educational information to community members and to organizations to promote a full understanding of the purpose and scope of the Human Relations Ordinance.
- F. Receive and consider complaints of discrimination and administer and enforce the Human Relations Ordinance.
- G. When appropriate, refer complainants to other social, civic, or government agencies for further action.
- H. From time to time, but not less than once a year, provide a written report to City Council, describing in detail the investigations, proceedings, hearings and studies it has conducted and their outcome, the decisions it has rendered, and the other work performed by it and make recommendations for such further legislation concerning abuses and discrimination because of protected class.
- I. Maintain official copies of the minutes of Commission meetings, records of investigations and proceedings, recordings of hearings, studies conducted and their outcomes, the decisions rendered by the Commission and records of any other work performed by the Commission.
- J. The Allentown Human Relations Commission shall work in coordination with the Office of Human Resources, the Department of Community and Economic Development and the Department of Law.

**SECTION TWO:** Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall remain in full force and effect.

**SECTION THREE:** This ordinance shall become effective 10 days after final passage.