

**CHELTENHAM TOWNSHIP  
ORDINANCE NO. 2237-12**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CHELTENHAM, ADDING CHAPTER 47, TO PROVIDE FOR THE CREATION OF THE CHELTENHAM TOWNSHIP HUMAN RELATIONS COMMISSION, AND TO PROHIBIT DISCRIMINATION IN HOUSING ACCOMMODATIONS, COMMERCIAL PROPERTY, EMPLOYMENT AND PUBLIC ACCOMMODATIONS ON THE BASIS OF ACTUAL OR PERCEIVED RACE, COLOR, AGE, RELIGIOUS CREED, ANCESTRY, SEX, NATIONAL ORIGIN, HANDICAP OR DISABILITY, USE OF GUIDE OR SUPPORT ANIMALS AND/OR MECHANICAL AIDS 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, OR BECAUSE OF AN INDIVIDUAL'S ACTUAL OR PERCEIVED SEXUAL ORIENTATION, GENDER IDENTITY OR GENDER EXPRESSION; PROVIDING DEFINITIONS AND EXCEPTIONS; AND PROVIDING PENALTIES AND REMEDIES**

**WHEREAS**, the public policy of the United States of America, and the Commonwealth of Pennsylvania is grounded in the concept that all individuals are entitled to equality and equal protection under law, United States Constitution, Amendment 14; Constitution of the Commonwealth of Pennsylvania, Article I, §§ 26, 28; and

**WHEREAS**, the Board of Commissioners of Cheltenham Township finds that the population of the Township is reflective of the general population of the United States, in that it consists of a diverse array of persons representing different characteristics based upon actual or perceived race, color, age, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals and/or mechanical aids because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression; and

**WHEREAS**, the Township prides itself on the diversity of its citizens and residents, and the harmonious relations which have been fostered in the Township by a widely practiced and recognized attitude of respect among all citizens of Cheltenham Township; and

**WHEREAS**, the Board of Commissioners finds that the direct and secondary negative effects of discrimination and discriminatory practices involving the personal characteristics described above in matters of employment, housing accommodations, public accommodation, and publicly-offered commercial property transactions, are well known and have been extensively studied, documented and demonstrated; and

**WHEREAS**, the practice or policy of engaging in discrimination or discriminatory practices against any individual or group, because of actual or perceived race, color, age, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support

animals and/or mechanical aids because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression is a matter of highest public concern, and constitutes a paramount threat to the rights, privileges, peace and good order of the citizens of Cheltenham Township and to visitors of Cheltenham Township, that undermines the basic tenants of our freedom as citizens of the United States, and is utterly without place in this Township, which has a storied tradition of fiercely defending the individual rights of its citizens; and

**WHEREAS**, the Board of Commissioners desires to establish and adopt an official policy of non-discrimination in Cheltenham Township, in all matters involving employment, housing accommodations, public accommodation, and publicly-offered commercial property transactions; and

**WHEREAS**, the Board of Commissioners, in adopting this Ordinance, intends to extend the protections of the Pennsylvania Human Relations Act to include actual or perceived sexual orientation, gender identity and gender expression.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Board of Commissioners of the Township of Cheltenham as follows:

**SECTION I                    Short Title.**

This Ordinance shall be known as the "Cheltenham Township Human Relations Ordinance. "

**SECTION II                    Purpose and Declaration of Policy.**

A.     Cheltenham Township finds that it is vital to adopt appropriate legislation to insure that all persons, regardless of actual or perceived race, color, age, religious creed, ancestry, sex, national origin, handicap, disability, or use of guide or support animals and/or mechanical aids because of blindness, deafness or physical handicap of the user or the user is a handler or trainer of support or guide animals, or sexual orientation, gender identity or gender expression enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing accommodations, public accommodations, and in publicly-offered commercial property transactions.

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

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

D. This Ordinance shall be deemed an exercise of the police power of the Township of Cheltenham, as provided for under the Pennsylvania First Class Township Code and the Cheltenham Township Home Rule Charter and the Pennsylvania Human Relations Act, for the protection of the public welfare, prosperity, health and peace of the community of Cheltenham Township.

### **SECTION III Definitions.**

The following words and phrases, when appearing in this Chapter, shall have the meanings given to them under this Section. Any words and phrases appearing in this Chapter but not defined in this Section shall have the meanings given to them in the Pennsylvania Human Relations Act.

1. **BOARD OF COMMISSIONERS:** The Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania.

2. **COMMERCIAL PROPERTY:** (1) 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 (2) 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.

3. **COMMISSION:** The Cheltenham Township Human Relations Commission.

4. **DISCRIMINATION:** Except as otherwise provided herein, any Discriminatory Act(s) taken by any person, employer, entity, employment agency, or labor organization, with respect to or involving a transaction related to employment, housing accommodations, public accommodations, or publicly-offered commercial property, on the basis of a person's actual or perceived race, color, age, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals and/or mechanical aids because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's actual or perceived sexual orientation, gender identity or gender expression. Age discrimination, however, shall not apply to public accommodations.

5. **DISCRIMINATORY ACT(S):** All acts or actions defined in the Pennsylvania Human Relations Act as unlawful discriminatory practices as related to employment, housing accommodations, public accommodation, or publicly-offered commercial property transactions, because of actual or perceived race, color, age, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals and/or mechanical aids because of blindness, deafness or physical handicap of the user or, because the user is a handler or trainer of support or guide animals, or, in addition, as set forth in Section VIII below, because of an individual's actual or perceived sexual orientation, gender identity or gender expression.

6. EMPLOYEE: An individual employed by an Employer, but not individuals who, as a part of their employment, reside in the personal residence of the Employer.

7. EMPLOYER: The term includes the Commonwealth or any political subdivision or board, department, commission or school district thereof and any person employing four or more persons within the Commonwealth.

8. EMPLOYMENT: The hiring, promotion and termination of an individual for a position as an Employee and the compensation, tenure, terms, conditions and privileges of employment.

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

10. HOUSING ACCOMMODATIONS: (1) Any building, structure, mobile home site 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; and (2) 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. The term "housing accommodation" shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker, salesperson, agent or employee, provided that such person does not own more than three (3) such single-family houses at any one time.

11. HOUSING FOR OLDER PERSONS: Housing:

- (i) which is intended for and solely occupied by persons sixty-two (62) years of age or older; or
- (ii) which is intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit.

A. In determining whether housing qualifies as housing for older persons under this Section, the Commission's requirements shall include, but not be limited to, the following:

- (i) at least eight (80%) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit.
- (ii) there is publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older;
- (iii) the housing complies with regulations promulgated by the Pennsylvania Human Relations Commission for verification of occupancy.

12. ORDINANCE: This Ordinance, which shall be referred to as the "Cheltenham Township Human Relations Ordinance" or "this Chapter".

13. PERSON: One or more natural persons, fraternal, civic or other membership organizations, corporations, general or limited partnerships, proprietorships, limited liability entities, or similar business organizations, including the Township, its departments, boards and commissions, and any other for-profit and nonprofit organization.

14. PUBLIC ACCOMMODATION: Any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public, including but not limited to inns, taverns, roadhouses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants or eating houses, or any place where food is sold for consumption on the premises, buffets, saloons, barrooms or any store, park or enclosure where spirituous or malt liquors are sold, ice cream parlors, confectioneries, soda fountains and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises, drug stores, dispensaries, clinics, hospitals, bathhouses, swimming pools, barber shops, beauty parlors, retail stores and establishments, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, gymnasiums, shooting galleries, billiard and pool parlors, public libraries, kindergartens, primary and secondary schools, high schools, academies, college and universities, extension courses and all educational institutions under supervision of this Commonwealth, nonsectarian cemeteries, garages and all public conveyances operated on land or water or in the air as well as the stations, terminals and airports thereof, financial institutions and all Commonwealth facilities and services, including such facilities and services of all political subdivisions thereof, but shall not include any accommodations which are in their nature distinctly private.

15. SEXUAL ORIENTATION: Actual or perceived homosexuality, heterosexuality and/or bisexuality.

16. TOWNSHIP: The Township of Cheltenham, Montgomery County, Pennsylvania.

17. UNLAWFUL PRACTICES: The discrimination and related acts or practices described in Section IV below but not excepted in Section V below or in this Section III.

#### **SECTION IV Unlawful Practices.**

1. Discrimination in employment, housing accommodations, public accommodation, or publicly-offered commercial property transactions, is prohibited under this Chapter.

2. Retaliation against any individual because such person has opposed any Unlawful Practice, or because such person has made a charge, testified, or assisted in any manner in any investigation or proceeding under this Chapter is prohibited under this Chapter.

3. Aiding, abetting, inciting, compelling or coercing the doing of any Unlawful Practice, or obstructing or preventing any person from complying with the provisions of this Chapter, is prohibited under this Chapter.

**SECTION V                    Exceptions.**

1. Prohibitions against sex discrimination in employment and housing accommodations shall not 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 so long as such preference is based upon the religious principles or the aims, purposes or fraternal principles of such organization.

2. 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.

3. Nothing in this Ordinance, regarding age or familial status, shall apply with respect to housing for older persons. 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:

A. The person had no actual knowledge that the housing was not eligible for exemption under this Subsection.

B. The owner or manager of the housing had stated formally, in writing, that the housing complied with the requirements for exemption under this Subsection.

**SECTION VI                    Establishment of Human Relations Commission**

1. Pursuant to the authority set forth under §12.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission in and for the Township of Cheltenham, which shall be known as the "Cheltenham Township Human Relations Commission."

2. The Cheltenham Township Human Relations Commission shall consist of nine (9) members, who shall be appointed to terms of three (3) years by the Board of Commissioners. The terms of the members of the Commission shall be staggered, such that the term of at least three (3) members of the Commission shall expire each year. All members of the Commission shall be residents and registered voters of the Township of Cheltenham and shall serve without compensation. No member of the Commission shall hold office in any political party.

3. The Commission shall have jurisdiction over Unlawful Practices committed within the Township to the extent set forth in Section VI, Subsection 7 below. The Commission shall not replace any existing or future Human Relations Committee established by the Township.

4. The Commission shall, annually, designate one member to serve as Chairperson of the Commission and one as Vice-Chairperson. The Chairperson shall be responsible for coordinating the activities, meetings, and operations of the Commission, as set forth under this Chapter. The Chairperson shall also report, from time to time, to a standing committee of the Board of Commissioners regarding the activities of the Commission, but shall report at least monthly and otherwise upon the request of the Chair of such standing committee.

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

6. Members of the Commission shall, as soon after their appointment as practical, attend such training and education seminars or sessions as deemed necessary by the Board of Commissioners 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 shall be performed in conjunction with the Pennsylvania Human Relations Commission.

7. The Commission shall have all of those powers necessary to execute the duties set forth under this Chapter, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act except as otherwise expressly set forth herein.

8. The Commission shall operate within the scope of funds which may be allocated, on an annual basis, by the Board of Commissioners and shall not exceed the annual allocation in any year, except upon prior approval by the Board of Commissioners. In adopting this Ordinance, the Board of Commissioners hereby expresses its intention that the operation of the Cheltenham Township 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 Township as reasonably feasible.

9. The Board of Commissioners hereby grants to the Commission, with respect to Unlawful Practices as defined herein, all of the powers necessary for the execution of its duties as set forth herein.

10. The Commission shall be empowered to promulgate such additional procedures to those set forth herein as it determines to be necessary or desirable to implement the intent of this Chapter, subject to the review and approval of the Board of Commissioners prior to the adoption of any such procedures.

**SECTION VII Complaint and Procedures for Filing Complaints.**

1. Complaints

A. Any person claiming to be aggrieved by an Unlawful Practice may make, sign and file a verified complaint, as provided under Section B of this Section, alleging violations of this Ordinance. Such complaint shall, at a minimum, contain the following information:

- (i) The name, mailing address and email (if applicable) of the aggrieved person(s);
- (ii) The name, mailing address and email (if applicable) of the person(s) alleged to have committed the prohibited practice;
- (iii) A statement of the particulars of the facts, including pertinent dates, time, locations, people, and acts involved constituting the alleged Unlawful Practice;
- (iv) If applicable, the address and a description of any housing accommodation, public accommodation or commercial property which is involved; and
- (v) Such other information as may be required by the Commission.

B. Complaints may be filed in person at the office of the Township Manager, or by mailing such complaints to the Township offices, to the attention of the Township Manager. All such complaints must be received by the Township within one hundred eighty (180) days of the occurrence of the last act giving rise to the complaint or such complaint shall be dismissed by the Township Manager as untimely. The time limits for filing any complaint shall be subject to waiver, estoppel and equitable tolling. Any complaint expressly asserting waiver, estoppel and/or equitable tolling shall be processed by the Township Manager as set forth below in Section VII, Subsection 1.C and any such issues shall be determined by the Commission.

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

D. The Commission may promulgate forms for use by persons wishing to file a complaint, however, complaints which are prepared without the use of an approved form shall be deemed acceptable under this Ordinance so long as the facts set forth under Section VII, Subsection 1.A can be clearly determined from the document submitted as a complaint. Complaints received without the use of an approved form shall include the verification referred to above in Subsection 1.A.

E. The Commission may provide for a process by which persons seeking to file a complaint may consult with a volunteer who is trained to assist the prospective complainant in discerning the facts relevant to the prospective complaint. Such process shall also include referral



of additional information to the prospective complainant concerning the content of this Ordinance, the content of the Pennsylvania Human Relations Act, and the availability of the Pennsylvania Human Relations Commission as an additional or alternative venue within which the prospective complainant may seek redress when possible.

F. If the procedures adopted by the Commission provide that the Chairperson shall assign an investigator or a mediator or send the notices referred to in this Section, the Chairperson shall not take any further steps or have any contact with the parties until the commencement of the public hearing, if any.

## 2. Notifications and Answer

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

- (i) Send a copy of the complaint to the person or persons charged with an Unlawful Practice (individually or together the "Respondent"), together with a copy of this Ordinance.
- (ii) Send a notice to the person or persons filing the complaint (individually or together the "Complainant"), informing him, her or them that the complaint has been accepted and processed by the Commission. If the complaint alleges discrimination on a basis proscribed under Federal or state law, the notice shall also inform the Complainant of their right to file a complaint with the Pennsylvania Human Relations Commission or the Federal Equal Employment Opportunity Commission as well as the U.S. Department of Housing and Urban Development, where applicable.
- (iii) The Commission shall notify the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of that Commission, as required under the Pennsylvania Human Relations Act.
- (iv) The Commission shall also include a notice to both the Complainant and the Respondent of their option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the Complaint.

B. The Respondent shall file with the Township Manager a written verified answer to the complaint within thirty (30) days of service of the complaint by the Commission. An answer shall be filed in the same manner as a complaint. The answer shall be conveyed by the Township Manager to the Chairperson of the Commission within ten (10) days of its receipt by the Township Manager. The Commission shall promptly send a copy of the answer to the Complainant.

## 3. Mediation

A. After the answer has been received or if no answer has been received within thirty (30) days of service of the complaint:

- (i) The Commission shall, within 15 days, invite the parties to participate voluntarily in the mediation of their dispute. The parties shall respond to the invitation to mediate within 15 days of being invited to mediate. Mediation shall be conducted in accordance with procedures and within the time limits adopted by the Commission.
- (ii) If mediation is elected by the parties, the parties may jointly select a mediator, in which case they shall be jointly responsible for all financial costs and expenses associated with mediation and may allocate the costs of mediation as they agree. If the parties do not jointly select a mediator, or agree to allocation of costs pursuant to procedures adopted by the Commission, the Chairperson of the Commission shall select a mediator, who may be either a member of the Commission or a volunteer unless either party withdraws from the mediation process.
- (iii) The parties shall notify the Commission as to whether the mediation successfully resolved the complaint. Mediation proceedings shall otherwise be confidential. Neither the results thereof nor any record made in connection therewith shall be made public unless agreed to in writing by both parties to the dispute.
- (iv) Dismissal of the Complaint Following Mediation.
  - (a) If the mediation has successfully resolved the complaint, the Commission shall promptly notify the parties that it has dismissed the complaint, reserving the right to reactivate the complaint if there is non-compliance with the agreement.
  - (b) If the mediation has not successfully resolved the complaint, and if the complaint alleges a violation of this Ordinance which is also proscribed under the Pennsylvania Human Relations Act, the Commission shall notify the parties that the complaint has been dismissed, and refer the complaint to the Pennsylvania Human Relations Commission for further proceedings provided that the Complaint has been filed with the Pennsylvania Human Relations Commission.

B. If the mediation has not successfully resolved the complaint or if a party has not participated in mediation, and only if the complaint alleges a violation of this Chapter which is not otherwise proscribed under the Pennsylvania Human Relations Act and over which the Pennsylvania Human Relations Commission does not have jurisdiction, the Commission shall proceed as follows:

- (i) Investigation. The Commission shall, in a timely fashion, investigate the allegations of an Unlawful Practice set forth in the complaint by designating an investigator, who may be a member of the Commission. The Commission may, in the conduct of such investigation and upon

review, issue subpoenas to any person charged with an Unlawful Practice, or any person believed by the Commission to have information relevant to the complaint, commanding such person to furnish information, records or other documents, as necessary to assist in the Commission's investigation.

- (ii) Finding of No Cause. If it shall be determined after the Commission's investigation that there is no probable cause for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination and dismissal of the complaint. This notice shall inform the person aggrieved that he/she has the right to pursue the matter in court.
- (iii) Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the Unlawful Practice complained of by persuasion, conference and conciliation. If it determines that conciliation may be a useful approach, the Commission shall designate one of its members as a conciliator, who shall undertake conciliation following approved procedures of the Commission.
- (iv) Public Hearing.
  - (a) If the Commission finds it is not possible to eliminate the Unlawful Practice by persuasion, conference and conciliation, the Commission, shall cause to be issued and served a written notice scheduling a public hearing before the Commission at a time and place to be specified in such notice.
  - (b) The Commission may designate one or more of its members to preside at such public hearing. Except as set forth below in this Subsection (b), all Commission members shall be invited to sit on and hear such public hearing, and no public hearing shall be held unless a quorum of the Commission hears all of the evidence. A quorum of the Commission shall consist of no fewer than five (5) members unless otherwise agreed to by Complainant and Respondent. Any Commission member who acted as a mediator, investigator or conciliator shall not participate in such public hearing except as a witness to present the results of the investigation. Any Commission member with a conflict of interest shall not participate in such public hearing except as a witness.
  - (c) At the public hearing, both the Complainant and the Respondent shall be given the opportunity to appear, with or without counsel, to provide sworn testimony and submit evidence. Formal rules of evidence shall not apply, but irrelevant or unduly repetitious evidence may be excluded by the Commission in its discretion. In addition, both the Complainant and the Respondent may introduce

the testimony of additional witnesses and may submit documentary evidence. All witnesses are subject to cross-examination by the parties to the hearing.

- (d) A court reporter shall make a formal record of the proceedings. The cost of transcription shall be equally split between the Respondent and the Complainant. The Commission may award to a prevailing party the cost of transcription as a reasonable out-of-pocket expense in accordance with Section XIII hereof and Section 9(f)(1) of the Pennsylvania Human Relations Act cited therein.
  - (e) The Commission shall keep records, in the custody of the Township Manager, of its prior decisions and, together with judicial decisions decided under the Pennsylvania Human Relations Act, shall use and rely upon such decisions for their precedential value.
  - (f) The Chairperson of the Commission, and in his or her absence, the Vice-Chairperson, shall have the authority to issue subpoenas, rule on evidence and regulate the course of the hearing.
  - (g) The transcript of testimony and exhibits together with the complaint and any written response shall constitute the exclusive record for decision. *Ex parte* contacts with the members of the Commission, except those members of the Commission participating in mediation, conciliation or investigation, are prohibited.
- (v) Findings and Award. If upon all the evidence at the hearing the Commission shall find by a vote of a simple majority of the members at the hearing that a Respondent has engaged in or is engaging in any Unlawful Practice, the Commission shall state its findings of fact and shall issue and cause to be served on such Respondent a written decision and order requiring such Respondent to cease and desist from such Unlawful Practice and to take such affirmative action, including, but not limited to: hiring, reinstatement or upgrading of employees (with or without back pay), admission or restoration to membership in any respondent labor organization, the making of reasonable accommodations, and/or selling or leasing specified housing accommodations or publicly-offered commercial property upon such equal terms and conditions as was available to other persons at the time of the Unlawful Practice.
- (vi) Finding of No Discrimination. If upon all the evidence the Commission by such majority shall find that a Respondent has not engaged in any Unlawful Practice, the Commission shall state its findings of fact and shall issue and cause to be served on the parties a written decision and order dismissing the complaint as to such Respondent.

- (vii) Appeal. Any final order of the Commission may be appealed to the Court of Common Pleas of Montgomery County within sixty (60) days of the date of issuance of that order as provided by law for a *de novo* hearing.
- (viii) Enforcement. When the Commission has heard and decided any complaint brought before it, and the non-prevailing party has failed to comply with or appeal such final order within the sixty (60) days in Subsection vii above, enforcement of the order may be initiated by the prevailing party by the filing of a petition in the Court of Common Pleas of Montgomery County, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of said petition as in proceedings in equity.

**SECTION VIII Disclaimer.**

Nothing in this Ordinance shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the Township's Code of Ordinances prior to the adoption of this amendment.

**SECTION IX Severability.**

The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision 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 Board of Commissioners that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

**SECTION X Effective Date.**

This Ordinance shall take effect and be in force from and after its approval date as required by law.

**SECTION XI Non-limitation of Remedies.**

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

**SECTION XII Multiple Filings.**

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

**SECTION XIII Penalties and Remedies; Miscellaneous.**

1. Any person who shall be found by the Commission to have committed any Unlawful Practice may be subjected by the Commission to the penalties and remedies enumerated in Sections 9(f)(1&2) (f.1) and (f.2), Sections 9.2, 9.3, and Sections 10 & 11 of the Pennsylvania Human Relations Act. The penalties contained in this Ordinance shall be reviewed by the Board of Commissioners following each future change and amendment to the Pennsylvania Human Relations Act as adopted by the General Assembly and approved by the Governor on an amendment-by-amendment basis.

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

3. All penalties included in the Pennsylvania Human Relations Act shall be extended to include all protected classes enumerated in this Ordinance.

**SECTION XIV Repealer.**

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

**SECTION XV Effective Date.**

This Ordinance shall be effective immediately.


**ORDAINED and ENACTED** this 15<sup>TH</sup> day of February, 2012.

**BY THE BOARD OF COMMISSIONERS  
OF CHELTENHAM TOWNSHIP**



By: \_\_\_\_\_  
Arthur Haywood, President

ATTEST:

By:  \_\_\_\_\_  
David G. Kraynik, Secretary