

PART E

Fair Housing Ordinance⁹⁰

Section 501. Purpose and Declaration of Policy.

a. Purpose. The Municipality has an obligation to maintain an environment conducive to fostering respect among all residents of the community. The Municipality must assure that persons seeking to avail themselves of their right to enjoy housing facilities obtain goods and services in a public accommodation and have equal access to residential real estate-related transactions regardless of race, color, religion, age, ancestry, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a service animal (public accommodations) or support animal (housing and real estate-related transactions), pregnancy, birth of a child or marital or familial status are not burdened by unjust discrimination. Incidents of unjust discrimination are harmful to the society we share. Such acts not only harm those who suffer them but also threaten the reputation of the community.

b. Declaration of Policy. It is the public policy of the Municipality to prohibit discrimination in housing, public accommodations and residential real estate-related transactions because of race, color, religion, age, ancestry, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a service animal (public accommodations) or support animal (housing and real estate-related transactions), pregnancy, birth of a child or marital or familial status; and to provide for the resolution of housing, public accommodation and residential real estate-related transaction discrimination disputes at the local level in a timely, cost efficient and effective manner; and, to obtain substantial equivalency with the federal government's housing and anti-discrimination enforcement efforts..

(Ordinance 1407, March 9, 1993, Section 2, as amended by Ordinance 1965, April 18, 2011, Section 1.)⁷⁵

Section 502. Definitions. As used in this ordinance, the following terms shall mean:

a. Age. The term "age" means persons of those ages specified in Section 4 of the Pennsylvania Human Relations Act, Act of 1955, P.L. 744, No. 222, as amended by Act 51 of 1991, or any successor amendments to the Pennsylvania Human Relations Act or successor Act.

b. Aggrieved Person. "Aggrieved person" means any natural person who claims to have been injured by a discriminatory housing practice as defined in Part E.

c. Disability or Handicap. "Disability or handicap" 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).

Nothing in this Subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

d. Discriminate and Discrimination. The terms "discriminate" and "discrimination" include any difference in treatment based on race, color, religion, age, ancestry, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a service animal (public accommodations) or support animal (housing and real estate-related transactions), pregnancy, birth of a child or marital or familial status.

Housing discrimination pertaining to people with a disability or handicap includes a refusal to permit, at the expense of the person with a disability or handicap, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premise; a refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the condition of the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. Where it is necessary in order to ensure, with reasonable certainty, that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such restoration agreement a provision requiring that the tenant pay into an interest bearing escrow, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

Nothing in this Subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

e. Dwelling. "Dwelling" means any building, structure (or portion thereof) which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

f. Elderly. "Elderly" means a person who is at least 62 years of age or a family whose head or spouse is 62 years of age or is a handicapped person.

g. Familial Status. "Familial status" means:

(1) one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another 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.

(3) The protection 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.

h. Gender Identity or Expression. "Gender Identity or Expression" means self perception, or perception by others, as male or female, and shall include a person's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth, and shall include, but is not limited to, persons who are undergoing or have completed sex reassignment.

i. Housing for older persons. "Housing for older persons" means housing:

(1) provided under any Federal, State or local program that the Municipality determines is specifically designed and operated to assist elderly persons as defined in the Federal, State or local program;

(2) is intended for and solely occupied by persons sixty-two years of age or older; or

(3) is intended and operated for occupancy by at least one person fifty- five years of age or older per unit.

j. Live-in Aide. Live-in Aide. "Live-in Aide" means a person who resides with the elderly person or a person with a disability or handicap and who:

(1) is determined to be essential to the care and well-being of the elderly person or person with a disability or handicap;

(2) is not obligated for the support of the elderly person or person with a disability or handicap; and

(3) would not be living in the unit except to provide the necessary supportive

services.

k. Marital Status. "Marital Status" means the state of being married, unmarried, divorced, separated or widowed.

l. Owner. The term "owner" includes any person, agent, operator, firm or corporation, having a legal or equitable interest in the property, or recorded in the official records of the State, county or municipality as holding title to the property.

m. Person. The term "person" shall mean any natural person, fraternal, civic or other membership organization or association including those acting in a fiduciary or representative capacity, proprietorship, partnership, corporation, limited liability company, or other for profit or non-profit organizations, including the Municipality, its departments, boards and commissions.

n. Public Accommodation. "Public Accommodation means 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, theaters, motion picture houses, airdomes, 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, colleges and universities, extension courses and all educational institutions, nonsectarian cemeteries, garages and all public conveyances operated on land or water or in the air as well as the stations, terminals and airports, financial institutions and all Municipal facilities and services, but not any accommodations which are in their nature distinctly private

o. Real Estate Broker. "Real estate broker" shall mean any person, partnership, corporation or other association which, for a fee or other valuable consideration, manages, sells, purchases, exchanges, or rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of the real property of another, or holds itself out as one engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another and includes those engaging in real estate sales or any other person employed by a real estate broker to perform or to assist in the performance of his or her business.

p. Residential Real Estate-Related Transactions. The term "residential real estate-related transactions" means the making of loans or providing other financial assistance for

purchasing, constructing, improving, repairing or maintaining a dwelling, or the selling, brokering or appraising of residential real property.

q. Service Animal. "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. The term service animal shall pertain to unlawful practices in the area of public accommodations.

r. Sexual Orientation. "Sexual orientation" means actual or perceived homosexuality, heterosexuality and/or bisexuality.

s. Source of Income. "Source of income" means income received through any legal means including, but not limited to, wages, salaries, interest, dividends, child support, alimony, public assistance, pensions or other retirement benefits, social security or other documentation of ability to pay.

t. Support Animal. "Support animal" means animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or animals that provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Support animals perform many disability-related functions, including but not limited to guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing minimal protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. The term support animal shall pertain to unlawful practices in the areas of housing and real estate-related transactions.

(Ordinance 1407, March 9, 1993, Section 4, as amended by Ordinance 1965, April 18, 2011, Section 1.)⁸⁰

Section 503. Powers and Duties. The Municipality shall have the power and duty to:

- a.** Investigate complaints of discrimination in a timely and objective manner.
 - i. Determine the existence of probable cause regarding discrimination complaints based on evidence; make decisions based on the evidence, including evidence presented by the plaintiff(s) and respondent(s).
 - ii. Attempt to resolve disagreement of the parties through conciliation and mediation. In this process, the Municipality may enlist or employ the services of mediators, counselors or others to assist the parties in reconciling differences.
 - iii. In the performance of its duties, the Municipality may cooperate with interested citizens, private agencies and agencies of the Federal, State and local governments.
- b.** Request other departments of the Municipal government to assist in the performance of its duties, and such other departments shall cooperate fully with the Manager's Office.
- c.** Adopt such procedures as may be necessary to carry out the purposes and provisions of this ordinance.

(Ordinance 1407, March 9, 1993, Section 5, as amended by Ordinance 1965, April 18, 2011, Section 1.)

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Section 504. Unlawful Housing Practices. It shall be an unlawful housing practice, except as otherwise provided in this ordinance:

- a.** For any owner, real estate broker or any other person to refuse to discuss or confer with a view to reaching an agreement for a sale, lease, sublease, rental, assignment or other transfer of the title, leasehold or other interest in any dwelling to any person, or to represent that any dwelling is not available for any inspection, sale, lease, sublease, rental, assignment or other transfer when, in fact, it is so available, or otherwise to deny or withhold any dwelling from any person because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of support animal, pregnancy, birth of a child or marital or familial status or to discriminate against, segregate or assign quotas to any person or group of persons in connection with the sale, lease, sublease, rental, assignment or other transfer of title, leasehold or other interest in any dwelling or dwellings.
- b.** For any person, including any owner or real estate broker, to include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any dwelling any clause, condition or restriction discriminating against or requiring any other person to discriminate against any person in the use or occupancy of such dwelling because of race,

color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status.

c. For any person, including any owner or real estate broker, to refuse to permit, at the expense of the person with a disability or handicap, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

The application of paragraph c of this Section may be illustrated by the following examples:

Example 1. A tenant with a disability or handicap asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant at the tenant's own expense, from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example 2. An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

d. For any person, including any owner or real estate broker, to refuse to make reasonable accommodations in rules, policies, practices or services (except for federally-regulated lending institutions), when such accommodations may be necessary to afford a person with a disability or handicap the opportunity to use and enjoy a dwelling.

The application of paragraph d of this Section may be illustrated by the following examples:

Example 1. A blind applicant for rental housing wants to live in a dwelling unit with a seeing eye dog. The building has a "no pets" policy. It is a violation of 24 CFR PART 100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because, without the seeing eye dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.

Example 2. Progress Gardens is a 300-unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a "first-come/first-served" basis. John applies for housing in Progress Gardens. John has a mobility disability and is unable to walk more than a short distance and, therefore, requests that parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation of 24 CFR PART 100.204 for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation, therefore, is necessary to afford John an equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances.

e. For any person, including any owner or real estate broker, to discriminate in the providing of any facilities or services (except for federally-regulated lending institutions) for any dwelling because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status.

f. For any person, including any owner or real estate broker, to publish, circulate, issue or display, or cause to be published, circulated, or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer or listing of a dwelling or dwellings which indicates any orientation, limitation, specification or discrimination based on race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence a support animal, pregnancy, birth of a child or marital or familial status.

g. For any person, including any owner or real estate broker or associate, or any other person for business or economic purposes, to induce directly or indirectly, or to attempt to induce directly or indirectly, the sale or rental or the listing for sale or rental of a dwelling by representing that a change has occurred or will or may occur with respect to the race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status composition of the street, block, neighborhood or area in which said dwelling is located.

h. For any person, including any real estate broker or associate, to deny a person access to membership or participation in a multiple listing service, real estate brokers' organization or other service because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status.

i. For any person, including any real estate broker or associate, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful housing practice under this ordinance, to obstruct or prevent enforcement or compliance with the provisions of this ordinance or any rule or regulation, or to attempt directly or indirectly to commit any act declared by this ordinance to be an unlawful housing practice.

j. For any person or entity whose business includes engaging in residential 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 race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence a support animal, pregnancy, birth of a child or marital or familial status.

k. The notice to the respondent referenced in Section 509 a (3) will advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or mediation under this ordinance is a discriminatory practice that is prohibited by this ordinance.

(Ordinance 1407, March 9, 1993, Section 6, as amended by Ordinance 1965, April 18, 2011, Section 1.)

Section 505. Unlawful Public Accommodations Practices. It shall be an unlawful public accommodations practice, except as otherwise provided in this ordinance for any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation to:

a. Refuse, withhold from, or deny to any person because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a service animal, pregnancy, birth of a child or marital or familial status either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such public accommodation.

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 from or denied to any person on account race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap,

presence of a service animal, pregnancy, birth of a child or marital or familial status, or that the patronage or custom thereof of any person, belonging to or purporting to be of any particular race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a service animal, pregnancy, birth of a child or marital or familial status, is unwelcome, objectionable or not acceptable, desired or solicited.

c. Exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to a person because of the disability or handicap of an individual with whom the person is known to have a relationship or association.

d. Construct such place of public accommodation which is not accessible.

e. Refuse to remove any barrier to accessibility to such existing place of public accommodation, where barrier removal is readily achievable, meaning easily accomplishable and able to be carried out without much difficulty or expense. Where barrier removal is not readily achievable, it shall be unlawful to refuse to take any readily achievable alternative steps to make such public accommodation accessible.

f. The notice will advise the respondent referenced in Section 509 a (3) that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or mediation under this ordinance is a discriminatory practice that is prohibited by this ordinance.

(Ordinance 1965, April 18, 2011, Section 1.)

Section 506. Unlawful Residential Real-Estate Related Transactions.

a. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status.

b. It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, ancestry, age, national origin, place of birth, sex, sexual orientation, gender identity or expression, source of income, disability or handicap, presence of a support animal, pregnancy, birth of a child or marital or familial status.

c. The notice will advise the respondent referenced in Section 509 a (3) that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or mediation under this ordinance is a discriminatory practice that is prohibited by this ordinance.

(Ordinance 1965, April 18, 2011, Section 1.)

Section 507. Exemptions.

a. **Housing for Older Persons.** The provisions regarding familial status and age in this ordinance shall not apply to housing for older persons if it meets the conditions in this Section.

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

(1) At least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit.

(2) 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 years of age or older.

(3) The housing complies with regulations promulgated by the Pennsylvania Human Relations Commission for verification of occupancy. Regulations under this paragraph shall do all of the following:

(a) Provide for verification by reliable surveys and affidavits. Surveys and affidavits under this subparagraph shall be admissible in administrative and judicial proceedings for the purpose of verification under this paragraph.

(b) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of paragraph (3).

Housing shall not fail to meet the requirements for housing for older persons by reason of unoccupied units provided that such units are reserved for occupancy by persons who meet the age requirements of this clause.

b. **Religious or Sectarian Institutions or Organizations.** Nothing in this ordinance shall bar any religious or sectarian institution or organization, or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious or sectarian organization, or fraternal, civic or other membership organization, or any bona fide private or fraternal organization or sorority from limiting admission to its programs, services and housing owned and operated by said organization or giving orientation to persons of the same

religion or sect, or to members of such private or fraternal organization or sorority, or from making such selection as is calculated by such organization to promote the religious or sectarian principles or the aims, purposes or fraternal principles for which it is established or maintained.

c. **Local Limits on Maximum Occupancy of a Dwelling.** Nothing in this ordinance shall limit the applicability of any local, state or federal or any reasonable private land use restrictions, condominium articles or by-laws regarding the maximum number of occupants permitted to occupy a dwelling.

d. **Controlled Substances.** Nothing in this ordinance with respect to housing shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined in Section 102 of the Controlled Substances Act (21 USC 802).

e. **Owner-Occupied Dwellings.** This ordinance shall not apply to owner-occupied dwellings containing 4 units or less, providing the landlord occupies 1 of the units as his/her primary residence.

f. **Fraternal/Sororities/Dormitories.** Prohibition of discrimination on the basis of sex shall not apply to dwellings used exclusively as dormitories by educational institutions or fraternities and/or sororities affiliated with an educational institution.

g. **Subleasing a Dwelling Unit.** This ordinance shall not apply to the subleasing of a dwelling unit where one or more of the tenants named on the lease in effect at the time of the subleasing will continue to reside in the unit.

h. **Familial/Marital Status.** The provisions regarding familial and marital status in this ordinance shall not apply to housing provided by educational institutions which is restricted to occupancy by students of such institution who:

- (1) reside with the student's spouse, or
- (2) reside with children under the age of 18 years of age, or
- (3) reside with the student's spouse and children under the age of 18 years of age, and
- (4) the relationship of the student to the children must be biological or adoptive parent or legal guardian.

i. Nothing herein shall be construed to mean a landlord must rent to someone who does not have the ability to pay.

(Ordinance 1407, March 9, 1993, Section 7, as amended by Ordinance 1965, April 18, 2011, Section 1.)

Section 508. Obstruction of Fair Practices. It shall be unlawful for any person, whether or

not within the named classifications set forth in this ordinance, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful practice under this ordinance, or to obstruct or prevent enforcement of compliance with the provisions of this ordinance or any rule, regulation or order of the Municipality to be an unlawful practice.

(Ordinance 1407, March 9, 1993, Section 7, as amended by Ordinance 1965, April 18, 2011, Section 1.)

Section 509. Procedures.

a. Filing a Complaint.

(1) A complaint, charging that any person has engaged in or is engaging in any unlawful practice, as set forth in this ordinance, may be made by the aggrieved person or may be filed with the assistance of an authorized representative of the aggrieved person. Complaints shall be filed with the Municipality. Complaints may be filed in person at the Municipality or be mailed to the Municipality.

(2) The complaint shall be in writing on forms provided by the Municipality, signed by the aggrieved person and notarized, and shall contain substantially the following information:

- the name and address of the aggrieved person;
- the name and address of the person or persons alleged to have committed the unlawful practice;
- the address and, if appropriate, a description of the dwelling unit which is involved;
- a concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice; and
- such other information as may be required by the Municipality.

(3) Upon receipt of a complaint, the Municipality shall promptly notify the respondent or person charged with the commission of a discriminatory practice. Such notice shall identify the alleged discriminatory practice upon which the complaint is based and include a copy of the complaint. The notice shall state the date the complaint was accepted for filing. The notice will advise the respondent of the time limits applicable to complaint processing under this ordinance and of the procedural rights and obligations of the respondent under this ordinance, including the opportunity to submit an answer to the complaint within 21 days of the receipt of the notice. The notice will advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or mediation or conciliation under this ordinance is a discriminatory practice that is prohibited by this ordinance.

b. Mediation.

(1) The purpose of providing mediation is the resolution of disputes arising from the filing of complaints as provided for in this ordinance. Participation in mediation shall be

voluntary. The Municipality may contract for the provision of mediation services or attempt to locate a cost-free volunteer mediator from the community.

(2) If the parties elect mediation, the Municipality shall select a mediator, a volunteer from the community or a contracted mediation service. The Municipality shall use cost-free mediators only unless funds are approved for a contracted mediation service by Borough Council or are obtained from an outside funding source.

(3) Mediation shall be completed within 21 days of the date the mediator, volunteer from the community or contracted mediation service and the parties to the dispute agree to mediate. The mediators assigned to mediate any dispute arising from a complaint filed under the provisions of this ordinance shall not be employees or elected officials of the Municipality, members of the State College Community Development Block Grant Citizens' Advisory Committee, the Centre County Advisory Council to the Pennsylvania Human Relations Commission or the State College Borough Human Relations Commission, or have served on the State College Community Development Block Grant Citizens' Advisory Committee or the Centre County Advisory Council to the Pennsylvania Human Relations Commission or the State College Borough Human Relations Commission within 5 years of the date the complaint to be mediated was filed with the Municipality. Either party to the dispute may request an alternate mediator be assigned to mediate the dispute should the party believe the said assigned mediator would be unable to conduct the mediation in a fair and impartial manner.

(4) The details and results of all mediation meetings are confidential and shall not be made public unless agreed to in writing by both parties to the dispute.

(5) Following the completion of mediation, the mediator or mediation service shall notify the Municipality, in writing, that mediation has been completed. This notice shall include the parties to the dispute and whether or not the mediation succeeded in resolving the dispute.

c. Frivolous Complaints. A frivolous complaint is any complaint which is clearly insufficient on its face and is presumably filed for purposes of delay or embarrassment. The filing of frivolous complaints is discouraged. All costs for processing a frivolous complaint shall be borne by the complainant. Any person filing a frivolous complaint, in addition to being responsible for costs, may be subject to civil liability for abuse of process or malicious prosecution in accordance with the laws of the Commonwealth of Pennsylvania.

d. Enforcement.

(1) If the parties do not mediate or if mediation was not successful in resolving the dispute, the Borough Manager or his/ her designee shall initiate an investigation, or cause to be initiated an investigation of the facts surrounding the discrimination complaint within 10 working days of the failure of the parties to successfully mediate the dispute. The Borough Manager or his/her designee assigned to the investigation shall have responsibility to collect the necessary information and shall have all power necessary to carry out the aforesaid responsibility.

(2) If the investigation of facts establishes that there is no basis for the allegations of the complaint, the Borough Manager or his designee shall cause to be issued and served upon the parties written notice of such determination. This notice shall inform the complainant that they have the right to pursue the matter in court by filing a lawsuit.

(3) If the investigation of facts establishes that probable cause of discrimination exists, the parties shall be offered the opportunity to conciliate. If the parties are not able to agree on a settlement through persuasion, conference and conciliation, the Borough Manager or his/her designee shall cause to be issued and served a written notice, together with a copy of the complaint, which informs the respondent that they must answer the charges of such complaint at a hearing before the State College Borough Human Relations Commission at a time and place to be specified in the notice.

The Commission may designate one or more of its members to serve as hearing officer, or it may at its election conduct such hearing en banc appointing one of its members to preside.

At the hearing, the case in support of the complaint shall be presented to the Commission by the complainant, counsel for the complainant or by the Borough Manager or his designee. Both the complainant and the respondent may appear at the hearing with or without counsel and provide testimony. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses, and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing.

(4) If upon consideration of all of the evidence at the hearing, the Commission finds that a respondent has engaged in or is engaging in any unlawful Discriminatory Act as defined in this Ordinance, the Commission shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such 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 to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

(5) If, upon consideration of all of the evidence, the Commission finds that a respondent has not engaged in any unlawful Discriminatory Act as defined in this Ordinance, 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 such respondent.

(6) If the Municipality determines that a dwelling or dwellings involved in a complaint of an unlawful housing practice under this ordinance may be sold, rented or otherwise disposed of before a determination of the case has been made by the State College Borough Human Relations Commission, and the Municipality believes that there is probable cause for the complaint, the Municipality may request the Borough Solicitor to seek an injunction restraining the sale, rental or other disposition of the dwelling or dwellings in accordance with the Laws of the Commonwealth of Pennsylvania

e. Judicial Review.

(1) Final orders of the Municipality shall be reviewable by a court of competent jurisdiction in accordance with the provisions of the Local Agency Law, 2 Pa.C.S. 752, et seq.
(2) Judicial review of a final order by the Municipality must be in a court with authority to grant the petitioner such temporary relief, restraining order or other order, as the court determines, is just and proper, affirm, modify or set aside, in whole or in part, the order or remand the order to the extent that the order is affirmed or modified.

(Ordinance 1407, March 9, 1993, Section 9, as amended by Ordinance 1965, April 18, 2011, Section 1, and by Ordinance 1969, June 20, 2011, Section 1.)

Section 510. Statute of Limitations. A complaint must be filed with the Borough Manager's Office within 180 days of the alleged act of discrimination. If the statute of limitations expires, the Complainant has the recourse of filing the discrimination complaint with the U.S. Department of Housing and Urban Development or Pennsylvania Human Relations Commission for matters related to housing and residential real estate-related transactions and the U.S. Department of Justice or the Pennsylvania Human Relations Commission for matters related to public accommodations. (Ordinance 1407, March 9, 1993, Section 10, as amended by Ordinance 1965, April 18, 2011, Section 1.)

Section 511. Penalties. Any person who shall violate any provision of this ordinance or who resist or interfere with any authorized representative of the Municipality in the performance of his duties shall, upon conviction thereof before any District Justice, be sentenced to pay a fine, not less than \$100.00 nor more than \$1,000 and the costs of prosecution and, in default of payment of any such fine and costs, may be committed to the County Prison for a period not to exceed 30 days. Each time that a violation occurs shall constitute a separate offense. (Ordinance 1407, March 9, 1993, Section 11, as amended by Ordinance 1965, April 18, 2011, Section 1.)

Section 512. 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. Nothing contained herein shall prohibit any aggrieved person from pursuing any civil, State or federal remedy available following completion of proceedings under this ordinance. (Ordinance 1407, March 9, 1993, Section 12, as amended by Ordinance 1965, April 18, 2011, Section 1.)⁸⁵