TOWN OF BLOOMSBURG
COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 1016

AN ORDINANCE AMENDING CHAPTER 6 BY ADDING PART 10 TO THE CODE OF ORDINANCES OF THE TOWN OF BLOOMSBURG, PROHIBITING CERTAIN DISCRIMINATORY PRACTICES IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATION; ESTABLISHING A HUMAN RELATIONS COMMISSION FOR THE TOWN OF BLOOMSBURG; ESTABLISHING PROCEDURES FOR FILING A COMPLAINT WITH THE HUMAN RELATIONS COMMISSION FOR AN ALLEGED UNLAWFUL DISCRIMINATORY ACT; AND PROVIDING REMEDIES FOR VIOLATION OF THE ORDINANCE

WHEREAS, the population of the Town of Bloomsburg (hereinafter "the Town") consists of people possessing a number of different personal characteristics regarding their actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, and the use of guide or support animals and/or mechanical aids; and,

WHEREAS, the direct negative effects and secondary effects of discriminatory practices involving the personal characteristics described above in matters of employment, housing, and public accommodation in this country are well-known and have been extensively studied and demonstrated; and,

WHEREAS, the practice or policy of discrimination against such individuals or groups is a matter of public concern that threatens the rights and privileges of the inhabitants, guests, and visitors of the Town; and,

WHEREAS, the Town Council of the Town of Bloomsburg (hereinafter "Town Council") desires to establish and adopt an official policy of non-discrimination in the Town in all matters involving employment, housing, and use of public accommodations; and,

WHEREAS, the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §§951-963 (hereinafter "the Act"), does not preclude the Town from enacting and enforcing its own Anti-Discrimination Ordinance which prohibits additional categories of discrimination; and,

WHEREAS, the Act specifically authorizes political subdivisions to establish a local Human Relations Commission which shall have the powers and duties similar to those executed by the Pennsylvania Human Relations Commission under the Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED that the Code of Ordinances of the Town of Bloomsburg shall be amended by adding a new Part to Chapter 6 titled "Anti-Discrimination," which shall provide as follows:

§6-1001 Purpose and Declaration of Policy.

A. In order to ensure that all persons, regardless of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, or the use of guide or support animals and/or mechanical aids, enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing, and use of public accommodations, it is necessary that appropriate legislation be enacted.

B. It is hereby declared to be the public policy of the Town to foster the employment of all individuals in accordance with their fullest capacities without regard to actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation,

gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, or the use of guide or support animals and/or mechanical aids, and to safeguard their right to obtain and hold employment without such discrimination; to secure housing accommodation and commercial property without regard to actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, or the use of guide or support animals and/or mechanical aids; and to assure equal opportunities to all individuals and to safeguard their rights to public accommodation without regard to actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, veteran status, mental or physical disability, or the use of guide or support animals and/or mechanical aids.

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

D. This Ordinance shall be deemed an exercise of the police power of the Town for the protection of the public welfare, prosperity, health, and peace of the Town.

§6-1002 Definitions.

The following words and phrases when used in this Ordinance shall have the meanings given to them in this Section. All definitions from the Pennsylvania Relations Act will also stand true.

DISCRIMINATION - Any discriminatory act(s) by any Person, employer, employment

agency, labor organization, or public accommodation on the basis of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, or the use of guide or support animals and/or mechanical aids.

DISCRIMINATORY ACTS - All acts defined in Section 5 of the Pennsylvania Human Relations Act, 43 P.S. §955, as unlawful discriminatory practices. The fact that the Pennsylvania Human Relations Act would not define a practice as unlawful when that practice is taken on the basis of actual or perceived sexual orientation, gender identity or expression, genetic information, or marital status shall not exempt such practice from being considered a discriminatory act under this Ordinance.

EMPLOYEE - An individual employed by an Employer for compensation. An Employee does not include any individuals who, as a part of their employment, reside in the personal residence of the Employer. Any independent contractor is also considered an employee.

EMPLOYER - Any person who employs four or more employees, including the Town, its departments, boards, and commissions, and any other government agency within its jurisdiction, but except as hereinafter provided, does not include religious, fraternal, charitable or sectarian corporations or associations, except such corporations or associations supported, in whole or in part, by governmental appropriations. The term "employer" with respect to discriminatory practices based on race, color, age, sex, national origin or non-job-related handicap or disability, includes religious, fraternal, charitable and sectarian corporations and associations employing four or more person.

FRIVOLOUS CLAIM - A Complaint where the Complainant lacks any factual or legal

basis for the alleged conduct in violation of this Ordinance and clearly lacks any probability of success on the merits.

GENDER IDENTITY OR EXPRESSION - The actual or perceived gender-related identity, expression, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

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

INDEPENDENT CONTRACTOR- 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.

ORDINANCE - This Ordinance, which shall be known as the "Anti-Discrimination Ordinance."

PERSON - Any natural person, fraternal, civic, or other membership organization, corporation, general or limited partnership, proprietorship, limited liability company, or similar business organization, including the Town, its departments, boards, and commissions, and any other government agency within its jurisdiction, and other for- profit and nonprofit organizations.

PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT- 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, 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, colleges and universities, extension courses and all educational institutions operating within the Town, 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 facilities and services within the Town of Bloomsburg, but shall not include any accommodations which are in their nature distinctly private.

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

§6-1003 Unlawful Practices.

A. Discrimination in employment, housing, and access to public accommodations is prohibited under this Ordinance.

B. Retaliation against any person because such person has opposed any practice forbidden by this Ordinance, or because such person has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this Ordinance is prohibited under this Ordinance.

C. Aiding, abetting, inciting, compelling, or coercing any person to perform any act declared by this Ordinance to be an unlawful practice, or obstructing or preventing any person

from complying with the provisions of this Ordinance is prohibited under this Ordinance.

§6-1004 Exceptions.

A. With regard to discrimination in housing, this Ordinance 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.

B. It shall not be an unlawful employment practice for a religious corporation or association not supported by Town funds to hire or employ an individual on the basis of sex in those certain instances where sex is a bona fide occupational qualification because of the religious beliefs, practices, or observances of the religious corporation or association.

C. The provisions of this Ordinance shall not make it an unlawful employment practice for a religious corporation or association not supported in whole or in part by governmental appropriations to refuse to hire or employ an individual on the basis of religion or sex in those certain instances where that is a qualification due to the beliefs and practices of the religious corporation or association.

§6-1005 Establishment of Human Relations Commission.

A. Pursuant to 43 P.S. §962.1 of the Pennsylvania Human Relations Act, there is hereby established a Human Relations Commission in and for the Town of Bloomsburg (hereinafter referred to as "the Bloomsburg Human Relations Commission" or "the Commission").

B. The Commission shall consist of five (5) members who shall serve staggered terms of

three (3) years each, except that the initial members shall have a term of one (1) year for one (1) member, two (2) years for two (2) members, and three (3) years for two (2) members, respectively. At all times, there shall be an odd number of members. All members of the Commission shall be appointed by Town Council. Members shall be residents of the Town. No voting member of the Commission shall hold any office in any political party. Members of the Commission shall serve without salary, but may be reimbursed for expenses incurred in the performance of their duties, as approved by Town Council.

C. One of the Commission's members shall be appointed as Chairperson of the Commission by Town Council. The Chairperson will be responsible for setting Commission meetings, coordinating with the Town Manager or Town Secretary of the Town of Bloomsburg regarding received Complaints and Answers, and generally ensuring that the duties of the Commission are fulfilled. The Chairperson may delegate responsibility for Commission duties to specific Commission members or to the Town Manager or Town Secretary, if applicable.

D. Members of the Commission shall, as soon after their appointment as practical, attend such training and education seminars or sessions as deemed necessary to acquaint themselves with the functioning of the Bloomsburg Human Relations Commission under this Ordinance, as well as the terms, conditions, and provisions of the Pennsylvania Human Relations Act and the operations 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.

E. Town Council hereby grants to the Commission all of the powers necessary to the execution of its duties as set forth herein.

F. The Commission shall operate within the scope of funds which may be annually

allocated by Town Council and shall not exceed the annual allocation in any year, except upon prior approval by Town Council. It is the intention of Town Council that the Commission's actions shall be supported by volunteers and unpaid staff and shall be as close to "zero-cost" to the Town as reasonably feasible.

G. The Commission shall develop and maintain standing rules to provide structure for its work. Council shall approve these standing rules.

§6-1006 Complaints and Procedures for Processing Complaints.

A. Filing a Complaint.

1. Any Person(s) claiming to be aggrieved by a practice which is made unlawful under this Ordinance may prepare, sign, and file a verified Complaint, in writing, as provided for in this Ordinance, alleging violations of this Ordinance. Such Complaint shall, at a minimum, contain the following information:

a. The name, telephone number, mailing address, and email address, if applicable, of the aggrieved person(s);

b. The name, telephone number, mailing address, and email address, if applicable, of the person(s) alleged to have violated this Ordinance;

c. A detailed statement, including pertinent dates, times, locations, persons, and acts involved constituting the violation of this Ordinance;

d. If the violation relates to housing, the address and a description of the dwelling unit which is involved; and,

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

2. Complaints may be filed in person at the office of the Town Manager or Town

Secretary of the Town of Bloomsburg, or by mailing such Complaints to the Bloomsburg Town Hall or to the Chairperson of the Bloomsburg Human Relations Commission. All Complaints must be received by the Town or the Commission within one hundred eighty (180) days of the alleged act(s) of discrimination giving rise to the Complaint, or such Complaint shall be dismissed as untimely. The time limits for filing any Complaint or other pleading under this Act shall be subject to waiver, estoppel, and equitable tolling. The limitations of filing will follow the Pennsylvania Human Relations Act.

3. If the Complaint is filed with the Town, it shall be provided by the Town Manager or Town Secretary to the Chairperson of the Commission within ten (10) days of the Town's receipt thereof.

4. The Commission may promulgate forms for use by the persons wishing to file a Complaint, however, Complaints which are prepared and filed without the use of an approved form shall be deemed acceptable under this Ordinance so long as the facts set forth under paragraph (A)(1) of this Section can be clearly determined from the document submitted as a Complaint.

5. The Commission may provide for a process by which persons seeking to file a Complaint may consult with a volunteer or other staff person affiliated with the Commission who is trained to assist the prospective Complainant in discerning the facts relevant to the prospective Complaint, and gaining access to pertinent information such as 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 venue within which the prospective Complainant may seek redress when possible. If the Complainant alleges discrimination on a basis proscribed under federal law, the Complainant should also be provided information of a

possible right to file with the Federal Equal Employment Opportunity Commission or HUD.

B. Review and Notification.

Within thirty (30) days of its receipt of a Complaint, the Commission shall:

1. Review the Complaint:

a. If deemed to be a Frivolous Claim, by majority vote of the Commission, the Complaint may be dismissed. Notice of the Finding of a Frivolous Claim shall be sent to the Complainant within ten (10) days of the action and determination of the Commission.

b. If the Commission finds that the Complaint is not a Frivolous Claim, the Complaint shall be processed in accordance with the provisions set forth in the following paragraphs.

2. Notification.

a. Send a copy of the Complaint to the person(s) charged with a discriminatory act or practice under this Ordinance (hereinafter "the Respondent(s)") together with a copy of this Ordinance.

b. Send a Notice to the person(s) aggrieved, acknowledging that the Complaint has been received by the Commission. If the Complaint alleges discrimination on a basis prescribed under federal or state law, the Notice sent to the person(s) aggrieved shall also inform them of the right to file with the Pennsylvania Human Relations Commission and/or with the Federal Equal Employment Opportunity Commission, as well as the United States Department of Housing and Urban Development, where applicable.

c. Notify the Pennsylvania Human Relations Commission of the filing of any

Complaint that may be deemed to be within the jurisdiction of the Pennsylvania Human Relations Commission, as required under the Act.

d. Provide a Notice to both the Complainant and the Respondent(s) of the option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the Complaint and provide a form to the parties to be completed and returned to the Commission setting forth each party's choice regarding method of mediation.

C. Answer.

1. The Respondent(s) shall file a written verified Answer to the Complaint within thirty (30) days of service of the Complaint on the Respondent.

2. The Commission, upon request of the Respondent, may grant an extension to Answer the Complaint of not more than thirty (30) additional days.

3. An Answer to a Complaint may be filed in the same manner as a Complaint, as set forth above.

4. If the Answer is filed with the Town, it shall be provided by the Town Manager or Town Secretary to the Chairperson of the Commission within ten (10) days of the Town's receipt thereof.

5. The Commission shall promptly send a copy of the Answer to the person(s) aggrieved.

D. Mediation.

1. Within thirty (30) days of receipt of an Answer to a Complaint, or where no Answer is filed within sixty (60) days of service of the Complaint upon the Respondent(s), the matter shall proceed in accordance with the following:

a. In the event that both the Complainant and the Respondent (hereinafter "the parties") have consented to mediation, then the Commission shall refer the matter to a recognized alternative dispute resolution service, which service may be provided through Columbia County, the Columbia County Bar Association, or any other professional mediation service provider; or the Commission may refer the matter to a licensed member of the Pennsylvania Bar who may be willing to perform service to the Commission as a volunteer mediator.

b. The parties shall jointly select the mediator; however, in the event that the parties cannot jointly agree on a mediator within thirty (30) days of agreeing to mediation, the Commission shall select the mediator.

c. Any costs or expenses which may be associated with the mediation shall be the joint responsibility of the parties (Complainant and the Respondent).

d. Mediation sessions shall remain private and not otherwise subject to public attendance. Mediation sessions shall be conducted by the Commission with a minimum of two members.

2. When mediation has resulted in an amicable resolution of the Complaint, the Commission shall enter of record the result of the mediation in a Notice of Resolution, and shall send a copy of the same to the parties.

3. In the event the complaint has not been resolved through mediation, or mediation has been declined by either party, and the case alleges discrimination not covered by the Pennsylvania Human Relations Act the parties are entitled to proceed to the Court of Common Pleas in Columbia County. If the matter is covered by the Pennsylvania Human Relations Act, the complainant may not proceed to court before exhausting their administrative remedies

through investigation and a hearing by the Pennsylvania Human Relations Commission if probable cause is found.

§6-1007 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.

§6-1008 Multiple Filings.

This Ordinance shall not apply to matters which are the subject of pending or prior filings made by an aggrieved person before any federal or state Court or agency of competent jurisdiction.

§6-1009 Enforcement.

The Complainant or the Commission may secure enforcement of the Order of the Commission or other appropriate relief. When the Commission has heard and decided any Complaint brought before it, enforcement of the Commission's Order shall be initiated by filing a Petition in the Court of Common Pleas of the 26th Judicial District, Columbia County Branch, together with a copy of the transcript of the hearing before the Commission, and issuance and service of a copy of the Petition as in proceedings in equity.

§6-1010 Severability.

In the event that any provision of this Ordinance is declared unconstitutional, unlawful, or unenforceable by a Court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance or of this Ordinance as a whole, but such shall continue in full force and effect as though the unconstitutional, unlawful, or unenforceable provision had never been a part hereof.

§6-1011 Repealer.

Any Ordinance or parts thereof that are inconsistent with this Ordinance are hereby repealed.

§6-1012 Effective Date.

This Ordinance shall be effective ninety (90) days after enactment.

ENACTED this 26th day of October, 2020.

TOWN OF BLOOMSBURG:

BY: William S. Kreisher
WILLIAM S. KREISHER, MAYOR

ATTEST:

Lisa M. Dooley
LISA M. DOOLEY, SECRETARY

(SEAL)