

**Erie County**

**Human Relations Commission**

**Ordinance**

Approved by Erie County Council:

***Ordinance 35, 2001 (Amended by Ordinance 59, 2004)***  
***Ordinance 59, 2004 (Amended by Ordinance 39, 2007)***  
***Ordinance 39, 2007 (Amended by Ordinance 128, 2007)***  
***Ordinance 128, 2007 (Amended by Ordinance 97, 2016)***  
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**Article I. PREAMBLE AND STATEMENT OF LEGISLATIVE INTENT**

WHEREAS, the population of the County of Erie consists of people of every race, color, religion, sex, sexual orientation, and national origin;

WHEREAS, there may be discrimination against individuals;

WHEREAS, it is in the interests of all citizens of Erie County to eradicate discrimination in all of its forms;

WHEREAS, it is the intent of County Council to enact an Ordinance which promotes rights of all individuals;

WHEREAS, it is not the intent of County Council to create any protected classes or to have this Ordinance interpreted by any commission, court, or other body as elevating any one group into a protected class;

Be it known to all that the County of Erie does hereby declare its intent to promote the rights and opportunities of all persons to participate in the social, cultural, recreational, and economic life of the County and to assure equal opportunity for all persons concerning employment, housing accommodation and commercial property, education, public accommodations, lending practices, and real estate practices without regard to race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, national origin, criminal history or source of income.

## **Article II. FINDINGS AND DECLARATION OF POLICY**

A. The practice or policy of discrimination against individuals or groups by reason of their race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, national origin, criminal history or source of income has become a growing concern for the health and welfare of the citizens of the County of Erie. Such discrimination foments domestic strife and unrest; threatens rights and privileges of the inhabitants of Erie County; and undermines the foundations of a free democratic state. The denial of equal employment, housing, and the consequent failure to utilize productive capacities of individuals to their fullest extent, deprives large segments of the population of the County of earnings necessary to maintain decent standards of living; necessitates their resort to public relief, and intensifies group conflicts, thereby resulting in grave injury to the public health and welfare, compels many individuals to live in dwellings which are substandard, unhealthful and overcrowded, resulting in racial segregation in public schools and other community facilities, juvenile delinquency, and other evils, thereby threatening the peace, health, safety, and general welfare of the County and its inhabitants.

B. It is declared to be the public policy of the County of Erie to foster the employment of all individuals in accordance with their fullest capacities, regardless of their race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, national origin, criminal history or source of income and to safeguard their right to obtain and hold employment without such discrimination, assure equal opportunities to all individuals, safeguard their rights at places of public accommodation and secure commercial housing regardless of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, national origin, criminal history or source of income is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this ordinance.

C. This article shall be deemed an exercise of the police powers of the County for the protection of the public welfare, prosperity, health, and peace of the people of Erie County. Nothing in this Ordinance shall be interpreted by any commission, court, or other body as elevating any one group into a protected class, or bestowing any greater right than those afforded individuals or groups under the Constitution of the United States of America, the Constitution of the Commonwealth of Pennsylvania, duly enacted federal laws, and duly enacted laws of the Commonwealth.

## **Article III. FREEDOM FROM DISCRIMINATION**

The opportunity for an individual to obtain employment for which he/she is qualified, and to obtain all the opportunities, advantages, facilities, and privileges of any public accommodation and of any housing accommodation and commercial property without

discrimination because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, national origin, criminal history or source of income is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this ordinance.

#### **Article IV. DEFINITIONS**

As used in this Ordinance, unless a different meaning clearly appears from the context, certain terms are defined as follows. Words importing the masculine shall extend and apply to the feminine and neutral genders.

A. The term "**accessible**" means being in compliance with the applicable standards set forth in the following:

1. the Fair Housing Act (P.L. 90-284, 42 U.S.C. § 3601 et seq.);
2. the Americans with Disabilities Act of 1990 (P.L. 101-336, 42 U.S.C. § 12101 et seq.);
3. the Act of September 1, 1965 (P.L. 459, No. 235, 71 P.S. § 1455.1 et seq.), entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical disabilities and providing for enforcement;" and
4. the other applicable federal, state or local laws or regulations covering accessibility or accommodations.

B. The term "**Advisory Board**" shall refer to the appointed eleven member non-voting Board which shall perform research, education and public relations duties under the direction of the Erie County Human Relations Commission. The Advisory Board shall monitor and review the implementation of the policies stated herein and their practical effect upon the public and private sectors. The Advisory Board shall prepare an annual report which it shall submit to the Human Relations Commission and Erie County Council containing commentary, constructive criticism and recommendations based upon the results of the implementation of this ordinance.

C. The term "**age**" includes any person forty (40) years of age or older.

D. The term "**aggrieved person**" means any person who claims to have been injured by a discriminatory practice or believes that a discriminatory practice is about to occur.

E. The term "**commercial property**" means:

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.

F. The "**Commission**" means the Erie County Human Relations Commission (ECHRC). The terms "Commission" and "Enforcement Commission" may be and are used interchangeably herein.

G. "**Complaint**" shall refer to the initial signed statement alleging discrimination as filed with the Commission by the complainant.

H. The terms "**conciliation**" or "**conciliation conferences**" shall refer to a process of dispute resolution that is mutual and voluntary in an attempt to reach an informed settlement between the parties (see also mediation).

I. The term "criminal history" shall mean any criminal conviction or sentence arising from a verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a suspended sentence or a sentence of probation.

1. It shall be an unlawful discriminatory practice for a county agency, employer, landlord or lending institution to make any inquiry regarding or to require any person to disclose or reveal any criminal convictions during the application for employment, the application for a leasehold or the application for a loan from a lending institution. The inclusion of such inquiry on an application shall be unlawful and applicants shall be told they need not answer the inquiry. The application process shall begin when the applicant inquires of the employment, leasehold or loan being sought and shall end when the employer, landlord or lending institution has extended a conditional offer of employment, leasehold contract or loan commitment.
  - a. If an applicant voluntarily discloses information regarding his or her criminal conviction during the application process, the employer, landlord or lending institution may

discuss the criminal conviction disclosed by the applicant at that time.

- b. An employer, landlord or lending institution shall give notice to prospective applicants of their intent to conduct a criminal background check after any conditional offer is made, provided that such notice shall be concise, accurate, made in good faith and shall state that any consideration of the background check will be tailored to the requirements of the job, lease or loan.
2. No employer shall maintain a policy of automatically excluding any applicant with a criminal conviction from a job or class of jobs. A prospective employer shall not reject an applicant based on his or her criminal record, unless such record includes conviction for an offense that bears such relationship to the employment sought that the employer may reasonably conclude that the applicant would present an unacceptable risk to the operation of the business or to co-workers or customers, and that exclusion of the applicant is compelled by business necessity. An employer shall make a determination regarding such risk only after reviewing the applicant's specific record and the particular job being sought, and conducting an individualized assessment of the risk presented. Such assessment shall include:
    - a. The nature of the offense;
    - b. The time that has passed since the offense;
    - c. The applicant's employment history before and after the offense and any period of incarceration;
    - d. The particular duties of the job being sought;
    - e. Any character or employment references provided by the applicant; and
    - f. Any evidence of the applicant's rehabilitation since the conviction.
  3. An employer, landlord or lending institution may consider a prospective employee's, lessee's or borrower's conviction

record only to the extent that the conviction occurred fewer than ~~five (5) years~~ \***ten (10) years** from the date of application.

4. If an employer rejects an applicant for a job opening based in whole or in part on criminal record information, the employer shall notify the applicant in writing of such decision and its basis, and shall provide the applicant with a copy of the criminal history report. The employer shall allow the applicant ten (10) business days to provide evidence of the inaccuracy of the information or to provide an explanation.

I. The term "**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 (P.L. 91-513, 21 U.S.C. §802 et seq.).

4. As used in this paragraph, the phrase:

a. "**physical or mental impairment**" includes:

- (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine or;
- (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction



caused by current, illegal use of a controlled substance) and alcoholism.

- b. **"major life activities"** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working
- c. **"has a record of such an impairment"** means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities;
- d. **"is regarded as having an impairment"** means:
  - (1) Has a physical or mental impairment that does not substantially limit one or more major life activities, but that is treated by another person as constituting such a limitation;
  - (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
  - (3) Has none of the impairments defined in paragraph (a) of this definition, but is treated by another person as having such an impairment.

J. The term **"complainant"** means the person (including the Commission) who files a complaint under this Ordinance.

K. The term **"discriminate" or "discrimination"** means any difference in treatment in hiring, referring for hire, promoting, training, membership in employee or labor organizations, the sale, lease, rental or financing of housing, rendering service in places of public accommodation, because of race, color, familial status, religious creed, ancestry, age, sex, sexual orientation, national origin, disability of the person, the use of guide or support animals because of the disability of the person, or because the person is a handler or trainer of support or guide animals. The term "discrimination" includes segregation, and also includes any act that is unlawful under this Ordinance.

L. The term **"employee"** does not include (1) any individual employed in agriculture or in the domestic service of any person; (2) any individuals who, as a part of their employment, reside in the personal residence of the employer; (3) any individual employed by said individual's parents, spouse or child.

M. The term **"employer"** includes Erie County or any political subdivision or board, department, commission, or school district thereof and any person employing four or more persons within the County, but except as hereinafter provided, does not

include religious, fraternal, charitable, or sectarian institutions or organizations, except such institutions or organizations supported, in whole or in part, by governmental appropriations. The term "employer" with respect to discriminatory practices based on race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income or non-job related disability, includes religious, fraternal, charitable and sectarian institutions or organizations employing four or more persons within the County.

N. The term "**employment agency**" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employees.

O. The term "**Fair Housing Act**" means (P.L. 90-284, 42 U.S.C. § 3601 et seq.).

P. The term "**familial status**" means one or more individuals who have not attained the age of eighteen years being domiciled with:

1. a parent or other person having legal custody of such individual or individuals; or
2. the designee of such parent or other person having such custody, with the written permission of such parent or other person.

**NOTE:** The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Q. The term "**gender identity**" means the actual or perceived appearance, expression, identity or behavior, of a person as being male and female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

R. The term "**housing accommodation**" includes: (1) any building, structure, mobile home site or facility, or portion thereof, which is used, 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, limited to the exceptions in §804(except (c)) of the Fair Housing Amendments Act of 1988.

S. The term "**housing for older persons**" means housing:

1. provided under any state or federal program that the HUD Secretary determines is specifically designed and operated to assist elderly

persons (as defined in the state or federal program and subordinate to the Secretary of Housing and Urban Development or

2. intended for, and solely occupied by, persons 62 years of age or older; or
3. intended and operated for occupancy by persons 55 years of age or older, and:
  - a. at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
  - b. the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
  - c. the housing facility or community complies with rules issued by the Commission for verification of occupancy, which shall:
    - (1) provide for verification by reliable surveys and affidavits; and
    - (2) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (I). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

**NOTE:** The authority to determine whether any federal program “is specifically designed or operated to assist elderly persons” is vested in the HUD Secretary. See 24 CFR §§ 100.302 and 115.203(d).

T. The term "**independent contractor**" includes any person who is subject to the provisions governing any of the professions and occupations regulated by state licensing laws enforced by the Bureau of Professional and Occupational Affairs in the Department of State.

U. The term "**labor organization**" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.

V. The term "**lending institution**" means any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money, guaranteeing loans, purchasing loans or providing other financial assistance which is either secured by residential real estate or is, for the

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

W. The term "**mediation**" shall refer to a process of dispute resolution that is mutual and voluntary in an attempt to reach informed settlements between parties. "Mediation" is facilitated by an outside, neutral third party.

X. The term "**non-job-related disability**" means any disability that does not substantially interfere with the ability to perform the essential functions of the employment for which a disabled person applies, is engaged in, or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a disability job-related.

Y. The term "**owner**" includes lessee, sub lessee, assignee, manager, agent or any other person having the right of ownership or possession or the authority to sell, rent, or lease any housing accommodation, including the County and its departments, boards, and commissions.

Z. The term "**panel advisor**" means an attorney appointed by the Commission to serve as their advisor during the hearing of complaints. He/she shall serve as legal advisor to the Commission and shall be totally separate from the staff who gives fact-finding assistance to complainants. Following a hearing the Panel Advisor will submit to the Hearing Panel and then to the entire Commission the Panel's recommended findings of fact, conclusions, of law, legal opinion and order. He/she shall be paid pursuant to the provisions of the existing County budgeting procedures.

AA. The "**person**" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees in bankruptcy, or receivers. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, independent contractor, lending institution, the Commonwealth of Pennsylvania, and all political subdivisions, authorities, boards, and commissions thereof, including the County of Erie.

BB. The term "**personal residence**" means any single-family house sold or rented by an owner, provided:

1. that such private individual owner does not own more than three such single-family houses at any one time;
2. that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period;
3. that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary

agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time;

4. that after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this Ordinance only if such house is sold or rented:

- a. without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
- b. without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of the Ordinance but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

CC. The term "**personal residence**" is limited to rooms or units containing living quarters occupied or intended to be occupied by no more than two (2) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence. "Personal Residence" as defined is limited to the exceptions set forth herein in Article IX.

CC. The term "**public accommodation, resort or amusement**" means provision of service; or any place which is open to, accepts, or solicits the patronage of the general public; or offers goods or services to the general public; the Commonwealth of Pennsylvania, and all political subdivisions, authorities, boards and commissions thereof, including the County of Erie. The term "public accommodation" shall not include any accommodations that are in their nature distinctly private, personal and confidential.

DD. The term "**real estate-related transaction**" means any of the following:

1. the making or purchasing of loans or providing other financial assistance --
  - a. for purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or
  - b. secured by real estate; or
2. the selling, brokering, or appraising of real property.

EE. The term **“real estate broker”** means any natural person, partnership, association, or corporation who, for a fee or other valuable consideration or other purposes, sells, purchases, exchanges, rents, negotiates, or offers or attempts to negotiate, the sale, purchase, exchange or rental of the real property of another, or holds himself out as engaged in the business of selling, purchasing, exchanging or renting the real property of another, or collects rent for the use of the real property of another or attempts to secure the listing for sale or rental of a housing unit by representing that a change has occurred or will or may occur with respect to the age, racial, religious creed, ethnic, disability, the use of a guide or support animal, sex, gender identity, sexual orientation, criminal history, source of income, or familial status, composition of the street, block, neighborhood, or area in which such housing accommodation is located.

FF. The term **“real estate sales person or agent”** means any person employed by a real estate broker to perform, or to assist in the performance of any or all of the functions of a real estate broker, or providing any services in connection therewith.

GG. The term **“sexual orientation”** means the actual or perceived state of heterosexuality, homosexuality, or bisexuality.

HH. The term **“source of income”** means the lawful, verifiable manner by which an individual supports himself and his or her dependents. This does not prohibit a landlord or employer to opt out of a particular government program, such as Section 8.

## **Article V. ERIE HUMAN RELATIONS COMMISSION: POWERS AND DUTIES**

A. There is hereby established the Erie County Human Relations Commission. The Commission shall be composed of two bodies: the Enforcement Commission and an Advisory Board (the research and educational arm of the commission). Members of both bodies shall be County residents, selected from a broadly and diverse representative cross-section of the racial, ethnic and economic groups, sympathetic with the principles and purposes of this Ordinance and shall serve without compensation.

1. The nine (9) Enforcement Commissioners shall consist of seven (7) members appointed by the Erie County Council, one member appointed by the County Executive with no ratification by County Council, and one appointed by the Erie City Council.
2. The Advisory Board shall consist of eleven (11) members, seven (7) appointed by Erie County Council and four (4) appointed by Erie City Council.

B. Members of the Human Relations Commission and Advisory Board shall be appointed as follows:

1. Each member of Erie County Council shall appoint an Enforcement Commissioner and one person to the Board of Advisors, subject to the ratification of County Council. The County Executive shall appoint one (1) Enforcement Commissioner without ratification by County Council.
2. One (1) Enforcement Commissioner and four (4) members of the Advisory Board shall be appointed by the City of Erie with due regard to the appointment rules and procedures set up by Erie City Council.
3. Terms of Enforcement Commissioners and the Advisory Board shall be four years. However, any vacancy shall be filled for the unexpired terms in the same manner as original appointments. Members may be re-appointed. A Commissioner or Advisor whose term has expired shall continue to serve until replaced by a duly appointed, approved, and confirmed Commissioner.

C. Upon adoption of this Ordinance by County Council, the Commission is hereby vested with the authority to administer and enforce this Ordinance and in connection therewith it shall have the following powers and duties:

1. With the approval of County Council, to establish and maintain an office in the County.
2. To meet and function regularly in the County;
3. With the approval of County Council, to hire an Executive Director, staff, and attorney to render legal advice from time to time to Enforcement Commissioners on matters appearing before them;
4. The Commission and its staff shall be responsible to provide annual written reports of its cases and activity, as well as a financial report to Erie County and Erie City governments, as required by the Administrative Code. Staff responsibilities are to be defined in a Human Relations Commission Practices and Procedures manual and shall:
  - a. Have the responsibility to investigate and pass upon complaints charging unlawful discriminatory practices;
  - b. Assist the Commission to otherwise enforce the Ordinance.
5. To adopt, promulgate, amend, or rescind rules and regulations to effectuate the policies and provisions of this Ordinance and to

forward such recommendations to Erie County Council for its approval.

6. To the Board of Advisors, the Enforcement Commissioners assign the responsibility for public relations, research and education. The Board of Advisors may examine patterns and practices of discrimination in our community. The Board may foster, through research, community education, and outreach, good will among the groups and elements of the population of the County.
7. Subject to approval by the Enforcement Commissioners, the Board of Advisors shall issue such reports and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination.
8. To prepare and distribute fair practices notice;
9. From time to time, but not less than once a year, a report to Council, describing in detail the investigations, proceedings, hearings and studies it has conducted and their outcome, the decisions it has rendered and the other work performed by it and make recommendations for such further legislation concerning abuses and discrimination because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, as may be desirable;
11. To request other departments, boards and commissions of Erie County government to assist in the performance of its duties and such other departments, boards and commissions and shall cooperate fully with the Commission in regard to claims of discrimination;
12. To inspect, upon request, such records of the Commonwealth or any political subdivision, board, department, commission or school district thereof as it may deem necessary or advisable to carry into effect the provisions of this Ordinance;
13. a. To hold hearings, subpoena witnesses, compel attendance, administer oaths, take testimony of any person under oath or affirmation and, in connection therewith, to require the production for examination of any books and papers relating to any matter under investigation where a complaint has been properly filed before the Commission. The Commission may make rules as to the issuance of subpoenas by individual Commissioners. In case of contumacy or refusal to obey a subpoena issued to any



person, any court of jurisdiction, upon application by the Commission, may issue to such person an order requiring such person to appear before the Commission, to produce documentary evidence, if so ordered, or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

- b. No person shall be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to the subpoena of the Commission or of any individual Commissioner, on the ground that the testimony or evidence required of them may tend to incriminate them or subject them to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which they are compelled after having claimed their privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

D. **BYLAWS:** The Erie County Human Relations Commission shall prepare and submit Bylaws to Erie County Council for their approval. Bylaws may be amended by a majority vote of the regular members of the Commission. The Commission may seek the advice of the Advisory Board at any duly called joint meeting. Proposals for amending the Bylaws should be set forth in writing to all members of the Commission and Advisory Board at least twenty (20) days before the meeting at which the amendment is to be voted on. Amendments must be ratified by Erie City and County Councils. The members of the Commission and Advisory Board shall annually elect from their own number a chair, vice-chair and secretary. These officers shall serve until the first Monday of January of each year.

E. **MEETINGS:** All meetings of the Erie County Human Relations Commission and its Board of Advisors will be held in accordance with the Pennsylvania Sunshine Act and in handicapped accessible facilities.

## **Article VI. PROCEDURE**

A. Any person claiming to be aggrieved by an alleged unlawful discriminatory practice, may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice and the particulars thereof. The complaint shall also contain such other information as may be required by the Commission. The complainant

shall have the power to fairly and reasonably amend any complaint, and the respondent shall have the like power to amend an answer.

B. After the filing of any complaint the Commission shall make a prompt investigation. In the conduct of such investigation the Commission may issue subpoenas to any person to furnish information, records, and other documents. The Commission must commence proceedings within thirty (30) days of receipt of the complaint. The Commission shall complete its investigation of a complaint within 100 days of receipt of the complaint, unless otherwise impracticable and, then, upon written notification and explanation of such impracticability to all parties. Administrative disposition of a complaint shall be within one (1) year of its filing and, if otherwise impracticable, upon written notification to all parties of the reasons for such impracticability.

C. At the time of filing a complaint, the Commission shall advise the complainant of the time limits and choice of forums and advise the respondent of procedural rights.

D. Upon the filing of a complaint, the Commission shall send a copy of the complaint to the complainant and to the named respondent within ten (10) days from the date of docketing the complaint, unless otherwise required by the Fair Housing Act.

E. A respondent may file a written, verified answer to a complaint alleging a discriminatory housing practice within ten (10) days of service of the housing discrimination complaint. A respondent shall file a written, verified answer to a complaint alleging a discriminatory employment practice within thirty (30) days of service of the complaint.

F. If after thirty (30) days (in no case more than sixty (60) days with an extension granted by the Commission) a respondent fails to answer a complaint alleging employment discrimination, the allegations contained within said complaint will be deemed admitted by respondent and the Commission will proceed as if respondent had filed an answer admitting the allegations contained within the complaint. Nothing in this section shall apply to complaints alleging housing discrimination.

G. After service of the complaint, the Commission shall encourage voluntary and informed predetermination settlements between parties. Any settlements reached by the parties may be monitored by the Commission.

H. If it is determined after such investigation that there is no basis for the allegations of the complaint, the Commission shall, within ten (10) days from such determination, cause to be issued and served upon the complainant and respondent written notice of such determination. The notices shall also state that the complaint will be dismissed unless within ten (10) days after such service the complainant or his attorney file, with the Commission, a request for a review hearing. The Commission shall, upon request for such a hearing, provide the complainant and his attorney, if any,

an opportunity to appear before the Commission, a member thereof or a staff representative of the Commission, at the election of the Commission to present such additional information as may be available to support the allegations of the complaint. If, after such a hearing, the Commission or its representative determines there is no basis for the allegation, the complaint shall be dismissed and there shall be no appeal from such a decision.

I. Conciliation shall take place by the Commission from the time of the filing of the complaint to the issuance of a charge of discrimination or dismissal of the complaint. If the Commission, after investigation, determines that probable cause exists, the Commission shall promptly issue a charge and immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation, and persuasion. Any conciliation agreement arising out of conciliation efforts by the Commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the Commission. Each conciliation agreement shall be made public unless the complainant, respondent, and Commission all agree that disclosure is not required to further the purposes of this Ordinance.

J. If the Commission, in its discretion, finds it is not possible to eliminate such unlawful practices by persuasion, the Commission shall cause to be issued and served a charge, together with a copy of such complaint as originally filed or as the same may have been amended by the Commission, requiring the respondent to answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice. The Commission may designate one or more of its members to preside at such meeting, or it may at its election conduct such hearing en banc.

1. When a complaint asserting a housing discrimination violation of this Ordinance is filed under Article VI, Section A, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in the complaint decided in a civil action in lieu of a hearing under this section. The election must be made not later than twenty (20) days after receipt of the notice of hearing. The person making such election shall give notice of doing so to the Commission and to all other complainants, respondents, or aggrieved persons.

2. If an election is made under J(1) of this Article, the Commission shall authorize, and not later than thirty (30) days after the election is made, the Commission shall commence and maintain a civil action on behalf of the complainant or aggrieved person in the Court of Common Pleas of Erie County, Pennsylvania. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

K. The respondent may file a written verified answer to the charge and appear at such hearing in person or with counsel. The Commission shall be bound by

the Pennsylvania Rules of Evidence. The Commission shall be given legal advice by the Panel Advisor. The testimony taken at the hearing shall be under oath and shall be recorded by a stenographer and shall be transcribed if necessary

L. If, upon all the evidence at the hearing, the Commission finds that the respondent has been engaged in or is about to engage in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from such unlawful discriminatory practice or practices and to take such affirmative action, including, but not limited to hiring, reinstatement, or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal, and unsegregated accommodations, advantages, facilities and privileges to all persons, and/or such other equitable and civil remedies including but not limited to compensatory damages, attorneys' fees, verifiable reasonable out-of-pocket expenses, costs, and the assessment of a civil penalty as available under the Pennsylvania Human Relations Act, Act of Oct. 27, 1955, (P.L. 744, No. 222), as amended, as, in the judgment of the Commission, will effectuate the purpose of this Ordinance, and including a requirement for report of the manner of compliance. Further, attorney fees shall not be limited to a prevailing complainant but rather to any prevailing party.

M. If, upon all the evidence, the Commission finds that the respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall dismiss the complaint. Notice of such action shall be given to the complainant and respondent.

N. Any complaint filed pursuant to this section must be so filed within one hundred and eighty (180) days after the alleged act of discrimination has occurred or terminated unless otherwise required by the Fair Housing Act. Any complaint may be withdrawn at any time by the party filing the complaint.

O. In all situations which may require prompt judicial relief, including those situations when it appears that a housing unit or units involved in a complaint may be sold, rented, or otherwise disposed of before a determination of the case has been made, and the Commission shows probable cause for the complaint, the Court of Common Pleas of Erie County may issue an injunction restraining the complained of activity, including injunction of the sale, rental, or other disposition of the unit or units, except in compliance with the order of court. The court may attach to any such injunction granted such other conditions as it deems proper. Such injunction, if issued, shall be of no more than thirty (30) days' duration. If an extension of time is required, this extension may be granted at the discretion of the court but, a reasonable bond may be required by the court before granting such extension.

P. In cases involving a claim of discrimination, if a complainant invokes procedures set forth in this Ordinance, that individual's right of action in the courts of the Commonwealth shall not be foreclosed. The aggrieved person may seek civil

enforcement of the law or Ordinance by commencing an action in an appropriate court at least one year after the occurrence or termination of the alleged discriminatory housing practice. If the court finds that the respondent has engaged in or is engaging in an unlawful discriminatory practice charged in the complaint, the court shall enjoin the respondent from engaging in such unlawful discriminatory practice and order affirmative action which may include, but is not limited to, reinstatement or hiring of employees, granting of back pay, compensatory, punitive damages, attorneys' fees, or any other legal or equitable relief as the court deems appropriate to any prevailing party as being entitled to such.

## **Article VII. ENFORCEMENT AND JUDICIAL REVIEW**

The complainant may secure enforcement of the order of the Commission or other appropriate relief. When the Commission has heard and decided any complaint before it, enforcement of its order shall be initiated by the filing of a petition in such court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of such petition as in proceedings in equity.

A copy of the Commission's testimony shall be available at all reasonable times to all parties for examination without cost, and for the purpose of enforcement or judicial review of the order.

A final order entered by the Commission is an appealable order. If relief is sought from the Court, said Court may make an order or decree enforcing, modifying, or setting aside, in whole or in part, the order of the Commission. The jurisdiction of the Court shall not be limited by acts pertaining to equity jurisdiction of the Courts. Any failure to obey an order of the Court may be punished by such Court as a contempt thereof.

## **Article VIII. UNLAWFUL DISCRIMINATORY PRACTICES IN EMPLOYMENT**

- A. Subject to Article IV, Section I of these bylaws, it shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or in the case of a fraternal corporation or association, unless based upon membership in such association or corporation, or except where based upon applicable security regulations established by the United States, the Commonwealth of Pennsylvania, or the County of Erie, for any employer because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, to refuse to hire or employ or contract with, or to bar or to discharge from employment such individual or independent contractor, or to otherwise discriminate against such individual or independent contractor with respect to compensation, hire, tenure, terms, conditions, or privileges of employment or

contract, if the individual or independent contractor is the best able and most competent to perform the services required.

- B. Except as otherwise provided in this section, no employer, agent of an employer, employment agency or labor organization shall do any of the following:
1. Fire or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's credit history or credit report.
  2. Inquire about an applicant's credit history.
  3. Order or obtain an applicant's or employee's credit report from a consumer reporting agency.

**NOTE:** The prohibitions contained in this section shall not prevent an inquiry or employment action if a satisfactory credit history is an established bona fide occupational requirement of a particular position or a particular group of employees. The bona fide occupational requirement will be met if the employee will be dealing with personal or sensitive financial information, trade secrets, or state or national security information.

C. Subject to Article IV, I, of these bylaws, it shall be unlawful for any employer, employment agency or labor organization, prior to the extension of the conditional offer of employment to the applicant to:

1. Make any inquiry, elicit any information, or use any form of application or application blank containing questions or entries concerning the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income for employment or membership. Prior to an offer of employment, an employer may not inquire as to whether an individual has a disability or as to the severity of such disability. An employer may inquire as to the individual's ability to perform the essential functions of the employment.
2. Print or publish, or cause to be printed or published, any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based upon race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.
3. Deny or limit, through a quota system or otherwise, employment or membership because of race, color, disability of the person,

religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.

4. Substantially confine or limit recruitment or hiring of individuals, with intent to circumvent the spirit and purpose of this act, to any employment agency, employment service, labor organization, training school, or any other employee-referring source.
5. Deny employment because of, or a perception of, a prior disability.
6. Nothing above shall prevent the Commission from requiring reports, information, or answers to questions regarding race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income or in connection with their compliance procedure, or affirmative action, or educational programs.

**NOTE:** Nothing in clause (b) of this section shall bar any institution or organization for disabled persons from limiting or giving preference in employment or membership to disabled persons.

D. For any labor organization, because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, to deny full and equal membership rights to any individual or otherwise discriminate against such individuals with respect to hire, tenure, terms, conditions, or privileges of employment, or any other matter, directly or indirectly, related to employment.

E. For any person, employer, employment agency, or labor organization to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act, or because such individual has made a charge, testified, or assisted, in any manner, in any investigation, proceeding, or hearing under this Ordinance.

F. For any person, employer, employment agency, labor organization, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this Ordinance or any order issued thereunder, or to attempt, directly or indirectly, to commit any act declared by this section to be an unlawful discriminatory practice.

G. For any employment agency to fail or refuse to classify properly, refer for employment, or otherwise to discriminate against any individual because of his race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.

H. For any individual seeking employment to publish or cause to be published any advertisement which in any manner expresses a limitation or preference as to the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income of any prospective employee.

I. For any employer to discriminate against an employee or a prospective employee because the employee only has a diploma based on passing a general educational development test as compared to a high school diploma. However, should vocational technical training or other special training be required with regard to a specific position, then such training or special training may be considered by the employer.

1. To exclude or otherwise deny equal jobs or benefits to a person because of the disability of an individual with whom the person is known to have a relationship or association.

J. It shall not be an unlawful employment practice for an employer to express a preference for a certain kind of applicant where the position to be filled requires special qualifications, skills, or experience as long as such preference is not on the basis of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income. Likewise, this section of the Ordinance shall not be construed to prohibit the refusal to hire or the dismissal of a person who is not able to function properly in the job applied for or engaged in.

K. Notwithstanding any provision of this Article, it shall not be an unlawful employment practice for a religious institution or organization to hire or employ on the basis of sex, gender identity, or sexual orientation in those certain instances where sex, gender identity, or sexual orientation is a bona fide occupational qualification because of the religious beliefs, practices, or observation of the institution or organization.

#### **Article IX. UNLAWFUL DISCRIMINATORY PRACTICES IN HOUSING**

A. Subject to Article IV, I of these bylaws, it shall be an unlawful discriminatory practice for any person to:

1. Refuse to sell, lease, finance, or otherwise to deny, withhold, make unavailable, any housing accommodation, or commercial property (specifically including loans made for any purpose so long as such loans are secured by real estate) from any person; or establish, announce, or follow a policy of denying or limiting housing opportunities through a quota or otherwise, because of the race, disability of the person, color, religious creed, ancestry, age, familial



status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.

- a. Evict or attempt to evict an occupant of any housing accommodation because of pregnancy or the birth of a child.
  - b. “Otherwise to deny” as stated above includes, but is not limited to:
    - (1) Representing to any person because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, that a dwelling is not available for sale, rental, or inspection when such dwelling is in fact available.
    - (2) Failing to negotiate for the sale or rental of a dwelling.
2. Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation or commercial property, or otherwise withhold financing of any housing accommodation or commercial property (or specifically including loans made for any purpose so long as such loans are secured by real estate) from any person because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income. This prohibition includes money lent for any purpose, when the loan is secured by residential real estate.
  3. Discriminate against any person in the terms or conditions of selling or leasing any housing accommodation or commercial property, or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodation or commercial property because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.
    - a. Refuse to permit, at the expense of a person with a disability, 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, except that in the case of a rental, the landlord may, where it is reasonable to do so, grant permission for a modification if the renter agrees to

restore the interior of the premises to the condition that existed before the modification, with reasonable wear and tear excepted.

- b. Refuse 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 housing accommodation.
4. Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the purchase, acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation or commercial property (or specifically including loans made for any purpose so long as such loans are secured by real estate) because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.
5. Print, publish, make, or circulate any statement, publication, notice, or advertisement:
  - a. relating to the sale, lease, or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation or commercial property (or specifically including loans made for any purpose so long as such loans are secured by real estate) which indicates any preference, limitation, specification, or discrimination based upon race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, or
  - b. relating to the sale, lease or acquisition of any housing accommodation or commercial property which indicates any preference, limitation, specification, or discrimination based upon use of a guide or support animal because of the disability of the user or because the user is a handler or trainer of support or guide animals.
6. Make any inquiry, elicit any information, or use any form of application for the purchase, rental, or lease of housing accommodations, or to make real estate appraisals, containing questions or entries concerning race, color, disability of the person,

religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income in connection with the sale or lease of any housing accommodation or commercial property, or loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation or commercial property, or to make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning the use of a guide or support animal because of the disability of the user, or because the user is a handler or trainer of support or guide animals, in connection with the lease of any housing accommodation or commercial property.

7. Discriminate in the making or purchasing of loans, or in the appraising or brokering of residential real estate. Discrimination in brokering includes, but is not limited to, denying access to or membership in any multiple listing service or facility relating to the sale or rental of dwellings based on race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.
8. Design, construct, operate, offer for sale, lease, or rent or otherwise make available housing or commercial property that is not accessible in accordance with federal law. This provision includes design and construction requirements, after the date that is thirty (30) months after September 13, 1988, as required under §804(f)(3)(C) of the Fair Housing Amendments Act of 1988, and U.S.C. 42 § 3604(f)(3)(C).
  - a. In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty (30) months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:
    - (1) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
    - (2) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

- (3) all premises within such dwellings contain the following features of adaptive design:
  - (a) an accessible route into and through the dwelling;
  - (b) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (c) reinforcements in bathroom walls to allow later installation of grab bars; and
  - (d) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

9. Discriminate in real estate related transactions, as described by and subject to the following.

- a. It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.

10. Discriminate by engaging in a certain real estate practice: Blockbusting,

- a. It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.
- b. In establishing a discriminatory housing practice under this section, it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

c. Prohibited actions under this section include, but are not limited to:

(1) Engaging, for profit in conduct (including uninvited solicitations for listings) which convey to a person that a neighborhood is undergoing or about to undergo a change in the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income of persons residing in it, in order to encourage the person TO WHAT?

(2) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, can or will result in undesirable consequences of the project, neighborhood or community, such as lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

11. For any person with the intention of defeating the purposes of this Ordinance to sell, lease, or transfer or attempt to sell, lease, or transfer, or offer, advertise, or make available for sale, lease, or transfer any housing accommodation which is the subject of a written verified complaint filed with the Commission until final determination of the complaint.

a. For any person, after a complaint regarding a housing accommodation has been filed and prior to final determination by the Commission, to fail to include a notice of the complaint in any subsequent lease or agreement of sale involving that housing accommodation.

12. If the Commission finds that a respondent has engaged or is about to engage in a discriminatory housing practice, the Commission shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent:

- a. in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
- b. in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the five (5)-year period ending on the date of the filing of this charge; and
- c. in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7)-year period ending on the date of the filing of this charge;

**NOTE:** Except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs 12.2 and 12.3 may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

- d. Nothing in this clause limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this clause regarding familial status apply with respect to housing for older persons.
- e. As used in this section, “housing for older persons” means housing:
  - (1) Provided under any state or federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
  - (2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
  - (3) Intended and operated for occupancy by persons fifty-five (55) years of age or older, and

- (a) at least eighty (80) percent of the occupied units are occupied by at least one person who is fifty-five years of age or older;
  - (b) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
  - (c) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall:
    - i. provide for verification by reliable surveys and affidavits; and
    - ii. include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (b). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
- g. Housing shall not fail to meet the requirement for housing for older persons by reasons of:
- (1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections (12e) (1) or (2); provided, that new occupants of such housing meet the age requirements of subsections (12e) (1) or (2)
  - (2) Unoccupied units: provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection (12.e) (1) or (2) .<sup>2</sup>

13. Nothing in this clause shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy or dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this clause prohibit a private club not in fact open

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<sup>2</sup> 42 U.S.C. §3607(b)

to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

14. Nothing in this clause shall apply:
  - a. With respect to discrimination based on sex, to the rental or leasing of housing accommodations in a single-sex dormitory.
  - b. To the rental of rooms in a landlord-occupied rooming house with a common entrance. This exemption is limited to rooms or units containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence. **NOTE:** A “family” includes one person.

15. Nothing above shall prevent the Commission from requiring reports, information, or answers to questions regarding race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, in connection with their compliance procedure of affirmative action or educational programs.

16. Additionally, everything in this section is subject to Subtitle B of Title 24 of the Code of Federal Regulations (CFR) Part 100 - Discriminatory Conduct under the Fair Housing Act. Specifically, the exemptions at §100.10 are not subject to §804(except(c)) but are subject to §§805, 806, and 818 of the Fair Housing Amendments Act of 1988.

#### **Article X. PROHIBITED INTERFERENCE, COERCION OR INTIMIDATION**

A. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part, in accordance with the Fair Housing Act § 818.

B. Conduct made unlawful under this section includes, but is not limited to, the following:

1. Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling, or in connection with a residential real estate related transaction because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex,



gender identity, sexual orientation, natural origin, criminal history or source of income.

2. Threatening, intimidating, or interfering with persons in their enjoyment of a dwelling because of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, or of visitors or associates of such person.
3. Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling, or seeking access to any residential real estate related transaction, because of the race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income of that person or any person associated with that person.
4. Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this Ordinance.
5. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under this Ordinance or the Fair Housing Act.

#### **Article XI. UNLAWFUL DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

A. Subject to Article IV, I of these bylaws, it shall be an unlawful discriminatory practice for any person being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any public accommodation, resort or amusement to:

1. Refuse, withhold from, or deny to any person because of his race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, either directly or indirectly, any of the accommodations, advantages, facilities, or privileges of such public accommodation, resort or amusement.
2. 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 of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, or that the patronage or custom thereof of any person, belonging to, or purporting to be of any particular race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income, is unwelcome, objectionable, or not acceptable, desired, or solicited.

3. Exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to a person because of the disability of an individual with whom the person is known to have a relationship or association.
4. Construct, operate, or otherwise make available such place of public accommodation, resort, or amusement which is not accessible.
5. Aid, abet, incite, compel, or coerce the doing of any act declared by this subsection to be an unlawful discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this subsection, or any order issued thereunder, or to attempt, directly or indirectly, to commit any act declared by this subsection to be an unlawful discriminatory practice.

B. For any person subject to the Ordinance to fail to post and exhibit prominently in his place of business any fair practices notice prepared and distributed by the Pennsylvania Human Relations Commission or the Erie County Human Relations Commission.

C. Nothing in this Ordinance shall bar any religious or denominational institution or organization, or any religious or denominational organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination with regard to the occupancy, leasing, sale, or purchase of real estate, or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained, provided that such selection or preference is not on the basis of race, color, disability of the person, religious creed, ancestry, age, familial status, sex, gender identity, sexual orientation, natural origin, criminal history or source of income.

D. It shall be an unlawful discriminatory practice for any person to interfere with the exercise of one's rights under this Ordinance, harass, threaten, intimidate, harm, damage, or otherwise penalize any person, group, or business because they

exercised their rights under this Ordinance, or because they have complied with the provisions of this Ordinance, or enjoyed the benefits of this Ordinance, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder.

E. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, induce, compel, or coerce the doing of an unlawful employment, housing, or public accommodation practice prohibited by this Ordinance, or to obstruct or prevent any person from complying with the provisions of this Ordinance, or any order issued hereunder.

## **Article XII. RELIGIOUS OBSERVANCE**

A. It shall be an unlawful discriminatory practice for any employer to prohibit, prevent, or disqualify any person from, or otherwise to discriminate against, any person in obtaining or holding employment because of such person's observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the person's religion.

B. Except as may be required in an emergency or where personal presence is indispensable to the orderly transaction of public business, no employee shall be required to remain at the place of employment during any day or days or portion thereof that, as a religious requirement, the person observes as the Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between the place of employment and home. Provided, however, that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time, or shall be charged against any leave with pay ordinarily granted, other than sick leave. Provided, further, however, that any such absence not so made up or charged, may be treated by the employer of such person as leave taken without pay.

C. This section shall not be construed to apply to any position dealing with the public health or safety where the person holding such position must be available for duty whenever needed, or to any position or class of positions the nature and quality of the duties of which are such that the personal presence of the holder of such position is regularly essential on any particular day or days or portion thereof for the normal performance of such duties with respect to any applicant therefore or holder thereof who, as a religious requirement, observes such day or days or portion thereof as the Sabbath or other holy day.

### **Article XIII. CONFLICT AND SEVERABILITY**

When a provision of this Ordinance is found to be in conflict with a provision of any other County Ordinance, or any regulation issued under the authority of such Ordinance said conflicting provision shall be presented to County Council which shall determine if the provision presents or does not present a conflict and may amend this Ordinance to correct said conflict.

This Ordinance shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. In the event that a portion of this Ordinance is found to be inoperable or against public policy, then this Ordinance shall be divisible and said inoperable portion shall not be construed so as to affect the validity of other provisions of this Ordinance and the other provisions shall remain in full effect.

### **Article XIV. AUTHORIZATION TO RECEIVE DONATIONS**

The authorization and appropriation of public funds to the Human Relations Commission shall not preclude the Commission from accepting grants or donations from any other sources, public or private, nor from entering into working agreements with other anti-discrimination agencies to further the work of this Commission and its purposes in administering this Ordinance and related state and federal statutes, so long as such activities provide no additional cost to the County without explicit prior approval of the County Council.

### **Article XV. AMENDMENT AND REPEALER CLAUSE**

County Council has the right to amend and/or repeal all or any portion of this Ordinance under its regular rules of procedure.