

**TOWNSHIP OF UPPER GWYNEDD  
MONTGOMERY COUNTY, PENNSYLVANIA  
ORDINANCE NO. 2020-06**

**AN ORDINANCE TO AMEND THE UPPER GWYNEDD TOWNSHIP CODE OF  
ORDINANCES TO CREATE CHAPTER 20 – “HUMAN RELATIONS COMMISSION,”  
PROVIDING FOR THE CREATION OF THE UPPER GWYNEDD TOWNSHIP  
HUMAN RELATIONS COMMISSION**

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

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

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

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

**WHEREAS**, the practice or policy of engaging in discrimination or discriminatory practices against any individual or group, because of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression is a matter of highest public concern, and constitutes a paramount threat to the rights, privileges, peace and good order of the citizens of Upper Gwynedd Township and to guests and visitors of Upper Gwynedd Township, that undermines the basic tenets of our freedom as citizens of the United States, and is utterly without place in this Township, which has a storied tradition of fiercely defending the individual rights of its citizens; and

**WHEREAS**, the Board of Commissioners desires to establish and adopt an official policy of non-discrimination in Upper Gwynedd Township, in all matters involving employment, housing and commercial property, and public accommodation.

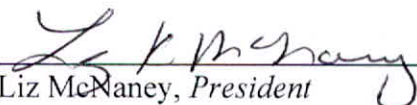
**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, by the Board of Commissioners of Upper Gwynedd Township, as follows:

1. The Code of Ordinances of Upper Gwynedd Township is amended to enact Chapter 20 – “Human Relations Commission,” which shall read as set forth in Exhibit “A” hereto.
2. **SEVERABILITY.** In the event that any section, sentence, clause, phrase or word of this ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent or otherwise foreclose enforcement of any of the remaining portions of this ordinance. If there are any inconsistencies between the provisions of this Ordinance and any other section of the Township Code of Ordinances in effect, the terms and provisions of this Ordinance shall control.
3. **REPEALER.** All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.
4. **EFFECTIVE DATE.** This Ordinance shall be effective five (5) days after its enactment.

**ORDAINED and ENACTED** by the Upper Gwynedd Township Board of Commissioners as of this 14th day of September, 2020.



**BOARD OF COMMISSIONERS  
UPPER GWYNEDD TOWNSHIP**

  
Liz McNaney, President

Attest:

  
Sandra Zadell, Secretary



Exhibit "A"

**CHAPTER 20 – Human Relations Commission**

**Section §20-1. Short Title.**

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

**Section §20-2. Purpose and Declaration of Policy.**

- a) Upper Gwynedd Township finds that it is of high public importance to adopt appropriate legislation to insure that all persons, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, use of guide or support animals because of blindness, deafness or physical handicap of the user or the user is a handler or trainer of support or guide animals, or sexual orientation, gender identity or gender expression enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and public accommodation.
- b) The Board of Commissioners of Upper Gwynedd Township hereby declares it to be the public policy of the Township to foster equality and equal opportunity for all citizens, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression in all matters effecting employment, housing and commercial property and public accommodation, and to safeguard the right of all persons to remain free of discrimination or discriminatory practices in any of the foregoing aspects of their lives.
- c) Nothing in this Ordinance shall be construed as supporting, endorsing or advocating any particular doctrine, point of view, or religious belief. On the contrary, it is the express purpose and intent of this Ordinance that all persons be treated fairly and equally, and that all persons in Upper Gwynedd Township shall be guaranteed fair and equal treatment under law.
- d) This Ordinance shall be deemed an exercise of the police power of the Township of Upper Gwynedd, as provided under the Pennsylvania First Class Township Code for the protection of the public welfare, prosperity, health and peace of the community of Upper Gwynedd Township.

**Section §20-3. Definitions.**

The following words and phrases, when appearing in this Ordinance, shall have the meanings given to them under this Section.

**BOARD OF COMMISSIONERS:** The Board of Commissioners of the Township of Upper Gwynedd, Montgomery County.

**COMMERCIAL PROPERTY OR HOUSING:** The opportunity for an individual to obtain any commercial property or housing accommodation for which he is qualified.

**DISCRIMINATION:** Any discriminatory act(s) taken by any person, employer, entity, employment agency, or labor organization, with respect to or involving a transaction related to employment, public accommodations, employment, public accommodations, publicly offered commercial property or housing accommodations on the basis of a person's actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

**DISCRIMINATORY ACTS:** All acts or actions defined in the Pennsylvania Human Relations Act as unlawful discriminatory practices as related to employment, public accommodations, publicly offered commercial property or housing accommodations actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

**EMPLOYEE:** Does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.

**EMPLOYER:** Any person who employs four (4) or more employees, including the Township, its departments, boards and commissions, and any other governmental agency within the jurisdiction of the Township, save those of any government agency whose laws may be deemed preemptive of this Ordinance

**EMPLOYMENT:** The opportunity for an individual to obtain employment for which he is qualified.

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

**ORDINANCE:** This Ordinance, which shall be referred to as the "Upper Gwynedd Township Human Relations 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 Township, its departments, boards and commissions, and any other for-profit and nonprofit organization.

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

**SEXUAL ORIENTATION:** A person's sexual identity in relation to the gender to which they are attracted. Whether actual or perceived by others.

**TOWNSHIP:** The Township of Upper Gwynedd, Montgomery County, Pennsylvania.

Any terms of this Ordinance not expressly defined herein shall be construed in a manner consistent with the Pennsylvania Human Relations Act.

#### **Section §20-4. Unlawful Practices.**

- a) Discrimination in employment, housing and commercial property or any public accommodation is prohibited under this Ordinance.
- b) Retaliation against any individual 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 or proceeding under this Ordinance is prohibited under this Ordinance.
- c) Aiding, abetting, inciting, compelling or coercing the doing of 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.

#### **Section §20-5. Exceptions.**



Notwithstanding any other provision of this Ordinance, it shall not be an unlawful practice for a religious corporation or association to commit any of the acts as defined in Section 4 of this Ordinance.

**Section §20-6. Establishment of Human Relations Commission.**

- a) Pursuant to the authority set forth under § 962.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission for the Township of Upper Gwynedd, which shall be known as the " Upper Gwynedd Township Human Relations Commission."
- b) The Upper Gwynedd Township Human Relations Commission shall consist of five (5) members, who shall be appointed to terms of three (3) years by the Board of Commissioners. The terms of the members of the Commission shall be staggered, such that the terms of one third (1/3) of the members of the Commission shall expire each year. All members of the Commission shall be residents or business owners of the Township of Upper Gwynedd and shall serve without compensation.
- c) The Chairperson of the Commission will designate one member as needed to receive the complaint and conduct an intake meeting with the complainants. The member charged with this duty shall not participate in any mediations involving parties to the complaint for which they handled the intake nor shall this member vote on complaints brought in front of the Commission.
- d) The Human Relations Commission shall, annually, designate one member to serve as Chairperson of the Commission. The Chairperson shall be responsible for coordinating the activities, meetings, and operations of the Commission, as set forth under this Ordinance. The Chairperson shall also report, from time to time, to the President of the Board of Commissioners regarding the activities of the Commission.
- e) 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 Upper Gwynedd Township Human Relations Commission under this Ordinance, as well as the terms, conditions and provisions of the Pennsylvania Human Relations Act, and the operation of the Pennsylvania Human Relations Commission. Such training and education shall be as directed by the Chairperson, and shall be performed in conjunction with the state Human Relations Commission.
- f) The Upper Gwynedd Township Human Relations Commission shall have all of those powers necessary to execute the duties set forth under this Ordinance, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.
- g) The Upper Gwynedd Township Human Relations Commission shall operate within the scope of funds which may be allocated, on an annual basis, by the Board of Commissioners and shall not exceed the annual allocation in any year, except upon prior



approval by the Board of Commissioners. In adopting this Ordinance, the Board of Commissioners hereby expresses its intention that the operation of the Upper Gwynedd Township Human Relations Commission under this Ordinance shall be supported by volunteers, unpaid staff, and volunteer efforts and shall be as close to "zero-cost" to the Township as reasonably feasible.

**Section §20-7. Complaints and Procedure for filing Complaints.**

- a) Complaints. Any person claiming to be aggrieved by a practice which is made unlawful under this Ordinance may make, sign and file a verified complaint, as provided under paragraph (b) of this Section, alleging violations of this Ordinance. Such complaint shall, at a minimum, contain the following information:
  - i. The name, telephone number, mailing address and email (if applicable) of the aggrieved person(s);
  - ii. The name, telephone number, mailing address and email (if applicable) of the person(s) alleged to have committed the prohibited practice;
  - iii. A concise statement of the facts, including pertinent dates, time, locations, people, and acts involved constituting the alleged discriminatory practice;
  - iv. Such other information as may be required by the Commission.
- b) Procedure.
  - i. Complaints may be filed in person at the office of the Township Manager, or by mailing such complaints to the Township offices, to the attention of the Township Manager or the member of the Commission designated to handle intake. All such complaints must be received by the Township within one hundred eighty (180) days of the occurrence of the last act giving rise to the complaint or such complaint shall be dismissed as untimely.
  - ii. The Township Manager shall transmit all complaints received to the Chairperson of the Commission not later than ten (10) days of receipt of the complaint. The Township Manager shall conspicuously mark the face of the complaint with the date the document was first received in the Township offices.
  - iii. The Commission may promulgate forms for use by persons wishing to file a complaint, however, complaints which are prepared without the use of an approved form shall be deemed acceptable under this Ordinance so long as the facts set forth under paragraph (a) of this Section can be clearly determined from the document submitted as a complaint.
  - iv. 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. Such process shall also include referral of additional information to the prospective complainant concerning the content of this Ordinance, the content of the Pennsylvania Human Relations Act,

and the availability of the Pennsylvania Human Relations Commission as an additional venue within which the prospective complainant may seek redress when possible.

c) Notifications and Answer. Within thirty (30) days of receipt of a complaint, the Commission shall.

- i. Send a copy of the complaint to the person(s) charged with a discriminatory act or practice under this Ordinance (the "respondent"), together with a copy of this Ordinance.
- ii. Send a notice to the complainant, informing them that the complaint has been accepted and processed by the Commission. If the complaint alleges discrimination on a basis proscribed under federal or state law, the Notice shall also inform the complainant of his or her right to file a complaint with the Pennsylvania Human Relations Commission or the federal Equal Employment Opportunity Commission as well as the U.S. Department of Housing and Urban Development, where applicable.
- iii. The Commission shall notify the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of that Commission, as required under the Human Relations Act.
- iv. The Commission shall also include a notice to both the complainant and the respondent(s) of their option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint.
- v. The respondent(s) shall file a written verified answer to the complaint within thirty (30) days of service of the complaint. An answer shall be filed in the same manner as a complaint.

d) Procedure following Notification and Answer.

- i. 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 Commission shall proceed with the following options:
  1. In the event that both parties have consented to mediation then the Commission shall refer the matter to a recognized alternative dispute resolution service, which same service may be provided through Montgomery County, the Montgomery County Bar Association, or any other professional mediation service provider, or 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. Any costs or expenses which may be associated with the mediation shall be the responsibility of the parties. The parties shall jointly select the mediator;



however, the Commission shall retain the authority to act as the mediator in the event the parties have agreed to mediation but cannot jointly agree on a mediator. Mediation sessions conducted by the Commission may proceed with a minimum of two eligible Commission Members. Mediation sessions shall remain private and not otherwise subject to public attendance.

When mediation has resulted in an amicable resolution of the complaint and the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed, and shall record the result of the mediation in the Notice of dismissal.

2. In the event the complaint has not been resolved through mediation the parties are entitled to proceed to the Court of Common Pleas in Montgomery County.

#### **Section §20-8. Non-limitation of Remedies.**

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

#### **Section §20-09. 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 state or federal court or agency of competent jurisdiction.

#### **Section §20-10. Penalties.**

- a) Any person who shall violate any provision of Section 4 of this Ordinance may be subject by the Montgomery County Court of Common Pleas or any Court of competent jurisdiction to the penalties enumerated in Section 9 (f) (1)-(2), Section 9.2, 9.3, and Section 10 and 11 of the Pennsylvania Human Relations Act. The penalties contained in this Ordinance shall mirror any future changes to the Pennsylvania Human Relations Act as adopted by the General Assembly and approved by the Governor.
- b) This Ordinance extends the protections of the Pennsylvania Human Relations Act to include actual or perceived sexual orientation, gender identity or gender expression.
- c) All penalties included in the Pennsylvania Human Relations Act shall be extended to include all protected classes enumerated in the Upper Gwynedd Township Human Relations Ordinance.

#### **Section §20-11. Severability.**

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the Board of Commissioners hereby

declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

**Section §20-12. Repealer.**

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