

TOWNSHIP OF UWCHLAN

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWNSHIP OF UWCHLAN,
COUNTY OF CHESTER, COMMONWEALTH OF
PENNSYLVANIA ESTABLISHING THE UWCHLAN
TOWNSHIP HUMAN RELATIONS COMMISSION AND
PROHIBITING DISCRIMINATION IN HOUSING,
EMPLOYMENT, PUBLIC ACCOMMODATIONS AND
ACCESS TO EDUCATIONAL INSTITUTIONS.**

WHEREAS, the Township of Uwchlan is a municipality organized and existing under the Second Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. § 6501, et. seq. (1995, Nov. 9, P.L. 350, No. 60, § 1); and

WHEREAS, the Pennsylvania Second Class Township Code provides that the corporate powers of the Board of Supervisors of the Township of Uwchlan (the “Board of Supervisors”) includes the authority to enact regulations necessary for the health and welfare of the citizens of the Township of Uwchlan, 53 P.S. § 66506; and

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

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

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

WHEREAS, the Board of Supervisors of the Township of Uwchlan desires to establish and adopt an official policy of non-discrimination in the Township in all matters involving housing, employment, public accommodations and access to educational institutions; and

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

WHEREAS, Section 12.1(a) of the Act specifically authorizes political subdivisions to establish a local Human Relations Commission which shall have powers and duties similar to those executed by the Pennsylvania Human Relations Commission under the Act; and

WHEREAS, the Board of Supervisors has determined that it is in the best interest of the health and welfare of the residents and businesses of the Township of Uwchlan to establish the Uwchlan Township Human Relations Commission pursuant to Section 962.1(a) of the Act and to prohibit discrimination within the Township of Uwchlan;

NOW THEREFORE, the Board of Supervisors of the Township of Uwchlan, County of Chester, Commonwealth of Pennsylvania does hereby enact and ordain the following:

PART I. Administrative Legislation of the Code of the Township of Uwchlan is hereby amended and supplemented by adding a new Chapter 56, as follows:

§56-1. Title.

This Chapter shall be known and may be cited as the “Uwchlan Township Anti-Discrimination Ordinance”.

§56-2. Purpose and Declaration of Policy.

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

2. It is hereby declared to be the public policy of Uwchlan Township to foster the employment of all individuals in accordance with their fullest capacities regardless of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, veteran status, mental or physical disability, use of guide or support animals and/or mechanical aids, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all individuals and to safeguard their rights to public accommodation and to secure housing accommodation and commercial property without regard to actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, mental or physical disability, use of guide or support animals and/or mechanical aids, and to have equal access to educational institutions without regard to actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, use of guide or support animals and/or mechanical aids.

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

4. This chapter shall be deemed an exercise of the police power of the Uwchlan Township for the protection of the public welfare, prosperity, health and peace of the Uwchlan community.

§56-3. Definitions.

1. The following words and phrases when used in this chapter shall have the meanings given to them in this subsection:

TOWNSHIP — the Township of Uwchlan, County of Chester, Commonwealth of Pennsylvania.

BOARD OF SUPERVISORS — the Board of Supervisors of Uwchlan Township.

CONVERSION THERAPY - any practices or treatments that seek to change an individual's sexual orientation and/or gender identity or expression, including but not limited to efforts to change behaviors or gender expressions, or to reduce or eliminate sexual or romantic attractions or feelings toward individuals of the same gender.

Conversion Therapy shall not include counseling that:

a) Provides assistance to a person undergoing gender transition;
and/or

b) Provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral and gender identity or expression-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation and/or gender identity or expression.

DISCRIMINATION — any discriminatory act(s) taken by any person, employer, employment agency, labor organization, public accommodation or educational institution on the basis of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age (except in public accommodations), mental or physical disability, use of guide or support animals and/or mechanical aids.

DISCRIMINATORY ACTS — all acts defined in the Pennsylvania Human Relations Act as unlawful discriminatory practices. The fact that the Pennsylvania Human Relations Act would not define a practice as unlawful when that practice is taken on the basis of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age (except in public accommodations), veteran status, mental or physical disability, use of guide or support animals and/or mechanical aids shall not exempt such practice from being considered a discriminatory act under this chapter.

EDUCATIONAL INSTITUTION — those programs defined as educational institutions pursuant to the Pennsylvania Fair Educational Opportunities Act, 24 P.S. § 5001 et seq.

EMPLOYER — any person who employs one or more employees, including the Township, its departments, boards and commissions, and any other government agency within its jurisdiction.

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

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

HOUSING — includes (1) any building, structure, mobile home site or facility, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other; and (2) any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility. The term "housing" shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker, salesperson, agent or employee.

MENTAL HEALTH PROFESSIONAL - a person who is licensed to provide professional mental health care or counseling under Pennsylvania law, or a person who performs mental health care or counseling as part of the person's professional training for any of such licensed profession.

ORDINANCE — this chapter, which shall also be known as the "Anti-Discrimination Ordinance."

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

PUBLIC ACCOMMODATION — any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public or offers goods or services, including loans, to the general public or is listed in Section 4(1) of the Pennsylvania Human Relations Act, 43 P.S. § 954(1), but shall not include any accommodations which are in their nature distinctly private.

SEXUAL ORIENTATION — actual or perceived sexual and/or romantic attraction and/or feelings toward other individuals. The term includes, but is not limited to, individuals who are heterosexual, homosexual, gay, lesbian, bisexual, queer, asexual, aromantic and/or questioning.

2. To the extent words and phrases appearing in this chapter are not expressly defined herein, the meaning of this chapter shall be construed consistently with the Pennsylvania Human Relations Act.

§56-4. Unlawful Practices.

1. Discrimination in housing, employment, public accommodations or access to educational institutions is prohibited under this chapter.

2. For any person to retaliate against any individual because such individual has opposed any practice forbidden by this chapter, or because such individual has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this chapter, is prohibited under this chapter.

3. For any person to aid, abet, incite, compel or coerce the doing of any act declared by this chapter to be an unlawful practice, or obstruct or prevent any person from complying with the provisions of this chapter, is prohibited under this chapter.

4. It is a prohibited form of discrimination under this ordinance for a Mental Health Professional to engage in Conversion Therapy with a person under 18 years of age.

§56-5. Exceptions.

1. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for a religious corporation or association, not supported in whole or in part by governmental appropriations, to refuse to hire or employ an individual on the basis of religion.

2. Nothing in this chapter shall be interpreted to prohibit a religious organization, religious denomination, or association of religious organizations or denominations that is exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code, or any organization affiliated with that religious organization, religious denomination, or association of religious organizations or denominations, from engaging in any conduct or activity that is required by, or that implements or expresses its religious beliefs or tenets of faith. Nor shall anything in this chapter be interpreted to require any such religious organization, religious denomination, or association of religious organizations or denominations, or any organization affiliated with that

religious organization, religious denomination, or association of religious organizations or denominations to engage in any conduct or activity that is prohibited by its religious beliefs or tenets of faith.

§56-6. Establishment of Human Relations Commission.

1. Pursuant to 43 P.S. § 962.1 of the Pennsylvania Human Relations Act, there is hereby established a Human Relations Commission in and for Uwchlan Township (hereinafter referred to as the “Uwchlan Township Human Relations Commission” or the “Commission”).

2. The Uwchlan Township Human Relations Commission shall consist of no fewer than three and no more than five members, who shall serve overlapping terms of three years each. There shall be an odd number of members, though the Commission may continue to operate with an even number of members pending appointment of new members, if necessary. All members of the Commission shall be appointed by the Board of Supervisors. The Commission may elect up to three nonvoting, ex officio members to broaden the diversity that serves on the Commission. Members shall be residents of the Township or individuals who work full-time within Uwchlan Township. Members of the Uwchlan Township Human Relations Commission shall serve without salary but may be paid expenses incurred in the performance of their duties, as approved by Board of Supervisors. Paid staff may be hired, as approved by Board of Supervisors, to assist in the performance of the duties of the Commission.

3. One of the Commission’s members shall be appointed as the Chairperson of the Commission by the members of the Commission. The Chairperson will be responsible for setting Commission meetings, coordinating with the Uwchlan Township Secretary regarding received complaints and answers, and generally ensuring that the duties of the Commission are fulfilled. The Chairperson may delegate responsibility for Commission duties to specific Commissioners or to paid staff, if applicable.

4. Board of Supervisors hereby grants to the Uwchlan Township Human Relations Commission all of the powers necessary to the execution of its duties (as set forth below), provided that those powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

5. The Uwchlan Township Human Relations Commission shall operate within the scope of funds which may be annually allocated by the Board of Supervisors and shall not exceed the annual allocation in any year, except upon prior approval by the Board of Supervisors.

§56-7. Complaint procedures.

1. Filing a complaint.

A. Any person(s) claiming to be aggrieved by an unlawful practice may make, sign and file a verified complaint alleging violations of this chapter, which shall include the following information:

(1) The name and address of the aggrieved person(s);

- (2) The name and address of the person(s) alleged to have committed the prohibited practice;
 - (3) A concise statement of the relevant facts, including pertinent dates, constituting the alleged unlawful practice;
 - (4) If applicable, the address and a description of any housing accommodation or commercial property which is involved; and
 - (5) Such other information as may be required by the Commission.
- B. Complaints may be filed in person or by mail at the Township Manager's office. All complaints must be received by the Township Manager's office within 180 days of the alleged unlawful practice, or the complaint will not be considered timely.
- C. The Township Manager shall record the date and time of receiving the complaint and shall immediately forward a complete copy to the Chairperson of the Uwchlan Township Human Relations Commission.
- D. Upon receipt of any Complaint, the Uwchlan Township Human Relations Commission shall contact the person filing the complaint and recommend that they immediately dual file with the Pennsylvania Human Relations Commission.
2. Notification and answer.
- A. Within 30 days of its receipt of a complaint, the Human Relations Commission shall determine if it has jurisdiction hereunder to hear the complaint. If the Commission determines that it does not have such jurisdiction, it shall dismiss the complaint and notify the parties. If the Commission determines it has jurisdiction to hear the complaint, it shall proceed as follows:
- (1) Send a copy of the complaint to the person(s) charged with an unlawful practice (the "respondent"); and
 - (2) Send a notice to the person(s) aggrieved (the "complainant"), informing him/her that the complaint has been received.
- B. The respondent shall file with the Township Manager a written verified answer to the complaint within 30 days of the respondent's receipt of the complaint from the Township. It shall be conveyed by the Township Manager to the Chairperson of the Uwchlan Township Human Relations Commission within 10 days of its receipt by the Township Manager. The Commission shall promptly send a copy of the answer to the complainant.

3. Mediation.
 - A. After the answer has been received, the Commission shall, within 15 days, invite the parties to voluntarily participate in the mediation of their dispute. The parties shall respond to the invitation to mediate within 15 days of being invited to mediate. Mediation shall be conducted in accordance with procedures promulgated by the Commission.
 - B. If mediation is elected by the parties, the parties may jointly select a mediator, in which case they shall be jointly responsible for all financial costs and expenses associated with mediation and may allocate the costs of mediation as they agree. If the parties do not jointly select a mediator, or agree to allocation of costs pursuant to approved procedures of the Commission, the Chairperson of the Commission shall select a mediator, who may be either a member of the Commission or a volunteer from the community.
 - C. The parties shall notify the Commission as to whether the mediation successfully resolved the complaint. Mediation proceedings shall otherwise be confidential. Neither the results thereof nor any record made in connection therewith shall be made public unless agreed to in writing by both parties to the dispute.
 - D. Dismissal of the complaint following mediation.
 - (1) If the mediation has successfully resolved the complaint, the Commission shall promptly notify the parties that it has dismissed the complaint.
4. In the event that the complaint has not been resolved through mediation or the mediation has been declined by either party, the Commission may:
 - A. Inform the aggrieved party that he/she is entitled to proceed with filing a complaint in the Pennsylvania Court of Common Pleas of Chester County;
or
 - (b) If the matter is covered by the PHRA, inform the aggrieved party that he/she may not file a complaint in the Pennsylvania Court of Common Pleas of Chester County until the administrative remedies outlined in the PHRA are exhausted by filing with and proceeding before the Pennsylvania Human Relations Commission. If the matter was already dual filed with the Pennsylvania Human Relations Commission, the Commission shall refer the matter to the Pennsylvania Human Relations Commission for further action consistent with the administrative remedies outlined in the PHRA.

§56-8 Private right of action.

Having exhausted the administrative remedies set forth herein, an aggrieved person shall have the right to pursue any rights or causes of action at law or in equity to which such person may be entitled.

SECTION II. Partial Repealer

All other provisions of the Township’s Code of Ordinances, as amended, shall remain in full force and effect. All other ordinances or provisions of an ordinance inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION III. Severability

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

SECTION IV. Effective Date

All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and adoption.

ORDAINED AND ENACTED this ____ day of _____,2020.

BOARD OF SUPERVISORS OF UWCHLAN
TOWNSHIP, CHESTER COUNTY,
PENNSYLVANIA

Bill Miller, Chair

Mayme Baumann, Vice-Chair

Kim Doan, Supervisor

Attest:

Katie Churchill, Township Secretary