

**LOWER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 763

AN ORDINANCE OF LOWER MORELAND TOWNSHIP AMENDING THE LOWER MORELAND TOWNSHIP CODE OF ORDINANCES TO PROVIDE FOR NEW CHAPTER 66, NON-DISCRIMINATION, CREATING THE HUMAN RELATIONS MEDIATOR OFFICE, CREATING THE POSITION OF LOWER MORELAND TOWNSHIP HUMAN RELATIONS MEDIATOR, DESCRIBING POWERS OF THE MEDIATOR, PROVIDING PROCEDURES FOR FILING A COMPLAINT OF DISCRIMINATION, AND ESTABLISHING A POLICY OF NON-DISCRIMINATION IN THE TOWNSHIP.

WHEREAS, the Constitution of the United States of America and the Commonwealth of Pennsylvania provide that all individuals are entitled to equal protection and due process under law;

WHEREAS, the First Class Township Code, 53 P.S. 56501.5, authorizes Lower Moreland Township to adopt ordinances, bylaws, rules and regulations as may be expedient or necessary for the proper management, care, and control of the Township and the maintenance of peace, good government, and welfare of the Township;

WHEREAS, the Pennsylvania Human Relations Act, 43 P.S. §962.1, authorizes the Township to establish and support a Local Human Relations Commission;

WHEREAS, the Lower Moreland Township Board of Commissioners finds that the population of the Township reflects the general population of the United States in that it consists of diverse individuals representing different characteristics based upon actual or perceived race, color, age, religion, ancestry, sex, national origin, handicap, disability, or because of an individual's sexual orientation, gender identity, gender expression, or identification as a member of the LGBTQ+ community;

WHEREAS, the Board of Commissioners finds that the negative effects of discrimination and discriminatory practices in matters of employment, housing, access to commercial property, and public accommodation are well documented nationally;

WHEREAS, engaging in discrimination against an individual or group is a matter of the highest public concern and constitutes a paramount threat to the rights, privileges, peace, and good order of individuals within Lower Moreland Township;

WHEREAS, the Board of Commissioners believes it to be in the best interest of the Township to adopt an official policy of non-discrimination in all matters involving employment, housing and commercial property, and public accommodation; and

WHEREAS, the Board of Commissioners believes it to be in the best interest of the Township to establish a Human Relations Mediator to receive complaints of discrimination arising within the Township.

NOW THEREFORE, BE IT ORDAINED and it is hereby ordained by the Board of Commissioners of Lower Moreland Township as follows:

Section 1. Part I, "Administrative Legislation," of the Lower Moreland Township Code of Ordinances is hereby amended by adding new Chapter 66, "Non-Discrimination" to read as follows:

§66-1 Short Title.

This Chapter shall be known as the "Lower Moreland Township Non-Discrimination Ordinance."

§66-2 Purpose and Declaration of Policy.

- A. Lower Moreland Township finds that it is necessary to adopt legislation to ensure that all persons within Lower Moreland Township enjoy the full benefits of citizenship without discrimination and are afforded equal opportunities for employment, housing, the use of commercial property, and public accommodation.
- B. The Board of Commissioners hereby declares the public policy of Lower Moreland Township to be to foster equality and equal opportunity for all individuals, regardless of actual or perceived race, color, age, 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, sexual orientation, gender identity, gender expression, or identification as a member of the LGBTQ+ community in all matters affecting employment, housing or 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 Chapter shall be construed as supporting, endorsing, or advocating any particular doctrine, point of view, or religious belief.

§66-3 Definitions.

Unless specifically stated otherwise, words and phrases shall be construed in a manner consistent with the Pennsylvania Human Relations Act. The following words and phrases, when appearing in this Chapter, shall have the meanings given to them under this Chapter:

BOARD. The Lower Moreland Board of Commissioners

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

DISCRIMINATION. Any discriminatory act(s) taken by any person, entity, employer, business, employment agency, or labor organization with respect to or involving a transaction related to employment, public accommodations, publicly offered commercial property or housing accommodations, on the basis of a person's actual or perceived race, color, age, 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, gender expression, or identification as a member of the LGBTQ+ community.

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, age, 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, though not set forth in the Pennsylvania Human Relations Act, because of an individual's sexual orientation, gender identity, gender expression, or identification as a member of the LGBTQ+ community.

EMPLOYEE. The term does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.

EMPLOYER. The term includes the Township, its departments, boards and commissions, any other governmental agency or school district thereof, and any person employing four or more persons within the Township, but except as hereinafter provided, does not include religious, fraternal, charitable or sectarian corporations or associations, except such corporations or associations supported, in whole or in part, by governmental appropriations.

EMPLOYMENT. The opportunity for an individual to obtain employment for which the individual is qualified.

GENDER IDENTITY OR EXPRESSION. Self-perception, or perception by others, as male, female, or non-binary, 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, or are gender variant.

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

PUBLIC ACCOMODATION. The opportunity for an individual to access food, beverages or lodging, resort or amusement which is open to, accepts, or solicits the patronage of the general public, but shall not include any accommodations which are in their nature distinctly private.

SEXUAL ORIENTATION. Actual or perceived homosexuality, heterosexuality, bisexuality, asexuality, pansexuality and polysexuality.

§66-4 Unlawful Practices.

- A. Discrimination in employment, housing and commercial property, or any public accommodation is prohibited.
- B. Retaliation against any individual because such individual has opposed any practice forbidden by this Chapter, or because such person has made a charge, testified, or assisted in any manner in any investigation or proceeding under this Chapter is prohibited under this Chapter.
- C. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this Chapter to be an unlawful practice or obstructing or preventing any person from complying with the provisions of this Chapter is prohibited under this Chapter.

§66-5 Exceptions.

Nothing in this Chapter shall bar any religious or denominational institution or organization, or any charitable or educational organization which is operated, supervised or controlled or in connection with any religious organization, or any bona fide private or fraternal organization from giving preference to persons of the same religion or denomination, or to such members of such private or fraternal organization from making such selection as is calculated by such organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained. This Chapter shall also not apply to rental rooms in a landlord-occupied rooming housing with a common entrance, nor with respect to discrimination based on sex, the advertising, the rental or leasing of housing accommodations in a single-sex dormitory or rooms in one's personal residence in which the common living areas are shared.

§66-6 Establishment of Human Relations Mediator Office

Pursuant to the authority set forth under the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Mediator for Lower Moreland Township.

- A. The Office of the Human Relations Mediator shall consist of one (1) member, known as the Human Relations Mediator (HR Mediator), who shall be appointed to a term of one (1) year by the Board.
- B. The HR Mediator shall be a resident or business owner within the Township and shall have qualifications consistent with duties of the Mediator, such as a work history in the field of human relations, employment, law, law enforcement, investigation, or other similar work.

The HR Mediator shall serve without compensation. In the event a qualified Township resident or business owner is unavailable, the Board may appoint any qualified person to the position.

- C. The HR Mediator shall report, from time to time, to the Township Manger regarding the activities of the Human Relations Mediator Office and shall prepare annual reports for the Board to review at a public meeting.
- D. The HR Mediator shall receive complaints and conduct an intake meeting with complainants.
- E. The HR Mediator shall, as soon after appointment as practical, attend training and participate in seminars offered by the Pennsylvania Human Relations Commission that the Mediator deems to become acquainted with the functioning of the Office of the Mediator.
- F. The HR Mediator shall have all of those powers necessary to execute the duties set forth under this Chapter, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commissions pursuant to the Pennsylvania Human Relations Act.
- G. The HR Mediator shall operate within the scope of funds which are allocated to the Office of the Mediator by the Board and shall not exceed said allocation unless upon prior approval by the Board. It is the intention of the Board to support the Office of the Mediator by volunteer efforts.
- H. The Board of Commissioners reserves the right to appoint a replacement Mediator for any case within which the appointed HR Mediator has a conflict of interest or impermissible bias as determined by the Board.

§66-7 Complaint Procedures.

- A. **Form and Content of Complaints.** Any person claiming to be aggrieved by a practice which is made unlawful under this Chapter may make, sign and file a verified complaint alleging violations of this Chapter. Such Complaint shall contain at least the following information:
 - (1) The name, telephone number, mailing address and e-mail of the aggrieved individual to the extent that this information is available;
 - (2) The name, telephone number, mailing address, and e-mail of the person(s) alleged to have committed a prohibited practice;
 - (3) A concise statement of the facts, including dates, time, location, people, and acts involved constituting the alleged discriminatory practice; and
 - (4) Such information as may be required by the Mediator.

B. Procedure for Filing a Complaint.

- (1) Complaints may be filed in person at the Township Building at 640 Red Lion Road, Huntingdon Valley, PA 19006 or by mailing such complaints to the Township Building to the attention of the Mediator. Complaints must be filed and received by the Township within one hundred eighty (180) days of the occurrence of the act giving rise to the complaint.
- (2) Complaints shall be time-stamped and delivered to the Mediator within ten (10) days of receipt.
- (3) The Mediator may promulgate a form complaint, but complaints which are prepared without use of the form complaint will still be accepted so long as there is compliance with §66-7A.

C. Notifications and Answer. Within thirty (30) days of receipt of a complaint, the Mediator shall:

- (1) Send a copy of the complaint to the person(s) charged with a discriminatory act or practice under this Chapter (the "respondent"), together with a copy of this Chapter;
- (2) Send a notice to the complainant, informing the complainant that the complaint has been accepted and processed by the Mediator. If the complaint alleges discrimination on a basis proscribed under federal or state law, the Notice shall also inform the complainant of the right to file a complaint with the Pennsylvania Human Relations Commission or the Equal Employment Opportunity Commission, as well as the U.S. Department of Housing and Urban Development, where applicable.
- (3) The Mediator 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 Pennsylvania Human Relations Act.
- (4) The Mediator shall also include a notice to both the complainant and the respondent(s) of the option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint.
- (5) 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. 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 Mediator shall proceed in accordance with the following:

(1) Mediation

- (a) In the event that both parties have consented to mediation, the Mediator 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 Township 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 Mediator 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 Mediator shall remain private and shall not otherwise be subject to public attendance.

(2) Dismissal of the Complaint following Mediation.

- (a) When mediation has resulted in an amicable resolution of the complaint and complaint is resolved, the Mediator shall notify the parties that the complaint has been dismissed and shall record the result of the mediation in the Notice of Dismissal.
- (b) In the event that the complaint has not been resolved through mediation, or where the parties do not consent to mediation,, the Notice of Dismissal shall include a statement that the person aggrieved has a right to pursue the matter in the Court of Common Pleas, the Pennsylvania Human Relations Commission, the Equal Employment Opportunity Commission, or in any such other forum as may be provided under law.
- (c) The right of action created under this Chapter may be brought: i) upon receipt by the aggrieved person of notice that the Mediator has dismissed the complaint; or 2) if no such notice is received, after one year from the date of filing of the complaint. If the person aggrieved has received a notice that the Mediator has dismissed the complaint, an action under this Chapter must be brought by the aggrieved person within one year from the date of receipt of such notice, or the action shall be barred as untimely.

§66-8 Non-Limitation of Remedies.

Nothing contained in this Chapter shall be construed to limit the right of an aggrieved person to recover under another applicable law or legal theory.

§66-9 Multiple Filings.

This Chapter 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.

§66-10 Penalties.

- A. Any person who shall violate any provision of this Chapter may be subject to the penalties enumerated in Section 9(f) (1&2), Sections 9.2, 9.3 and Sections 10 & 11 of the Pennsylvania Human Relations Act and any subsequent amendments.
- B. This Chapter extends the protections of the Pennsylvania Human Relations Act to include discrimination against actual or perceived sexual orientation, gender identity, gender expression, or identification as a member of the LGTBQ+ community.

Section 2. Severability. The provisions of this ordinance are severable, and if any portion thereof is held to be invalid, the decision of the Court shall not affect or impair any of the remaining portions of this ordinance. It is hereby declared to be the intent of the Commissioners of the Township of Lower Moreland that this ordinance would have been adopted if the invalid portion had not been included herein.

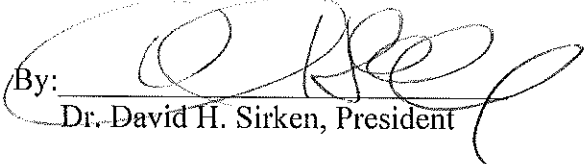
Section 3. Effective Date. The provisions of this ordinance shall become effective at the expiration of five (5) days from its adoption.

ENACTED AND ORDAINED by the Board of Commissioners of Lower Moreland Township this 8th day of November, 2022.

(Township Seal)

**LOWER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS**

Attest: 
Christopher R. Hoffman, Secretary

By: 
Dr. David H. Sirken, President