

CHAPTER III

CONDUCT

PART 1

DESTRUCTION OF NOTICES

§101 Tampering with Official Notices Prohibited

PART 2

LITTERING

§201 Unlawful Acts

§202 Presumption in Prosecutions

PART 3

MALICIOUS MISCHIEF

§301 Malicious Mischief Prohibited

§302 Enforcement

§303 Disposition of Fines

PART 4

OBSCENITY AND PORNOGRAPHY

§401 General Provisions and Intent

§402 Definitions

§403 Obscene Films, Live Theatre Productions, Publications and Places Exhibiting the same Declared a Public Nuisance: Abatement Thereof

§404 Massage Parlors or Model Studios Used for Purposes of Obscenity, Assignment or Prostitution, or upon which such Acts Occur, Declared a Public Nuisance: Abatement Thereof

§405 Knowledge of Nuisance Presumed from Notice or Summons and Complaint; Responsibility of Parties Therefor: Abatement of Such Nuisances

§406 Who May Take Action; Posting of Bond

§407 Remedies

§408 Forfeiture to the General Fund of the Municipality; Cost of Abatement; Manner of Collection

§409 Severability Clause

PART 5
CURFEW FOR TAVERNS

- §501 General Provisions and Intent
- §502 Definitions
- §503 Unlawful Acts

PART 6
DRUG PARAPHERNALIA

- §601 Definitions
- §602 Offenses
- §603 Civil Forfeiture

PART 7
WARRANTLESS ARRESTS/SUMMARY

PART 8
REGULATION OF COMMERCIAL LEAF BLOWERS

- §801 General Provisions

PART 9
BARKING DOGS

- §901 Noise Disturbance
- §902 Exception
- §903 Enforcement
- §904 Warnings

PART 10
ALCOHOLIC BEVERAGES

- §1001 Definitions
- §1002 Prohibited Conduct
- §1003 Special Permit

PART 11
DISCRIMINATION

- §1101 Purpose
- §1102 Definitions
- §1103 Unlawful Employment Practices
- §1104 Unlawful Housing Practices
- §1105 Unlawful Real Estate Practices
- §1106 Unlawful Public Accommodations Practices
- §1107 Equal Opportunity Board; Powers and Duties
- §1108 Procedure
- §1109 Enforcement and Judicial Review
- §1110 Severability

PART 1
DESTRUCTION OF NOTICES

§101 Tampering with Official Notices Prohibited. The destruction, removal, defacement, or mutilation of ordinances or notices posted by the authorities of the Municipality in the streets and highways thereof, or upon private property where such notices are required by law to be posted, is hereby prohibited.

**PART 2
LITTERING**

§201 Unlawful Acts. It shall be unlawful for any person to:

- 201.1 Throw, dump, or cause or permit to be thrown or dumped, from a vehicle or tractor, any garbage, bottles, cartons, containers, glass, paper, or other rubbish or debris of any kind, including snow and ice, upon any highway, street, lane, alley, wayside or sidewalk situate within the Municipality, except in places or receptacles maintained for that purpose; or
- 201.2 Throw, dump, or deposit and leave, or cause or permit to be thrown, dumped, or deposited and left, any garbage, bottles, cartons, containers, glass, paper, or other rubbish or debris of any kind, including snow and ice, upon any public or private property situate within the Municipality, except in places or receptacles maintained for that purpose; or
- 201.3 Distribute or cause to be distributed by throwing, handing or placing any handbills, circulars or other advertising matter or devices or waste in or upon any street, sidewalk or alley of the Municipality, or to distribute or cause to be distributed by throwing or placing any handbills, circulars or other advertising matter or devices or waste paper in or upon any lawn, yard, porch or vestibule of any building in the Municipality in such a manner that the materials may be scattered by the wind or other elements.

§202 Presumption in Prosecutions. In any prosecution hereunder:

- 202.1 Proof of the throwing or dumping of any garbage, bottles, cartons, containers, glass, paper or other rubbish or debris of any kind from a vehicle or tractor shall create rebuttable presumption that the same were thrown, dumped, or caused or permitted to be thrown or dumped, from such vehicle or tractor by the operator thereof, provided that such presumption may be rebutted in the manner provided in subsection 202.2 of this section;
- 202.2 If at any hearing or proceeding the operator shall testify, under oath or affirmation, that he did not throw or dump, or cause or permit to be thrown or dumped, any garbage bottles, cartons, containers, glass, paper or other rubbish or debris of any kind, and shall submit himself to any examination as to identity of the person responsible for the throwing or dumping, and reveal the name of such person, if known to him, then the presumption arising as set forth in subsection 202.1 above shall be overcome and removed from the case.

PART 3
MALICIOUS MISCHIEF

- §301 Malicious Mischief Prohibited. Acts of malicious mischief involving public property are hereby prohibited. For purposes of this Part 3, such offense is defined as “the entry by any person or persons, or refusal to leave, any public property in violation of regulations of the Municipality or of any school district situate within the Municipality, where such regulations have been conspicuously posted on such property, or where immediately prior to such entry, or subsequent thereto, such regulations are made known, orally, or in writing, by an officer of the Municipality or school district, its agent, or a police officer.”
- §302 Enforcement. It shall be the duty of the policemen, constables, and peace officers of the Municipality to institute criminal proceedings against any and all persons violating any of the provisions of this Part 3 in accordance with law and the Pennsylvania Rules of Civil Procedure.
- §303 Disposition of Fines. All fines and penalties imposed and collected under the provisions of this Part 3 shall be paid into the Municipal Treasury, for the use of the Municipality, within thirty (30) days after the same are collected, and shall be credited to the Municipal Fund.

**PART 4
OBSCENITY AND PORNOGRAPHY**

§401 General Provisions and Intent.

401.1 This Part 4 shall be known as “Obscenity and Pornography Regulations.”

401.2 It is hereby declared and determined by the Municipality that:

401.2.1 Commercial exploitation of explicit sexual conduct through the public exhibition of obscene films and live theatre productions and the display and/or sale of obscene publications and the use of so-called massage parlors and model studios for purposes of obscenity, assignation or prostitution constitutes a debasement and distortion of fundamental human sexuality central to family life, community welfare and the development of human personality.

401.2.2 Such exploitation adversely affects the quality of life, property values, commerce and total community environment of the Municipality.

401.2.3 Such activities are detrimental to the best health, safety, convenience, morals and general welfare of the Municipality and the citizens and businesses thereof.

401.2.4 Such activities are declared to be a public nuisance and procedures are herein established for the abatement thereof.

§402 Definitions.

Knowledge or knowledge of such nuisance: having knowledge of the contents and character of the patently offensive sexual conduct or other content which appears in the Motion Picture Film, Publication, or Live Theatre Production, or knowledge of the acts of obscenity, assignation, or prostitution which occur in any Place.

Obscene Matter: any Matter -

(1) Which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(2) Which depicts or describes patently offensive representations or descriptions of

(a) Ultimate sexual acts, normal or perverted, actual or simulated; or

(b) Masturbation, excretory functions, or exhibition of the genitals or genital area; and

- (3) The matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

Live Theater Production: any dramatic, musical or comedic production performed in the presence of a live audience.

Massage: any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading, or any similar treatment, accomplished by hand or by the use of any instrument.

Massage Parlor: any building or structure or portion thereof, located within the Municipality, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

Matter: a Motion Picture Film, Live Theatre Production, Publication, or all three.

Model Studio:

- (1) Any Place where there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the Place; or
- (2) Any Place where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.
- (3) Exception. The words Model Studio do not include:
 - (a) Any studio which is operated by any state college or junior college, public or private school, or any governmental agency wherein the person, firm, association, partnership or corporation so operating has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized there under to issue and confer, a diploma or honorary diploma; or
 - (b) Any Place where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described

in subsection (a) of this subsection.

Motion Picture Film:

- (1) Any film or plate negative;
- (2) Any film or plate positive;
- (3) Any film designed to be projected on a screen for exhibition;
- (4) Any films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen; or
- (5) Any videotape or any other medium used to electronically reproduce images on a screen.

Nude:

- (1) Completely without clothing; or
- (2) With the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.

Person: any individual, partnership, firm, association, corporation or other legal entity.

Place: includes, but is not limited to, any building, structure or space, or any separate part or portion there, whether permanent or not, or the ground itself.

Publication: any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a Motion Picture Film which is displayed in an area open to the public, offered for sale or exhibited in a coin-operated machine.

Sale: a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, obscene matter.

§403 Obscene Films, Live Theatre Productions, Publications and Places Exhibiting the same Declared a Public Nuisance: Abatement Thereof.

- 403.1 Any and every Place in the Municipality where obscene Motion Picture films or Live Theatre Productions are publicly exhibited or possessed for the purpose of such exhibition; and any and every Place in the Municipality where obscene publications are publicly disseminated or sold, or possessed for the purpose of

such dissemination, is a public nuisance.

403.2 Any and every obscene Motion Picture Film or Live Theatre Production which is publicly exhibited, and any and every obscene Publication which is publicly displayed, disseminated or sold, or possessed for such purpose, is a public nuisance per se.

403.3 From and after service on the Place, or its manager, or acting manager, or person then in charge of such Place, of a true and correct copy of this Part 4 and a true and correct copy of the Summons and Complaint to abate a nuisance, all monies paid thereafter as admission price to such exhibitions or productions, or purchase price of such publications, are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

§404 Massage Parlors or Model Studios Used for Purposes of Obscenity, Assignation, or Prostitution, or upon which such Acts Occur, Declared a Public Nuisance: Abatement Thereof.

404.1 Every Massage Parlor or Model Studio, which, as a regular course of business, is used for the purposes of obscenity, assignation, or prostitution, and every such Massage Parlor or Model Studio in or upon which acts of obscenity, assignation, or prostitution, are held or occur, is a public nuisance which shall be enjoined, abated and prevented.

404.2 From and after service on the Place, or its manager, or acting manager, or person then in charge of such Place, of a true and correct copy of this Part 4 and a true and correct copy of the Summons of Complaint to abate a nuisance, all monies or other valuable consideration paid for services rendered to customers are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

§405 Knowledge of Nuisance Presumed from Notice or Summons and Complaint; Responsibility of Parties Therefore: Abatement of Such Nuisances.

405.1 Upon and after receiving notice through service of a true and correct copy of this Part 4 and a true and correct copy of the Summons and Complaint to abate a nuisance or Notice by the Municipal Solicitor of the character of the obscene Film, Production, Publication, or Place, any and every Person who shall own, legally, or equitably, lease, maintain, manage, conduct or operate a Place in the Municipality which is declared to be a public nuisance as set forth and stated in §403 or §404 of this Part 4 is deemed to be a Person who has knowledge of such nuisance for the purpose of this Part 4, and may, thereafter, be responsible for its maintenance, and liable therefore.

405.2 The Places and Matters declared to be public nuisances under §403 or §404 shall be abated as provided for herein.

§406 Who May Take Action; Posting of Bond.

The Municipal Solicitor or any Citizen of the Commonwealth of Pennsylvania resident within the Municipality may maintain an action of an equitable nature in the name of the Municipality upon the relation of such Municipal Solicitor or Citizen to abate a nuisance.

No Bond shall be required of the Municipal Solicitor. If such action is instituted by a Private Citizen, a bond shall be required in the amount of not less than five hundred dollars (\$500), to secure to the defendants the proximate damages which may be sustained, including attorney's fees, if any court finds that there were no reasonable grounds for said action.

The Municipal Solicitor shall have the right to present arguments and authorities on behalf of either party.

§407 Remedies.

407.1 Money damages may be recovered

407.1.1 For compensation for loss or harm suffered in person or property by the Municipality or Private Citizen flowing from such nuisance; and

407.1.2 As exemplary or punitive damages for the sake of example or to punish the offender, where it is shown that the offender has been guilty of malice. Malice means an intent to do a wrongful act, that is, an intent to maintain, permit, or allow a nuisance to exist.

407.2 Preliminary and permanent injunctions may be issued to prevent the further maintenance of a nuisance and to prevent the further sale or exhibition of obscene Motion Picture Films, Live Theatre Productions or Publications. The procedures for obtaining such injunctions shall be governed by the rules of civil procedure, preserving the right of trial by jury upon the application for permanent injunction.

Upon the application for preliminary injunction the court shall set the matter for a hearing no earlier than two days and no later than five days from the date of service of the Summons and Complaint.

Upon the trial on the merits of the permanent injunction, if the court finds a Place to be a nuisance, the court may issue an order closing the Place to all uses and purposes for the period of one year. If the offenders or persons owning, in control or in charge of such Place certify that the nuisance has been abated and that the Films, Productions or Publications, found to be obscene shall not be exhibited, sold or otherwise disseminated and, at the discretion of the court, post a bond in an amount not to exceed the value of personal property possessed

or contained at such Place for the maintenance of the nuisance, the court may release such person or persons from the closure order. The release shall remain in effect for one year or until the nuisance is found to exist at the Place before the expiration of one year. The bond shall be deposited with the court prior to the release of any closure order and shall be returned to the person posting said bond, without interest at the expiration of one year, provided that the nuisance is not maintained or re-established within that year.

§408 Forfeiture to the General Fund of the Municipality; Cost of Abatement; Manner of Collection.

408.1 If the existence of the nuisance is established on the trial, a judgment shall be entered which shall permanently enjoin the defendants, and any other person with notice or knowledge of the action and judgment, from maintaining the nuisance at said Place and the defendants from maintaining such nuisance elsewhere, and the entire expenses of such abatement action shall be recovered by the plaintiff as part of his costs.

408.2 The cost of abatement shall include the following:

408.2.1 Investigative costs.

408.2.2 Court costs.

408.2.3 Reasonable attorney's fees arising out of the preparation for, and trial of the case, and appeals there from, and other costs allowed on appeal.

408.2.4 Printing costs of trial and appellate briefs, and all other papers filed in such proceedings.

Such cost of abatement may be made a special assessment against the Place or the parcel of land upon which such place is located. Upon its determination in a civil action, such shall, by separate legal proceeding, be made a lien against such property and a personal obligation against any Person, and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

408.3 Upon judgment of the plaintiff in legal proceedings brought pursuant to this Part 4, an accounting shall be made by such defendant or defendants of all monies or valuable consideration received by them which have been declared to be a public nuisance under §403 or §404 of this Part 4. Such monies or their

equivalent and any valuable consideration received shall be forfeited to the General Fund of the Municipality or to the Municipality as property of the Municipality if any valuable consideration received be not money.

§409 Severability Clause. If any court shall determine that any word, clause, phrase, sentence, paragraph, or subsection of this Part 4 is unconstitutional, the court shall first attempt to construe or interpret such unconstitutional provision so as to enable the same to be constitutional as so narrowed or construed. If the court cannot so limit or construe such word or provision narrowly so as to render the same constitutional, it shall strike or modify only the minimum number of words, phrases, clauses, sentences or paragraphs as will be absolutely necessary to render the remainder constitutional. In no case shall a clause or phrase or word or other portion hereof render any other word, clause, phrase, sentence, paragraph or section unconstitutional, but instead shall be severed there from entirely, with the balance of this Part 4 in its entirety remaining in full force and effect.

**PART 5
CURFEW FOR TAVERNS**

§501 General Provisions and Intent.

501.1 This Part 5 shall be known as “Tavern Regulations.”

501.2 It is hereby declared and determined by the Municipality that:

501.2.1 After-hours Patrons and Guests at or on the premises of Taverns in the Municipality create unreasonable and offensive noise;

501.2.2 It is necessary to the safety, health, convenience and general welfare of the citizens of the Municipality to regulate Taverns from which reasonable and offensive noise may emanate;

501.2.3 It is necessary to the health, safety, convenience and general welfare of the citizens of the Municipality to require that all Patrons and Guests vacate Tavern Premises at or before 2:30 A.M. (Prevailing Time); and

501.2.4 It shall be unlawful for Patrons and Guests to remain on or at Tavern Premises after 2:30 A.M. (Prevailing Time).

§502 Definitions.

Patron(s) or Guest(s): any natural person other than regular employees of the Tavern.

Premises: any building, structure or space and adjacent areas, including but not limited to doorways, sidewalks and parking lots.

Tavern: any establishment which is licensed by the Pennsylvania Liquor Control Board to serve or to sell alcoholic beverages. “Tavern” shall include, but shall not be limited to, the following: bar, billiard room, cabaret, club, discotheque, nightclub, pub, restaurant or saloon.

Tavernkeeper: any Person who has any ownership interest in a Tavern and any Person who is employed to work on Tavern Premises by any Person who has any ownership interest in a Tavern.

§503 Unlawful Acts.

503.1 It is unlawful for any Tavernkeeper to permit or to require any Patrons or Guests to remain in or on the Premises of a Tavern after 2:30 A.M. (Prevailing Time).

503.2 It is unlawful for any Patrons or Guests to remain in or on the Premises of a Tavern after 2:30 A.M. (Prevailing Time).

PART 6
DRUG PARAPHERNALIA

§601 Definitions.

“Drug Paraphernalia”: all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of 35 P.S. §§780-101 to 780-144 (“The Controlled Substance Drug, Device and Cosmetic Act”). It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parentally injecting controlled substances into the human

body;

- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
- (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - (b) Water pipes;
 - (c) Carburetion tubes and devices;
 - (d) Smoking and carburetion masks;
 - (e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (f) Miniature cocaine spoons, and cocaine vials;
 - (g) Chamber pipes;
 - (h) Carburetor pipes;
 - (i) Electric pipes;
 - (k) Chillums;
 - (l) Bong;
 - (m) Ice pipes or chillers;

In determining whether an object is Drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of 35 P.S. §§780-101 to 780-144.
- (4) The proximity of the object to controlled substances;

- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of 35 P.S. §§780-101 to 780-144; the innocence of an owner, or of anyone in control of the object as to a direct violation of 35 P.S. §§780-101 to 780-144 shall not prevent a finding that the object is intended for use, or designed for use as Drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

§602 Offenses.

- 602.1 Possession of Drug Paraphernalia. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of 35 P.S. §§780-101 to 780-144.
- 602.2 Manufacture or Delivery of Drug Paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of P.S. §§780-101 to 780-144.

602.3 Advertisement of Drug Paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

§603 Civil Forfeiture. All drug paraphernalia as defined by §601 of this Part 6 shall be subject to forfeiture to the Municipality, and no property right shall exist in them.

PART 7
WARRANTLESS ARRESTS/SUMMARY

§701 Pursuant to authority under 42 Pa. C.S. §8902, for any of the following offenses, a police officer shall, upon view, have the right of arrest without a warrant, upon probable cause, when there is ongoing conduct that imperils the personal security of any person or endangers public or private property.

701.1 18 Pa. C.S. §5503 (disorderly conduct)

701.2 18 Pa. C.S. §5505 (public drunkenness)

701.3 18 Pa. C.S. §5507 (obstructing highways and other public passages)

701.4 18 Pa. C.S. §6308 (purchase, consumption, possession or transportation of liquor or malt or brewed beverages)

§702 Pursuant to Rule 71 of the Pennsylvania Rules of Criminal Procedure, or its successor rule, as amended from time-to-time, when a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to paragraph (a) or taken before the proper issuing authority under paragraph (b).

702.1 When a defendant has been arrested without a warrant, the arresting officer may, when the officer deems it appropriate, promptly release the defendant from custody when the following conditions have been met:

702.1.1 The defendant is a resident of the Commonwealth;

702.1.2 The defendant poses no threat of immediate physical harm to any other person or to himself or herself;

702.1.3 The arresting officer has reasonable grounds to believe that the defendant will appear as required; and

702.1.4 The defendant does not demand to be taken before an issuing authority.

A citation shall be issued to the defendant at the time of release and thereafter the case shall proceed in accordance with the Pennsylvania Rules of Criminal Procedure 55-59 as if the proceedings had been instituted by issuing a citation to the defendant.

702.2 When the defendant has not been released from custody under paragraph (a), the defendant shall be taken without unnecessary delay before the issuing authority where a citation shall be filed against the defendant. The defendant shall be given an immediate trial unless:

- 702.2.1 The Commonwealth is not ready to proceed or the defendant requests a postponement, and in either event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial; or
- 702.2.2 The defendant's criminal record must be ascertained before trial as specifically required by statute for purposes of grading the offense charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information.

PART 8
REGULATION OF COMMERCIAL LEAF BLOWERS

§801 General Provisions. The operation of commercial leaf blowers is prohibited except between the hours of 7:00 AM and 7:00 PM, Monday through Saturday inclusive. The term “commercial leaf blower” is defined as a truck or trailer mounted leaf blower unit capable of moving air at a rate equal or greater than five thousand (5,000) cubic feet per minute.

PART 9
BARKING DOGS

- §901 Noise Disturbance. It shall be illegal within the Municipality for any person to own, possess or control any dog which barks, yelps, howls or makes other similar offensive noise continuously or repeatedly for a period of at least fifteen (15) minutes regardless of whether the dog is physically situated in or upon private property. Such noise shall be considered a nuisance and shall be illegal provided that the exception set forth in §902 does not apply.
- §902 Exception. Barking or other noises made by a dog in response to a person who is trespassing upon private property in or upon which the dog is lawfully situated.
- §903 Enforcement. The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Municipal Police Department, or upon such other person as may be designated by the manager.
- §904 Warnings. Any person who shall violate any provision of this Ordinance shall upon the first offense, be given a written warning notice by personal service or by certified mail, return receipt requested. Such notice shall inform such person that he/she is in violation of this Ordinance and subject to the penalties described. It shall be a condition precedent to any enforcement action for penalties or fines, to show that within the previous twelve (12) month period a written warning was served upon or sent to the person owning and/or possessing the dog.

PART 10
ALCOHOLIC BEVERAGES

§1001 Definitions.

- 1001.1 Alcoholic Beverages. All “liquor” and “malt or brewed beverages” as defined by the Pennsylvania Liquor Code, 47 P.S. §1-102.
- 1001.2 Parks. All parks, parklets, recreation facilities and traffic islands, as such terms are defined in Chapter XI, §101 of the Mt. Lebanon Code.
- 1001.3 Private Property. All property that is not Public Property.
- 1001.4 Public Property. Property that:
- 1001.4.1 Consists of streets, alleys, sidewalks, Parks, parking lots, parking garages, steps and other corridors through which either vehicles or persons may travel; and
 - 1001.4.2 That is owned or maintained by the Municipality, an Authority, Allegheny County, the Commonwealth of Pennsylvania, or another governmental body.

§1002 Prohibited Conduct.

- 1002.1 No person shall consume alcoholic beverages or carry or possess an open container of alcoholic beverages on: (i) Public Property, or (ii) Private Property unless the person has the express permission of the landowner or tenant of such Private Property.
- 1002.2 The prohibition in subsection 1102.1 shall not apply to:
- 1002.2.1 Outdoor Seating/Assembly Areas as provided for in §621 of the Zoning Ordinance and for which a permit has been issued;
 - 1002.2.2 Block parties held under permit issued by the Municipality;
 - 1002.2.3 Events sponsored by the Municipality;
 - 1002.2.4 Events for which a special permit is issued by the Manager pursuant to §1003.

§1003 Special Permit. The Manager may issue a special permit pursuant to §1002.2.4, subject to the following requirements:

- 1003.1 The sponsor of the Event applies for a permit on a form prepared by the Municipality, supplies the information listed therein, and pays a fee as set by the Commission by resolution from time to time;
- 1003.2 The applicant furnishes the Manager with a certificate of insurance, in an amount at least equal to one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate, indemnifying the Municipality against liability;
- 1003.3 The Event is located at least seventy-five (75) feet from any residential district;
- 1003.4 The Event shall meet all applicable requirements of the Municipality, County and State;
- 1003.5 There be maintained on any sidewalk adjacent to the curb a minimum of five (5) feet of unobstructed space for the passage of pedestrians; for any such sidewalk along which parallel parking of motor Vehicles is permitted, a minimum of six (6) feet of unobstructed space adjacent to the curb must be maintained for the passage of pedestrians;
- 1003.6 The Event area shall be kept clean from all litter and debris;
- 1003.7 Appurtenances: All appurtenances must be removed from the Public Area at the conclusion of the Event:
- 1003.7.1 Space heaters are permitted only with utility hookups. Fuel tanks are prohibited;
- 1003.7.2 Temporary railings, ropes, fencing or other physical delineations of the Event area are not permitted unless preapproved for traffic or crowd control;
- 1003.8 Outside cooking and food preparation is permitted only if the Applicant submits an acceptable plan to control garbage, which plan must provide for (i) an adequate number and size of receptacles and (ii) removal promptly after the Event;
- 1003.9 No music or other audio performance may be broadcast in the Event area unless the Applicant provides a set time after which the music or audio will cease, and such time is approved by the Manager;
- 1003.10 The Event permit shall be valid for the period of time specified in the Permit, not to exceed one (1) day.

CHAPTER 11 DISCRIMINATION

§1101 Purpose. In order to assure that all persons regardless of race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability, age or use of a guide or support animal because of blindness, deafness or physical disability enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities, it is necessary that appropriate legislation be enacted.

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

§1102 Definitions. The following words, terms and phrases when use in this Ordinance shall be defined as follows, unless the context clearly indicates otherwise:

1102.1 Accessible means being in compliance with the applicable standards set forth in the following:

1102.1.1 The Fair Housing Act (Public Law 90-284 as amended, 42 U.S.C. §3601 et seq.);

1102.1.2 “Americans with Disabilities Act of 1990” (Public Law 101-336, 42 U.S.C. §12101, et seq., as amended);

1102.1.3 Pennsylvania Uniform Construction Code Accessibility Requirements.

1102.2 Age includes any person forty (40) years of age or older and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.

1102.3 Commercial property means:

1102.3.1 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

1102.3.2 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.

- 1102.4 Board means the Equal Opportunity Board of Mt. Lebanon, Pennsylvania.
- 1102.5 Disability or Handicap herein referred to as Disability with respect to a person means:
- 1102.5.1 Physical or mental impairment which substantially limits one or more of such person's major life activities;
- 1102.5.2 Record of such an impairment; or
- 1102.5.3 Regarded as having such an impairment, but such term does not include current, illegal use of or addition to a controlled substance, as defined in Section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. §802).
- 1102.5.4 For employment, disability means a non-job-related disability. A non-job-related disability is a limitation of a major life function which does not substantially interfere with the ability to perform the essential functions of the employment which a person applies for, is currently working at or has worked in the past. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a disability job related.
- 1102.6 Discrimination means any exclusion, denial, intimidation, coercion, difference or segregation in treatment in hiring, referring for hire, promotion, training; in membership in employee or labor organizations, in the advertisement, sale, lease, rental, financing or zoning of housing; or in rendering service in places of public accommodation because of protected class based upon race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability, familial status (in housing only), age or use of a guide or support animal because of blindness, deafness or physical disability of any individual or independent contractor or because of the disability of an individual with whom the person is known to have an association.
- 1102.7 Employee does not include:
- 1102.7.1 Any individuals who, as a part of their employment, reside in the personal residence of the employer; or
- 1102.7.2 Any individual employed by said individual's parents, spouse or child;
- 1102.7.3 Those employed by religious, fraternal, charitable or sectarian corporations or associations in the direct provision of services of the organization wherein membership is a bona fide occupational qualification, except such corporations or associations supported, in whole or in part, by government appropriations.

- 1102.8 Employer means any person who employs four (4) or more employees, exclusive of the parents, spouse or children of such person, including Mt. Lebanon, its departments, boards, commissions and authorities, any other governmental agency within its jurisdiction, but excluding any religious, fraternal, charitable or sectarian organization which is not supported in whole or part by any Mt. Lebanon appropriations.
- 1102.9 Employment Agency includes any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.
- 1102.10 Fair Housing Act means Public Law 90-284, 42 U.S.C. §3601 et seq., as amended.
- 1102.11 Familial status means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:
- 1102.11.1 A Parent or other person having legal custody of such individual or individuals; or
- 1102.11.2 The designee of such parent or other person having such custody, with the written permission of such parent or other person.
- 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 eighteen (18) years.
- 1102.12 Gender Identity or Expression means self-perception, or perception by others, as male or female, including a person's appearance, mannerisms, expression, behavior, or other gender-related characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth.
- 1102.13 Guide or Support Animal means a dog or miniature horse that is individually trained to do work or perform tasks for people with disabilities.
- 1102.14 Housing accommodations include:
- 1102.14.1 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
- 1102.14.2 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 offered for rent by the owner thereof.

1102.15 Housing for older persons means housing:

1102.15.1 Provided under any State or Federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the State or Federal program; or,

1102.15.2 Is intended for, and solely occupied by persons sixty-two (62) years of age or older; or,

1102.15.3 Is intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit

1102.15.3.1 In determining whether housing qualifies as housing for older persons under this §1102.15.3, the Board’s requirements shall include but not be limited to the following:

1102.15.3.1.1 That at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

1102.15.3.1.2 The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

1102.15.3.2 Housing shall not fail to meet the requirements for housing for older persons by reason of unoccupied units provided, that such units are reserved for occupancy by persons who meet the age requirements of this §1102.15.3.

1102.16 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, or is included in the Fair Housing Act.

1102.17 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.

- 1102.18 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 or guaranteeing loans.
- 1102.19 Owner includes lessee, sublessee, 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 Mt. Lebanon and its departments, authorities, boards and commissions.
- 1102.20 Pennsylvania Human Relations Act means Public Law 744, No. 222 as amended.
- 1102.21 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 and all authorities, boards and commissions thereof.
- 1102.22 Personal residence means a building or structure containing living quarters occupied or intended to be occupied by no more than two (2) individuals, two (2) groups or two (2) families living independently or each other and use by the owner thereof as a bona fide residence for himself and any members of his family forming his household.
- 1102.23 Protected class means any person legally protected from discrimination based upon race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability, familial status (in housing only), age or use of a guide or support animal because of blindness, deafness or physical disability of any individual or independent contractor, or because of the disability of an individual with whom the person is known to have an association.
- 1102.24 Public accommodation resort or amusement means any place which is open to, accepts or solicits the patronage of the general public or offers goods or services to the general public, including loans, or is listed in the Pennsylvania Human Relations Act, Section 4(1), but shall not include any personal professional services which are in their nature distinctly private.
- 1102.25 Real estate-related transaction means any of the following:
- 1102.25.1 The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or

1102.25.2 The purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or

1102.25.3 The selling, brokering, using as collateral or appraising of real property.

1102.26 Sex means male or female, and includes pregnancy.

1102.27 Sexual Orientation means male or female homosexuality, heterosexuality and bisexuality, by preference, practice or as perceived by others, whether such perception is accurate.

§1103 Unlawful Employment Practices. It shall be unlawful employment practice, because of race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability, age or use of a guide or support animal because of blindness, deafness or physical disability of any individual or independent contractor or because of the disability of an individual with whom the person is known to have an association:

1103.1 For any employer 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.

1103.1.1 The provision of this paragraph shall not apply, to (1) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement, (2) age limitations placed upon entry into bona fide apprenticeship programs of two (2) years or more approved by the State Apprenticeship and Training Council of the Department of Labor and Industry.

1103.1.2 Notwithstanding any provision of this section, it shall not be an unlawful employment practice for a religious corporation or association to hire or employ on the basis of sex in those certain instances where sex is a bona fide occupational qualification because of the religious beliefs, practices, or observances of the corporation, or association.

1103.2 For any employer, employment agency, or labor organization, prior to the employment, contracting with an independent contractor or admission to membership, to:

1103.2.1 Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries

concerning the protected class of any applicant 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.

- 1103.2.2 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 protected class.
- 1103.2.3 Deny or limit, through a quota system, employment or membership because of protected class.
- 1103.2.4 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 training center or any other employee-referring source which services individuals who are predominantly of the same protected class.
- 1103.2.5 Deny employment because of a prior disability.
- 1103.2.6 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.
- 1103.2.7 For any labor organization because of protected class to deny full and equal membership rights to any individual or otherwise to 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.
- 1103.2.8 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 act; or

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 act 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.

1103.2.9 For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of protected class.

1103.2.10 This Section 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 engage in.

Nothing in this Section shall bar any institution or organization for persons with disabilities from limiting or giving preference in employment or membership to disabled person.

§1104 Unlawful Housing Practices. It shall be unlawful housing practice for any person to:

1104.1 Because of race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability, familial status (in housing only), age or use of a guide or support animal because of blindness or because the user is a handler or trainer of support or guide animals, deafness or physical disability of any individual or independent contractor or because of the disability of an individual with whom the person is known to have an association:

1104.1.1 Refuse to sell, lease, finance or otherwise to deny or withhold any housing accommodation or commercial property because of protected class to any person, prospective owner, occupant or user of such housing accommodation or commercial property.

1104.1.2 Evict or attempt to evict an occupant of any housing accommodation before the end of the term of a lease because of pregnancy or the birth of a child.

1104.2 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 from any person because of protected class.

1104.3 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 protected class.

1104.4 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 modification 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.

- 1104.5 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.
- 1104.6 Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodation or commercial property because of protected class.
- 1104.7 Print, publish, circulate or cause to be made any statement or advertisement: (i) 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 which indicates any preference, limitation, specification, or discrimination based upon protected class.
- 1104.8 Make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning protected class 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 combination or commercial property.
- 1104.9 Construct, operate, offer for sale, lease or rent or otherwise make available housing or commercial property which is not accessible.

§1105 Unlawful Real Estate Practices. It shall be unlawful real estate practice to:

- 1105.1 Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or commercial property, or to discriminate against him in the terms or condition of such access, membership, or participation, on account of protected class.
- 1105.2 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 protected class.

- 1105.3 Induce, solicit or attempt to induce or solicit for commercial profit any listing, sale or transaction involving any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or do not reside, persons of any particular protected class.
- 1105.4 Discourage, or attempt to discourage, the purchase or lease of any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or may in the future reside in increased or decreased numbers, persons of any protected class.
- 1105.5 Misrepresent, steer, create or distort a circumstance, condition or incident for the purpose of fostering the impression or belief, on the part of any owner, occupant or prospective owner or occupant of any housing accommodation or commercial property, that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area which would be adversely impacted by the residence, or future increased or decreased residence, of persons of any protected class.
- 1105.6 In any way misrepresent or otherwise misadvertise within a neighborhood or community, whether or not in writing, that any housing accommodation or commercial property within such neighborhood or community is available for inspection, sale, lease, sublease or other transfer, in any context where such misrepresentation or misadvertising would have the effect of fostering an impression or belief that there has been or will be an increase in real estate activity within such neighborhood or community due to the residence, or anticipated increased or decreased residence, of persons of any protected class.
- 1105.7 For any person to harass, threaten, intimidate, harm, damage or otherwise penalize any person, group or business because he or they exercised or encouraged others to exercise their rights under this Ordinance, or because he or they have complied with the provisions of this Ordinance, or enjoyed the benefits of this Ordinance, or because he or they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder.
- 1105.8 For any person to aid, abet, incite, induce, compel or coerce the doing of an unlawful 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.
- 1105.9 For any person who with intent to mislead in any proceeding under this Act to destroy or mutilate, falsify, alter or refuse to supply records and documents produced pursuant to subpoena or other lawful order under this section.

1105.10 Exceptions.

1105.10.1 Nothing in this Act prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religious creed, ancestry, national origin, sex, gender identity or expression, sexual orientation, age, disability, use of a guide or support animal because of a physical disability or because the user is a handler or trainer of guide or support animals, or familial status.

1105.10.2 Nothing in this Act, regarding age or familial status, shall apply with respect to housing for older persons.

1105.10.3 Nothing in this Act 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 of dwellings which it owns 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, ancestry or national origin.

1105.10.4 Nothing in this Act shall prohibit a private club not in fact open 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.

1105.10.5 Nothing in this Act shall apply with respect to discrimination based on sex in the rental or leasing of housing accommodations in a single-sex dormitory.

§1106 Unlawful Public Accommodations Practices. It shall be unlawful public accommodation practice for any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation, resort or amusement because of race, color, religion, national origin, ancestry or sex, gender identity or expression, sexual orientation, disability or use of a guide or support animal because of blindness or the training of such animal, deafness or physical disability of any individual or independent contractor or because of the disability of an individual with whom the person is known to have an association to:

1106.1 Refuse, withhold from or deny to any person because of protected class, either directly or indirectly, any of the accommodations, advantages, facilities, services or privileges of such public accommodation, resort or amusement.

- 1106.2 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 or denied to any person on account of protected class objectionable or not acceptable, desired or solicited.
- 1106.3 Obstruct any person from enjoyment of his rights under this Ordinance relating to public accommodations.
- 1106.4 Construct, operate or otherwise make available such place of public accommodation, resort or amusement which is not accessible.

§1107 Equal Opportunity Board.

- 1107.1 Establishment. There is hereby established the Equal Opportunity Board of Mt. Lebanon. It shall be composed of five (5) members, who shall be residents of Mt. Lebanon and shall be appointed by the Mt. Lebanon Commission. Members shall serve without compensation, except for payment of expenses. In the event the requirements of the position and/or availability of volunteers cannot be found within Mt. Lebanon then the members need not be residents of Mt. Lebanon but must be either a Mt. Lebanon taxpayer, maintain a business, be employed or go to school in Mt. Lebanon.

Members shall be eighteen (18) years or older. The Mt. Lebanon Commission shall initially appoint a member to serve a one-year (1) term, a two-year (2) term, a three-year (3) term, a four-year (4) term, and a five-year (5) term. Thereafter, all terms shall be five-year (5) terms. The Mt. Lebanon Commission may remove members at any time for any reason.

- 1107.2 Powers and Duties. The Board is hereby vested with the authority to administer and enforce this Ordinance and to carry out the following powers and duties:

- 1107.2.1 To meet and function at any place within Mt. Lebanon;
- 1107.2.2 To adopt, promulgate, amend and rescind rules and regulations to effect the policies and provisions of this Ordinance and to make recommendations to the Mt. Lebanon Commission thereof to effect such policies;
- 1107.2.3 To initiate, receive, investigate and pass upon complaints charging unlawful discriminatory practices in violation of this Ordinance taking place within Mt. Lebanon.
- 1107.2.4 To study the problems of discrimination and foster, through community effort or otherwise, good will among the groups and elements of the population of Mt. Lebanon.

- 1107.2.5 To issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination.
- 1107.2.6 From time to time, but not less than once a year, to report to the Mt. Lebanon Commission 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.
- 1107.2.7 The exercise of any powers and duties are subject to and contingent upon the following: (i) the Board must have a minimum of three (3) active members; (ii) the Mt. Lebanon Commission will have budgeted adequate funds for the Board to function; (iii) the Manager will have provided adequate staff for the Board to function; (iv) the Board will have adopted proper procedures and regulations as are necessary and desirable for it to function, which procedures and regulation have been approved by the solicitor; (v) the powers and duties to be exercised are not the responsibility of or have been delegated to another party such as the Pennsylvania Human Relations Commission, through a work sharing agreement or memorandum of understanding or otherwise, and (vi) the Mt. Lebanon Commission has certified to the Board that it is not pursuing such an agreement or memorandum and, in such event, the Mt. Lebanon Commission will have also certified, which, if any, powers and duties the Mt. Lebanon Commissioners wish the Board to exercise.

§1108 Procedure.

- 1108.1 Filing a Complaint. Any individual claiming to be aggrieved or showing evidence an injury is about to occur by an unlawful discriminatory practice, may make, sign and file with the Board a verified complaint in writing which shall state the name and address of the person or persons alleged to have committed the unlawful practice and the particulars thereof. The complaint shall also contain such other information as may be required by the Board. The Board, upon its own initiative, may in like manner sign and file a complaint.
- 1108.2 Amendment. The complainant shall have the power reasonably and fairly to amend any complaint.
- 1108.3 Time Period for Filing Complaint. Any complaint filed pursuant to this section must be so filed within one hundred eighty days (180) after the alleged act of discrimination, unless otherwise required by the Fair Housing Act.

- 1108.4 Withdrawing Complaint. Any complaint may be withdrawn at any time by the party filing the complaint.
- 1108.5 Initial Action/Preliminary Investigation.
- 1108.5.1 After the filing of any complaint, the Board shall take one or more of the following actions:
- 1108.5.1.1 Referral to the Pennsylvania Human Relations Commission. Referral shall always be required if the Municipality of Mt. Lebanon is or may become a party. Referral shall also be required unless the conditions in §1107.2.7 are met.
- 1108.5.1.2 Investigation. Investigation may be appropriate when there is reason to believe an unlawful discriminatory practice has been committed. The Board may make a prompt investigation. In the conduct of such investigation the Board may issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents. The Board may seek enforcement of its subpoena by petition to the Court of Common Pleas of Allegheny County.
- 1108.5.1.3 Conciliation.
- 1108.5.1.4 Notice of Dismissal.
- 1108.5.1.5 Hearing.
- 1108.5.2 The Board shall send a copy of the complaint to the named respondent within thirty (30) days from the date of docketing the complaint, unless otherwise required by the Fair Housing Act.
- 1108.5.3 A respondent shall file a written, verified answer to the complaint within thirty (30) days of service of the complaint, unless otherwise required by the Fair Housing Act. The Board, upon request of the respondent, may grant an extension of not more than thirty (30) additional days, unless otherwise required by the Fair Housing Act.
- 1108.5.4 After service of the complaint, the Board shall encourage voluntary and informed predetermination settlements between parties.
- 1108.6 Notice of Dismissal. If it shall be determined after that there is no basis for the allegations of the complaint, the Board shall, within ten (10) days from such

determination, cause to be issued and served upon the complainant 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 Board, a request for a review. The Board shall, upon request for such a review, provide the complainant and his attorney, if any, an opportunity to appear before the Board, a member thereof or a staff representative of the Board, at the election of the Board to present such additional information as may be available to support the allegations of the complaint.

1108.7 Conciliation. If the parties agree or the Board determines that mediation will be useful, including when probable cause exists for the allegations of the complaint, the Board shall immediately endeavor to schedule a mediation to eliminate the unlawful practice complained of by persuasion, conference and conciliation. The Board and staff shall not disclose identities of the parties except as required by the Fair Housing Act. Mediation may be conducted by one (1) member of the Equal Opportunity Board or a third party appointed by the Board.

1108.8 Establishment of Hearing.

1108.8.1 If the Board, in its discretion, finds it is not possible to address or eliminate such unlawful practices by conference, conciliation and persuasion, the Board shall cause to be issued and served a written notice of, together with a copy of such complaint as the same may have been amended requiring the party named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint at a hearing before the Board at a time and place to be specified in such notice. The Board may appoint a hearing examiner or designate one or more of its members to preside at such a meeting.

1108.8.2 When notice of hearing is given as set forth in §1108.8.1 and an election procedure is required by the Fair Housing Act, either party may elect, as an alternative to Public Hearing before the Board, to have the claims asserted in the complaint decided in a civil action brought under the original jurisdiction of Allegheny County Court of Common Pleas. The written notice of the Board shall be sent to all parties and will inform them of their right to take civil action. An election must be made within twenty (20) days after receipt of the notice of hearing. A party making this election shall notify the Board and all other parties. If an election for civil action is made by either party, the Board shall, within thirty (30) days from the date of election, dismiss the complaint without prejudice or may commence and maintain a civil action on behalf of the Complainant. In any action brought under this subsection:

1108.8.2.1 If, after a trial, Court of Common Pleas finds that a respondent engaged in or is engaging in any unlawful discriminatory practice as defined in this act, the Court may award attorney's fees and costs to the complainant on whose behalf the Board commenced the action in addition to attorney's fees and costs incurred by the Board.

1108.8.2.2 If, after a trial, Court of Common Pleas finds that a respondent has not engaged in or is not engaging in any unlawful discriminatory practice as defined in this act, the Court may award attorney's fees and costs to the prevailing respondent if the respondent proves that the complaint upon which the civil action was based was brought in bad faith.

1108.9 Hearing. The case in support of the complaint shall be presented to the Board or before a hearing examiner designated by the Board for the purpose of hearing said complaint. The respondent may appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The complainant may likewise appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The Board or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend any answer. The Board shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and be transcribed.

1108.10 Findings.

1108.10.1 If upon all evidence at the hearing, the Board shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this act, the Board shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, reimbursement of certifiable travel expenses in matters involving the complaint, compensation for loss of work in matters involving the complaint, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, the making of reasonable accommodations, or selling or leasing specified housing accommodations or commercial property upon such equal terms and conditions and with such equal facilities, services and privileges or lending money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations or

commercial property, upon such equal terms and conditions to any person discriminated against or all persons, any other verifiable, reasonable out-of-pocket expenses caused by unlawful discriminatory practice, or other compensation as provided under the Pennsylvania Human Relations Act.

1108.10.2 In those cases alleging a violation of §1104 or §1105 and violations of the Fair Housing Act, the Board may award actual damages including damages caused by humiliation and embarrassment as, in the judgment of the Board, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance.

1108.10.2.1 Such order may also assess a civil penalty against the respondent in a complaint of discrimination filed under §1104 or §1105 and violations of the Fair Housing Act of this Act:

1108.10.2.1.1 In an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not be adjudged to have committed any prior discriminatory practice;

1108.10.2.1.2 In an amount not exceeding twenty-five thousand dollars (\$25,000) if the respondent has been adjudged to have committed one other discriminatory practice during the five-year (5) period ending on the date of this order; or

1108.10.2.1.3 In an amount not exceeding fifty thousand dollars (\$50,000) if the respondent has been adjudged to have committed more than one other discriminatory practice during the seven-year (7) period ending on the date of this order.

1108.10.2.2 If upon all the evidence at the hearing, in those cases alleging a violation of §1104 or §1105, the Board finds that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this act, the Board may award attorney's fees and costs to prevailing complainants.

1108.10.2.3 If upon all the evidence at the hearing, in those cases alleging a violation of §1104 or §1105, the Board finds that a respondent has not engaged in or is not engaging in any unlawful discriminatory practice as defined in this act, the Board may award attorney's fees and costs to a prevailing respondent if the respondent proves that the complaint was brought in bad faith.

1108.11 Commonwealth License. When the respondent is a licensee of the Commonwealth of Pennsylvania. The Board shall inform the appropriate State licensing authority of the order with the request that the licensing authority take such action as it deems appropriate against such licensee.

1108.12 Complaint Dismissal. If, upon all the evidence, the Board shall find that a respondent has not engaged in any such unlawful discriminatory practice, the Board shall state its findings of fact, and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

1108.13 Rules and Records of Hearing. The Board may establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. Three (3) or more members of the Board or a hearing examiner designated by the Board shall constitute the Board for any hearing required to be held by the Board under this act. The recommended findings, conclusions and order made by said members or hearing examiner shall be reviewed and approved or reversed by the Board before such order may be served upon the parties to the complaint. The recommended findings, conclusions and order made by said members or hearing examiner shall become a part of the permanent record of the proceeding and shall accompany any order served upon the parties to the complaint.

§1109 Severability. If any clause, sentence, paragraph or part of this act, or the application thereof, to any person or circumstance, shall, for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act nor the application of such clause, sentence, paragraph or part to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this act would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

§1110 Enforcement, Judicial Review and Penalty.

1110.1 Injunction. If the Board concludes, at any time following the filing of a complaint under this Ordinance, that prompt judicial action is necessary to prevent immediate and irreparable harm, the Board may commence an action

in Court of Common Pleas, and that court may grant an appropriate preliminary or special injunction pending final disposition of the complaint. Any such order or relief shall be granted in accordance with Pennsylvania Rules of Civil Procedure Section 1531.

- 1110.2 Enforcement. The complainant, or the Board may secure enforcement of the order of the Board or other appropriate relief. When the Board has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in court, together with a transcript of the record of the hearing before the Board, and issuance and service of a copy of said petition as in proceedings in equity.

The Board's copy of the 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. Any failure to obey an order of the court may be punishable by such court as contempt thereof.

- 1110.3 Enforcement by Private Person.

1110.3.1 In cases involving a claim of discrimination, if a complainant invokes the procedures set forth in this act, that individual's right of action in the courts of the Commonwealth shall not be foreclosed. If within one (1) year after the filing of a complaint with the Board, the Board dismisses the complaint or for whatever reason, closes the complainant's case, or has not entered into a conciliation agreement to which the complainant is a party, the Board must so notify the complainant. On receipt of such a notice the complainant shall be able to bring an action in the Courts of Common Pleas of the Commonwealth based on the right to freedom from discrimination granted by this act.

1110.3.2 An action under this subsection shall be filed within two (2) years after the date of notice from the Board closing the complaint. Any complaint so filed shall be served on the Board at the time the complaint is filed in court. The Board shall notify the complainant of this requirement.

1110.3.3 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, or any other legal or equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than three (3) years prior to the filing of a complaint charging violations of this act.

- 1110.3.4 The court shall serve upon the Board any final order issued in any action brought under this subsection.
- 1110.3.4.1 If, after a trial held pursuant to section 1110.3, the Court of Common Pleas finds that a defendant engaged in or is engaging in any unlawful discriminatory practice as defined in this act, the court may award attorney's fees and costs as provided under the Pennsylvania Human Relations Act, to the prevailing plaintiff.
- 1110.3.4.2 If, after a trial held pursuant to Section 1110.3, the Court of Common Pleas finds that a defendant has not engaged in or is not engaging in any unlawful discriminatory practice as defined in this act, the court may award attorney's fees and costs to the prevailing defendant if the defendant proves that the complaint was brought in bad faith.
- 1110.4 Penalties. Any person who shall willfully resist, prevent, impede or interfere with the Board, its members, agents or agencies in the performance of duties pursuant to this act, or shall willfully violate an order of the Board, shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than six hundred dollars (\$600).
- 1110.5 Construction. The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof and any law inconsistent with any provisions hereof shall not apply.
- 1110.6 The time limits for filing under any complaint or other pleading under this act shall be subject to waiver, estoppel and equitable tolling.
- 1110.7 Except as otherwise provided, any order of the Board may be reviewed under the provisions of the Act of December 2, 1968, P.L. 1133 (53 P.S. §11300) known as the "Local Agency Law," as amended.
- 1110.8 Where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance of Mt. Lebanon, or in any regulation issued under the authority of such Ordinance, the provisions which establish the higher standard for the protection of health, safety and welfare shall prevail.