

**Ordinance #2020-41**

**AN ORDINANCE BY THE MUNICIPALITY OF PRINCETON CONCERNING DISCRIMINATION IN REAL PROPERTY AND AMENDING CHAPTER 11 OF THE "CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974" AND CHAPTER 5B OF THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".**

WHEREAS, the Borough of Princeton and Township of Princeton pursuant to the provisions of the New Jersey Municipal Consolidation Act, N.J.S.A. 40:43-66.35 consolidated as Princeton on January 1, 2013; and

WHEREAS, pursuant to N.J.S.A. 40:43-66.64, the Princeton Council on January 1, 2013 adopted a Resolution continuing in effect Ordinances of the former Borough of Princeton and the former Township of Princeton as a new Code for Princeton is prepared; and

WHEREAS, Chapter 11 of the "Code of the Borough of Princeton, New Jersey, 1974" ("Borough Code") and Chapter 5B of the "Code of the Township of Princeton, New Jersey, 1968" ("Township Code") prohibit discrimination against persons in real property transactions; and

WHEREAS, the Princeton Council has reviewed these chapters and recommends consolidating and harmonizing same into Chapter 11 of the Borough Code, and updating same to ensure continued consistency with the relevant provisions of New Jersey's Law Against Discrimination; and

WHEREAS, the Princeton Council wishes to adopt said Code revisions which will become a part of the new Princeton Code at a future date.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. Sections 11-1 through 11-8 of Chapter 11 of the "Code of the Borough of

Princeton, New Jersey, 1974" ("Borough Code")<sup>1</sup>, are hereby amended as follows (additions are underlined and deletions are [bracketed]):

## CHAPTER 11. DISCRIMINATION.

### Sec. 11-1. Statement of legislative findings and policy.

The [governing body of the borough]Princeton council finds and declares that practices of discrimination with respect to real property because of age, race, creed, color, national origin, ancestry, marital status,[or], sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments, are matters of concern to the government of the [borough] Municipality of Princeton and that such discrimination not only threatens the rights and proper privileges of persons but menaces the institutions and foundations of a free democratic society. It is the policy of [the borough] Princeton that all persons shall have the opportunity to obtain all the accommodations, advantages, facilities and privileges of real property in [the borough] Princeton without such discrimination, subject only to conditions and limitations applicable alike to all persons. In furtherance of that policy, this chapter shall be deemed an exercise of the police power of [the borough] Princeton for the protection of the public health, safety and morals and for the promotion of the general welfare.

### Sec. 11-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commission. The [joint commission on civil rights created by the borough and the Township of Princeton.]Civil Rights Commission created under section 2-90C of this Code.

Familial status. Being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by state law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or 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 years.

Housing for older persons. Housing which is:

(a) Provided under any state or federal program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

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<sup>1</sup> Section 11-9 of the "Code of the Borough of Princeton, 1974," which addresses "Unisex Restrooms," is not affected by this ordinance.

(b) Intended for and solely occupied by persons sixty-two years of age or older;  
or

(c) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit.

Housing shall not fail to meet the requirements for housing for older persons by reason of: Persons residing in such housing as of March 12, 1989 not meeting the age requirements under this definition, provided that new occupants of such housing meet the age requirements under this definition; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements under this definition.

Person. One or more individuals, partnerships, associations, organizations, cooperatives, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries and other legal entities.

Real property. Real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds.

Unlawful discrimination. Only those unlawful practices and acts specified in section 11-3.

### **Sec. 11-3. Discriminatory practices enumerated.**

It shall be unlawful discrimination:

(a) For the owner, lessee, sublessee, assignee, or managing agent of, or other person having the right of ownership or possession of, or the right to sell, rent, lease, assign or sublease, any real property or part or portion thereof, or any agent or employee of any of these, real estate broker or salesman, attorney, auctioneer or court appointed fiduciary or agent, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign or sublease, or otherwise to deny to or withhold from any person or group of any persons any real property or part or portion thereof because of the age, race, creed, color, national origin, ancestry, marital status, [or] sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments of such person or group of persons;

(2) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, assignment, lease or sublease of any real property or part or portion thereof to any person or group of persons because of the age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of

lawful income used for rental or mortgage payments of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, assignment, lease or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments of such person or group of persons; or

([2]3) To discriminate against any person because of the age, race, creed, color, [or] national origin, ancestry, marital status, [or] sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof, or in the furnishing of facilities or services in connection therewith; or

([3]4) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed, any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, ancestry, marital status, [or] sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination[.]; or

(5) For the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to, the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

(b) For any person, bank, banking organization, mortgage company, insurance company or other financial institution, [or] lender or credit institution to whom application

is made for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof, or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the age, race, creed, color, national origin, ancestry, marital status,<sup>2</sup> [or] sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments of such person or group of persons, or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of rates, terms, conditions or provisions of any such financial assistance, or in the extension of services in connection therewith; or

(2) To use any form of application for such financial assistance or to make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, ancestry, marital status, [or] sex, affectional or sexual orientation, familial status, disability, liability for service with the Armed Forces of the United States, nationality, gender identity or expression, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, unless otherwise required by law or regulation to retain or use such information.

(c) For any person to take reprisals against any person because [he]that person has opposed any practices or acts forbidden under this chapter or because [he]that person has filed a complaint, testified or assisted in any proceeding under this chapter, or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

(d) For any person, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt or conspire to do so.

(e) (1) It shall be an unlawful discrimination for the municipality or other local, civil or political subdivision of the State of New Jersey, or an officer, employee, or agent thereof, to exercise the power to regulate land use or housing in a manner that discriminates on the basis of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, nationality, disability, gender identity or expression or source of lawful income used for rental or mortgage payments.

(2) Any person claiming to be aggrieved by an unlawful discrimination under this subsection shall enforce this subsection by private right of action in Superior Court. This shall not apply to discrimination in housing owned or managed by the municipality or other local, civil or political subdivision of the State of New Jersey.

**Sec. 11-4. Exceptions.**

(a) The provisions of this chapter shall not apply to the rental: (1) Of a single apartment or flat in a two-family dwelling, the other occupancy [unit] of which is occupied by the owner as [his]a residence or the household of [his]the owner's family at the time of such rental; (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by him/or her as [his]a residence or the household of [his]the owner or occupant's family at the time of such rental.

(b) Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

(c) Nothing herein contained shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease any room, apartment or flat in a dwelling or residential facility that is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex, nor shall anything herein be construed to bar any person from advertising or recording a qualification as to sex for any room, apartment or flat in such a dwelling or residential facility, to the extent permitted or authorized by law.

(d) Nothing herein contained regarding discrimination on the basis of familial status shall apply with respect to housing for older persons, to the extent permitted or authorized by law.

**Sec. 11-5. [Commission to investigate and decide upon complaints]Voluntary, non-binding conflict resolution of complaints.**

(a) Any person claiming to be aggrieved by an unlawful discrimination as specified in this chapter, may file a complaint with the commission setting forth the name and address of the person alleged to have committed the unlawful discrimination complained of, the particulars of such unlawful discrimination and such other information as may be [required]requested by the commission. [This procedure may be followed notwithstanding that a complaint for the same unlawful discrimination shall be pending in the municipal court hereunder.]

(b) The commission shall thereupon [cause prompt investigation to be made in connection therewith, and if it shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, it shall immediately endeavor to eliminate the unlawful discrimination complained of by conference, conciliation and persuasion]offer the complainant the ability to participate in voluntary, non-binding

conflict resolution, as further set forth in section 2-90C of this Code and the applicable policies and procedures adopted pursuant thereto.

(c) No determination of the commission shall be used in any action in the municipal court of the [borough]municipality for violation of this chapter.

[(d) No complaint shall be filed with the commission later than thirty days after the date of the unlawful discrimination complained of therein, and the commission shall complete its investigation and determination and its procedures, if any, for elimination of the unlawful discrimination complained of, within sixty days after the filing of the complaint.]

**Sec. 11-6. Municipal court actions limited.**

Any person may file a complaint for any violation of this chapter in the municipal court in accordance with the practice therein, and this may be done notwithstanding that a complaint for the same violation shall be pending before the commission under this chapter. However, no person shall be prosecuted, tried or punished in the municipal court for any violation of this chapter, unless the complaint shall be filed in such court within ninety days after the time of the violation complained of therein.

**Sec. 11-7. Remedies provided by chapter additional to other remedies.**

The remedies provided by this chapter shall be deemed in addition to, and not exclusive of, any other remedies provided by law or by ordinance, except as otherwise provided by law.

**Sec. 11-8. Service dogs in retail establishments.**

(a) It shall be unlawful for any retail establishment doing business in the [Borough]municipality of Princeton to prohibit entry or service to any blind, deaf, or [handicapped] person with a disability accompanied by a dog known and described as a "seeing-eye dog," "hearing ear dog," "service dog" or "guide dog" trained by a recognized training agency or school while such dog is in the immediate custody of such person.

(b) All retail establishments doing business in the [Borough] municipality of Princeton which sell food or beverages for consumption on its premises or otherwise shall post a notice clearly observable by each employee of the establishment, stating, in effect, that: "It shall be unlawful for any retail establishment doing business in the [Borough] municipality of Princeton to prohibit entry or service to any blind, deaf, or handicapped person accompanied by a dog known and described as a "seeing-eye dog," "hearing ear dog," "service dog" or "guide dog" trained by a recognized training agency or school while such dog is in the immediate custody of such person."

(c) Any person may file a complaint in the municipal court for any violation of this ordinance. Any person who violates this ordinance shall be subject to a fine in accord

with the general penalty provisions of the Code of the Borough of Princeton, New Jersey. Violation of any section of this ordinance on any single day shall constitute a separate "offense."

Section 2. Chapter 5B of the Township Code, which includes sections 5B-1 through 5B-6, is hereby repealed.

Section 3. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section 5. The provisions of this ordinance shall be applicable within Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

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Delores A. Williams, Clerk

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Liz Lempert, Mayor

Ordinance Introduced:

Ordinance Adopted:

This ordinance is part of the ongoing process of merging and harmonizing the code provisions of former Princeton Borough and former Princeton Township into a new code for the consolidated municipality of Princeton. It updates and consolidates the provisions of both codes with reference to discrimination in real estate transactions, to ensure consistency with the New Jersey Law Against Discrimination and consistency in application throughout the consolidated municipality.