
PART ONE — ADMINISTRATIVE CODE

ARTICLE 137 Human Rights Commission

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CROSS REFERENCES

Human Rights Act—see WV Code 5-11
Authority to prohibit housing discrimination—see WV Code 8-12-9
See footnote for history.

137.01 Title.

This ordinance shall be known, and may be cited and referred to, as the *Harpers Ferry Human Rights Ordinance*. (Ord. 2013-03, passed 03-11-2013.)

137.02 Declaration of policy.

Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human and civil right of all persons without regard to race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information. Equal opportunity in the sale, lease, rental and financing of housing accommodations is hereby declared to be a human and civil right of all persons without regard to race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information.

The denial of these rights of properly qualified persons is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society. (Ord. 2013-03, passed 03-11-2013.)

137.03 Definitions.

When used in this ordinance:

- (a) “Age” means 40 years of age or more.
- (b) For the purpose of this article, a person is considered blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is occasioned by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.
- (c) “Chair” means the Chair of the Harpers Ferry Human Rights Commission.
- (d) “Commission” means the Harpers Ferry Human Rights Commission.
- (e) “Corporation” means the Corporation of Harpers Ferry.

FOOTNOTE:

Ordinance 2013-03 (“The Harpers Ferry Human Rights Ordinance”, passed 11 March 2013) replaced Ordinance 79-4 (“Human Relations Commission”, passed 28 February 1979) in its entirety.

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- (f) “Disability” means:
- (1) A mental or physical impairment which substantially limits one or more of such person's major life activities. The term "major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;
 - (2) A record of such impairment; or
 - (3) Being regarded as having such an impairment.

For the purposes of this article, "disability" does not include persons whose current use of or addiction to alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reasons of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

- (g) “Discriminate” or “discrimination” means to exclude from, or fail or refuse to extend to, a person equal opportunities because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information, and includes to “separate” or “segregate”.
- (h) “Employee” includes any individual employed by his parents, spouse or child, or in the domestic service of any person.
- (i) “Employer” means any person or business employing 12 or more persons within the Corporation and includes an agent of such person, and its agencies; provided, that such term shall not be taken, understood or construed to include a private club, which, in fact, is not open to the public.
- (j) “Employment agency” includes any person regularly undertaking with or without compensation to procure, recruit, refer or place employees. A newspaper engaged in the activity of advertising in the normal course of its business is not deemed to be an employment agency.
- (k) “Familial status” means one or more individuals (who have not attained the age of 18 years) being domiciled with:
- (1) A parent or another person having legal custody of such individual or individuals; or
 - (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 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 18 years. Nothing in this definition restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute housing for older persons.

- (l) “Genetic information” includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about the manifestation of a disease or disorder in an individual’s family members (i.e., family medical history).
- (m) “Housing accommodations” means any building or portion thereof which is used or intended for use as the residence or sleeping place of one or more persons. Nothing contained in this definition or this article applies to the rental of a room or rooms in a rooming house occupied by the owner as a place of residence and containing no more than four rented rooms, or rooms to be rented.
- (n) “Labor organization” includes any organization which exists for the purpose, in whole or in part, for collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in

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- relation to employment.
- (o) “Mayor” means the mayor of the Corporation of Harpers Ferry.
 - (p) “Owner” includes the owner, lessee, sublessee, assignee, manager, agents or other person having the right to sell, rent or lease any housing accommodation or real property within the Corporation or any agent of any of these.
 - (q) “Person” means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons.
 - (r) “Place of public accommodations” means any establishment or person, as defined herein, including the Corporation and any of its affiliated boards and commissions, or any political or civil subdivision thereof, which offers its services, goods, facilities or accommodations to the general public, but does not include any accommodations which are in their nature private.
 - (s) “Purchaser” includes any occupant, prospective occupant, lessee, prospective lessee, renter, prospective renter, buyer or prospective buyer.
 - (t) “Real estate broker” includes any person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for a prospective purchaser, or assists or desists in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain, conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term “real estate broker” also includes any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate. A newspaper engaged in the activity of advertising in the normal course of its business is not deemed to be a real estate broker.
 - (u) “Real estate salesman” includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of real estate broker to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell real estate, or any parts thereof, in lots or other parcels.
 - (v) “Real property” includes real estate, lands, leaseholds, commercial or industrial buildings and any vacant land offered for sale or rent on which the construction of a housing accommodation, commercial or industrial building is intended.
 - (w) “Rooming house” means a house or building where there is one or more bedrooms

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which the proprietor can spare for the purpose of giving lodgings to such persons as he chooses to receive.

- (x) “Sexual orientation” means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, appearance, or behavior of an individual, with or without regard to the individual's assigned sex at birth.
- (y) “Unlawful discriminatory practices” includes only those practices specified in Section 137.05.
- (z) “Veteran” means any person who has served in the active duty of any branch of the Armed Forces of the United States for a period of at least 180 consecutive days of peacetime service, or a period of at least 90 consecutive days, at least one day of which is during wartime, and who was released under a condition other than dishonorable. Active duty service shall not include active duty for basic training, advanced individual training or equivalent. It is not necessary that an individual completed the minimum service for wartime or peacetime if he or she was awarded the Purple Heart or suffered a service-connected disability as noted in the individual's discharge certificate. (Ord. 2013-03, passed 03-11-2013.)

137.04 Human Rights Commission.

- (a) Establishment. There is hereby established the Harpers Ferry Human Rights Commission. The Commission shall be vested with the power and authority, and shall perform the functions and services, as prescribed in this Ordinance and as otherwise provided by law. In connection therewith, the Commission may promulgate and issue regulations.
- (b) Objectives. The Commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the Corporation. The Commission shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information, and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, color, ancestry, national origin, religion, creed, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information.
- (c) Composition and appointment. The Commission shall be composed of three members, all residents of the Corporation and broadly representative of the groups protected by this Ordinance, to be appointed by the Town Council, provided that in the event that any vacancy on the Commission is not filled by the Town Council within 90 days of the occurrence thereof, the Mayor shall, within 60 days, take such action as is necessary to fill such vacancy. No member shall hold office in any political party.
- (d) Term of office. Members of the Commission shall be appointed for terms of three years, commencing on the first day of January of the year of their appointments, except that one member first appointed hereunder shall be appointed until the 30th day of the following December, one until the 30th day of the second December, and one until the 30th day of the third December, so that the term of one member shall expire on the 30th day of December of each year. Upon the expiration of the initial terms, all subsequent appointments shall be for terms of three years each, except that appointments to fill vacancies shall be for the unexpired term thereof. Each member shall be eligible for reappointment at the expiration of his or her term.
- (e) Compensation. No member of the Commission shall receive any salary or compensation for his or her services as such, except that reasonable and necessary expenses previously approved by Town Council incurred by Commission members in

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- connection with their duties may be reimbursed upon presentation of evidence thereof.
- (f) Office and expenses. The Town Council shall provide the Human Rights Commission with suitable offices for the holding of meetings, and shall have plenary power and authority to appropriate funds for expenditure by the Commission to accomplish the purposes of this Ordinance.
- (g) Election of officers. At its first regular meeting in each calendar year, the Commission shall elect from its voting members a chairperson and a secretary.
- (h) Operation. The secretary shall keep a written record of the Commission's proceedings. All three Commission members shall be present for the transaction of business. The Commission shall meet as often as is deemed necessary by its members. Meetings may be called by the Mayor or the chairperson, but not less than seven calendar days after such call to meet. All meetings must comply with the Open Governmental Proceedings Act.
- (i) Assistance to Commission; legal services. The Town Attorney is authorized to assist the commission in the investigation and prosecution of claims, to recommend the appointment of retained legal counsel and / or investigators to prosecute claims or provide advice and guidance to the Commission, and to recommend the appointment of independent hearing examiners or counsel, all of which as may be necessary and proper. The Commission, through the Mayor or the Town Council, may also request other officers or departments of the Corporation to assist in the hearing of complaints before the Commission and any other activity under this article which is reasonable and necessary.
- (j) Procedure for discrimination complaints. The Mayor is authorized to receive complaints alleging discrimination in employment or places of public accommodations because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness or disability, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information. The Mayor shall promptly forward the complaints to the chairperson of the Commission for handling as authorized by this Ordinance. The Mayor shall also promptly forward a copy of all complaints to the Town Attorney.
- (k) Powers; functions; services. The Human Rights Commission is authorized and empowered to:
- (1) Cooperate and work with federal, state and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in this Corporation;
 - (2) Enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the Corporation in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and people;
 - (3) Refer to the West Virginia Human Rights Commission for its handling and adjudication all complaints alleging discrimination in employment or places of public accommodations, because of race, color, ancestry, national origin, religion, creed, age, sex, blindness or disability, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, color, ancestry, national origin, religion, creed, age, sex, blindness, disability or familial status;

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- (4) Investigate and adjudicate all complaints filed within the Corporation alleging discrimination in employment or places of public accommodations, because of sexual orientation, veteran status or genetic information, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of sexual orientation, veteran status or genetic information;
- (5) Request, as authorized by this Ordinance, that the Town Attorney assist the Commission in the investigation and prosecution of claims, recommend the appointment of retained legal counsel and / or investigators to prosecute claims or provide advice and guidance to the Commission, and recommend the appointment of independent hearing examiners or counsel, all of which as may be necessary and proper;
- (6) Hold and conduct public or private hearings on complaints, matters and questions properly before the Commission, so long as consistent with state law and as authorized by this Ordinance, relating to discrimination in employment or places of public accommodations, because of sexual orientation, veteran status or genetic information, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of sexual orientation, veteran status or genetic information. The Commission may in furtherance of the objectives, functions and services contemplated by the provisions of this Ordinance:
 - A. Issue cease and desist orders against any person or business found, after a public or private hearing, to have violated the provisions of this Ordinance or the rules and regulations of the Commission;
 - B. Apply to the Circuit Court of Jefferson County to issue subpoenas and subpoenas duces tecum upon the concurrence all three members of the Commission, and administer oaths and take the testimony of any person under oath;
 - C. Furnish copies of hearing records to parties involved therein upon their payment of the reasonable costs thereof to the Corporation;
 - D. Apply to any court of competent jurisdiction, or any federal, state or local agency, for injunctive or other relief, on behalf of the Corporation, in any matters falling within the scope of the Commission's functions, upon the concurrence of all three members of the Commission.
- (7) Recommend to the Mayor and Town Council policies, procedures, practices and legislation in matters and questions affecting human relations;
- (8) To prepare a written report of its work, functions and services for each year ending on the 31st day of December and to deliver the report to the Mayor and Town Council on or before the 31st day of January thereafter;
- (9) Request, as authorized by this Ordinance, that the office of the Mayor receive complaints alleging discrimination in employment or places of public accommodations, because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property, because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information, and to promptly forward the complaints to the Chair of the Commission and to the Town Attorney for handling as authorized by this Ordinance;

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- (10) Promulgate administrative rules and regulations implementing the powers and authority hereby vested in the Commission, including, but not limited to, such rules governing the filing, investigation and adjudication of all complaints, alternative dispute resolution methods, hearings, appeals, final order and certifications;
- (11) Do all other acts and deeds necessary and proper to carry out and accomplish effectively the objectives, functions and services contemplated by the provisions of this Ordinance;
- (12) Seek and enlist the cooperation of private, charitable, religious, labor and civic and benevolent organizations for the purposes of this section;
- (13) Issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination; however, the identities of the parties involved shall not be disclosed. (Ord. 2013-03, passed 03-11-2013.)

137.05 Unlawful discriminatory practices.

It is an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States, the State of West Virginia or the Corporation of Harpers Ferry:

- (a) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment, because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information, if the individual is able and competent to perform the services required; provided, that it is not an unlawful discriminatory practice for an employer to observe the provisions of any bona fide pension, retirement, group or employee insurance or welfare benefit plan or system not adopted as a subterfuge to evade the provisions of this subsection (a);
- (b) For any employer, employment agency or labor organization, prior to the employment or admission to membership, to:
 - (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 race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information of any applicant for employment or membership, except for such forms which are kept separate from the application blanks for the administration of any bona fide affirmative action plan, that is in accordance with any federal or state statute, or rule or regulation issued by any agency of the federal or state government, or for the purpose of making reports required by agencies of the federal or state governments;
 - (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 race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information; or
 - (3) Deny or limit, through a quota system, employment or membership because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information.
- (c) For any labor organization, because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information of any individual, to deny full and equal membership rights to any individual

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or otherwise to discriminate against such individual with respect to hire, tenure, conditions or privileges of employment or any other matter, directly or indirectly, related to employment;

- (d) For an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:
- (1) Select individuals for an apprentice training program on any basis other than their qualifications as determined by objective criteria which permit review;
 - (2) Discriminate against any individual with respect to his or her right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program;
 - (3) Discriminate against any individual in his or her pursuit of such programs, or to discriminate against such a person in the terms, conditions or privileges of such program;
 - (4) Print or circulate, or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for such programs, or to make any inquiry in connection with such program which expresses, directly or indirectly, discrimination or any intent to discriminate, unless based upon a bona fide occupational qualification.
- (e) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information.
- (f) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations to:
- (1) Refuse, withhold from or deny to any individual because of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of such place of public accommodations;
 - (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, privileges or services of such place are refused, withheld from or denied to any individual on account of race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information, or that the patronage or custom thereof of any individual belonging to or purporting to be of any race, color, ancestry, national origin, religion, creed, age, sex or sexual orientation, or who is a veteran, blind or disabled is unwelcome, objectionable, not acceptable, undesired or not solicited.
- (g) For any person, employer, employment agency, labor organization, owner, real estate broker, real estate salesman or financial institution to:
- (1) Engage in any form of threats or reprisal, or to engage in, hire or conspire with others to commit acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause physical harm or economic loss, or to aid, abet, incite, compel or coerce any person to engage in any of the unlawful discriminatory practices defined in this Ordinance;
 - (2) Willfully obstruct or prevent any person from complying with the provisions of this article, or to resist, prevent, impede or interfere with the Commission or any of its members or representatives in the performance of duty under this Ordinance;

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- (3) Engage in any form of reprisal or otherwise discriminate against any person who has opposed any practices or acts forbidden under this Ordinance, or because he or she has filed a complaint, testified or assisted in any proceeding under this Ordinance. (Ord. 2013-03, passed 03-11-2013.)

137.06 Complaint and hearing procedures; issuance of cease and desist order; judicial review.

- (a) Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice shall make, sign and file with the Commission a verified complaint, which shall state the name and address of the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman or financial institution alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Commission's rules and regulations. The Commission, upon its own initiative, shall, in like manner, make, sign and file such complaint. The Commission or the complainant shall have the power reasonably fairly to amend any complaint, and the respondent shall have like power to amend his or her answer. However, the Commission shall not accept a complaint from any person who has filed a complaint directly with the West Virginia Human Rights Commission with respect to the same grievance. Any complaint filed pursuant to this Ordinance must be filed within 90 days after the alleged act of discrimination.
- (b) After the filing of any complaint, or whenever there is reason to believe that an unlawful discriminatory practice has been committed, the Commission shall make a prompt investigation in connection therewith. In connection with such investigation, the Chair of the Commission, the Town Attorney or other legal counsel acting on behalf of and with the authorization of the Commission shall have authority to apply to the Circuit Court of Jefferson County, West Virginia to issue subpoenas and subpoenas duces tecum upon the concurrence of a majority of the members of the Commission.
- (c) If it is determined after such investigation that no probable cause exists for substantiating the allegations of the complaint, the Commission shall, within ten days from such determination, cause to be issued and served upon the complainant written notice of such determination; and the complainant or his or her attorney may, within ten days after such service, file with the Commission a written request for a meeting with the Commission to show probable cause for substantiating the allegations of the complaint. If after such hearing the Commission or its representative(s) determine(s) that there is no basis for the allegations, the complaint shall be dismissed. If it is determined after such investigation or meeting that probable cause does exist for substantiating the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful discriminatory practices complained of by conference and persuasion. The members of the Commission shall not disclose what has transpired in the course of such endeavors; provided, that the Commission may publish or release the terms of settlement when the complaint has been settled.
- (d) If the Commission, in its discretion, finds it is not feasible to eliminate such unlawful practices by persuasion, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint as originally filed or as the same may have been amended by the Commission, requiring the party named in such complaint, hereinafter referred to as the respondent, to answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice; provided, however, that such notice shall be served at least ten days prior to the time set for the hearing. The Commission may designate one or more of its members to

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- preside at such meeting, or it may at its election conduct such hearing en banc.
- (e) The case in support of the complaint shall be presented to the Commission by its attorney or by a member of its staff. The respondent may file a written, verified answer to the complaint and may appear at such hearing in person, with or without counsel, and submit testimony and evidence. The Commission 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 shall be transcribed.
 - (f) If upon all the evidence at the hearing the Commission shall find that the respondent has been or is engaged in any unlawful practice, the Commission shall state its findings of fact, and shall issue and caused to be served on the respondent an order requiring the respondent to cease and desist from such unlawful practice or practices, and to take such affirmative action, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, or the admission to full and equal enjoyment of the services, goods, facilities or accommodations offered by any respondent place of public accommodation, and the sale, purchase, lease, rental or financial assistance to any complainant otherwise qualified for the housing accommodation or real property denied in violation of this Ordinance, which in the judgment of the Commission will effectuate the purpose of this Ordinance, and including a requirement for report by the respondent of the manner of compliance, payment of expenses and lost wages of any witness called by the complainant or Commission, payment to the complainant of any reasonable attorney fees, expert witness fees, and legal costs, and payment to the Commission of its costs in conducting the hearing; and any other legal or equitable relief as the Commission deems appropriate. Such order shall be accompanied by findings of fact and conclusions of law as specified in West Virginia Code §29A-5-3.
 - (g) If upon all the evidence the Commission shall find that the respondent has not engaged in any unlawful practice, the Commission shall state its findings of fact and shall dismiss the complaint. Notice of such action shall be given to the complainant and respondent.
 - (h) In the event any person fails to obey a lawful cease and desist order of the Commission, the Commission may seek an order of a court of competent jurisdiction for its enforcement in a proceeding as provided in this Ordinance. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the entire record of the hearing before the Commission. Notice of the filing of such petition, together with a copy thereof, shall be served upon the respondent in the manner provided by law for the service of summons in civil actions. No hearing shall be held on such petition within 20 days of the date of service thereof on the respondent. The court may grant such temporary relief or restraining order as it deems just and proper, and shall make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission. All such proceedings shall be heard and determined by the court.
 - (i) Judicial review of a final decision of the Commission shall be by a certiorari as set forth in West Virginia Code §§ 53-3-1 through 53-3-6, or in such other manner as may be allowed under the laws of this state. (Ord. 2013-03, passed 03-11-2013.)

137.07 Fair housing.

- (a) The Corporation of Harpers Ferry hereby adopts by reference West Virginia Code Article 5-11A, "The West Virginia Fair Housing Act", as presently and as the same may

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be amended from time to time hereafter, and incorporates it completely as if set out in full, subject to the particular additions, deletions and amendments set forth in this Ordinance.

- (b) The following amendments and deletions to West Virginia Code Article 5-11A, "The West Virginia Fair Housing Act", are adopted for use within the Corporation of Harpers Ferry:
- (1) WV Code Article 5-11A is amended throughout by striking out the words "West Virginia Fair Housing Act" and inserting in lieu thereof the words "Harpers Ferry Fair Housing Ordinance".
 - (2) WV Code Article 5-11A is amended throughout by striking out the words "Attorney General" and inserting in lieu thereof the words "Town Attorney".
 - (3) WV Code Article 5-11A is amended throughout by striking out the words "Administrative Law Judge" and inserting in lieu thereof the words "Hearing Examiner".
 - (4) WV Code §5-11A-2 is amended by striking out the entire section and inserting in lieu thereof the following:

Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human and civil right of all persons without regard to race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability or genetic information. Equal opportunity in the sale, lease, rental and financing of housing accommodations is hereby declared to be a human and civil right of all persons without regard to race, color, ancestry, national origin, religion, creed, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information.

The denial of these rights of properly qualified persons is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

- (5) WV Code §5-11A-9 is amended in the second paragraph, line 7, following the words "held in the", by striking out the word "county" and inserting in lieu thereof the words "Corporation of Harpers Ferry".
- (6) WV Code §5-11A-12 is amended by striking out the first paragraph and inserting in lieu thereof the following:

The Commission may request the Circuit Court of Jefferson County to issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the Circuit Court of Jefferson County.

- (7) WV Code §5-11A-17 is amended following the words "published in the" by striking out the words "state register" and inserting in lieu thereof the words "Harpers Ferry Town Hall".
- (8) WV Code §5-11A-20 is amended in the last sentence by striking out the following:

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The commission shall comply with article three, chapter twenty-nine-a of this code when promulgating rules.

(Ord. 2013-03, passed 03-11-2013.)

137.08 Exemptions.

Nothing in this Ordinance bars any religious or denominational institution or organization, or other entity which is operated, supervised or controlled by or in connection with a religious organization, 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, as long as such selection or preference is not on the basis of race, color, ancestry, national origin, age, sex, sexual orientation, veteran status, blindness, disability, familial status or genetic information. (Ord. 2013-03, passed 03-11-2013.)

137.99 Penalty.

- (a) In the event a respondent refuses or fails to comply with any order of the Commission or violates any of the provisions of this Ordinance, the Commission shall certify the case and the entire record of its proceedings to the Town Attorney, who may certify the case and record to an appropriate court and seek enforcement or compliance with the order of the Commission. If an appeal has been made by the respondent, the Town Attorney may move to consolidate the appeal and enforcement proceedings.
- (b) In addition to the remedies provided in subsection (a) hereof, the Town Attorney is authorized in an appropriate action to seek imposition by the appropriate court of the penalties set forth in subsection (c).
- (c) Any person who willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this Ordinance, or who violates any order of the Commission, is subject to a penalty of five-hundred dollars (\$500.00), or imprisonment for a period not exceeding 30 days, or both, in addition to such order or decree that may be issued by any court; but, seeking judicial review of an order is not deemed to be such willful conduct. (Ord. 2013-03, passed 03-11-2013.)