

ORDINANCE NO. 194-B

AN ORDINANCE TO AMEND CHAPTER 54 OF THE WESTLAND CITY CODE BY DELETING CURRENT SECTIONS 54-1 THROUGH 54-72 AND ADOPTING NEW SECTIONS 54-1 THROUGH 54-11 TO PROHIBIT DISCRIMINATION AGAINST ANY PERSON BASED UPON A LEGALLY PROTECTED STATUS, INCLUDING DISCRIMINATION BASED UPON A PERSON'S GENDER IDENTITY OR SEXUAL ORIENTATION.

It is hereby ordained:

Section 1. That current Sections 54-1 through 54-72, inclusive, of the Westland City Code are hereby repealed and deleted, and new sections 54-1 through 54-11 shall be adopted to provide as follows:

Chapter 54 - HUMAN RELATIONS - NON-DISCRIMINATION

Sec. 54-1. - Intent.

It is the intent of the City that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, sexual orientation, gender identity or HIV status.

Sec. 54-2. - Definitions.

As used in this chapter, the following words and phrases shall have the following meaning:

Age means chronological age.

Discriminate means to make a decision, offer to make a decision, or refrain from making a decision, based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, sexual orientation, gender identity, or HIV status of another person, that person's relatives, or that person's associates. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

- (1) Submission to such conduct or communication is, either explicitly or implicitly, made a term or condition of obtaining employment, public accommodations, or housing;
(2) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing; and/or
(3) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment.

Discrimination based upon actual or perceived physical or mental limitation includes discrimination because of the use of adaptive devices or aids by an individual.

Family responsibilities means the state of being or the potential to become a contributor to the support of a person or persons in a family relationship.

Gender identity means a person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, appearance, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.

HIV status means the physical condition of a person who has, or has been diagnosed as having been infected with, the human immunodeficiency virus, whether or not that person has or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex.

Housing facility means any dwelling unit or facility used for a person to regularly sleep and keep personal belongings including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

Marital status means the state of being married, unmarried, divorced, or widowed.

Mental limitation means a limitation of mental capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of mental capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Mental limitation" includes, but is not limited to, developmental and psychological disabilities. "Mental limitation" does not include any condition caused by the current use of alcohol or the current illegal use of a controlled substance.

Perceived means the perception of the person who acts, and not the perception of the person for or against whom the action is taken.

Physical limitation means a limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of physical capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment. "Physical limitation" does not include any condition caused by the current use of alcohol or the current illegal use of a controlled substance.

Place of public accommodation means an educational, governmental, health, day care, entertainment, cultural, recreational, refreshment, transportation, financial institution, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind.

Sex means the status of being a man/boy or woman/girl, and a person's conformity to sex stereotypes. Sex shall further be defined to include a person's gender identity.

Sexual orientation means male or female homosexuality, heterosexuality, or bisexuality, by orientation or practice, whether past or present. This includes emotional, romantic, and/or sexual attractions, or the absence thereof, to other people. Sexual orientation also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions.

Source of income means any legal source from which a person obtains money.

Sec. 54-3. - Discriminatory housing practices.

- (a) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
(b) No person shall discriminate in the terms, conditions, maintenance, or repair in providing any housing facility.
(c) No person shall refuse to lend money for the purchase or repair of any real property or to insure any real property solely because of the location in the City of such real property.
(d) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.
(e) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

Sec. 54-4. - Discriminatory public accommodations practices.

No person shall discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any place of public accommodation. No person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother within any public accommodation where she and the child would otherwise be authorized to be.

Sec. 54-5. - Discriminatory employment practices.

- (a) No person shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
(b) No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor

union or apprenticeship program.

Sec. 54-6. - Other prohibited practices.

- (a) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
(b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
(c) No agent, broker, labor union, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations.
(d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.

(e) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.

Sec. 54-7. - Information and investigation.

(a) Any person claiming a violation of this chapter shall file a signed, written complaint with the Mayor or his designee setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.

(b) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this article.

(c) In the course of the investigation, the investigator may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this article. If said person does not comply with such request, the City attorney may apply to the county circuit court for an order requiring production of said materials.

(d) Within 30 days of a written complaint being filed, the investigator shall undertake an investigation of any complaint alleging a violation of this article not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, and cause all other complaints to be referred to an appropriate state or federal agency for review. After the completion of an investigation, the investigator shall give written notice of the results of the investigation to the person who filed the complaint and the person accused of the violation. If the investigation establishes that a violation of this article occurred, the investigator shall attempt to resolve the matter by conciliation and persuasion or refer the complaint to the City attorney for prosecution in a court of competent jurisdiction.

Sec. 54-8. - Conciliation agreements.

In cases involving alleged violations of this chapter, the City may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. A violation of such an agreement shall be a violation of this chapter. The City attorney may commence a civil action to enforce a conciliation agreement.

Sec. 54-9. - Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, source of income, family responsibilities, sexual orientation, marital status, physical or mental limitation, gender identity or HIV status for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons.

Sec. 54-10. - Exceptions.

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

- (1) For a religious organization or institution to restrict any of its facilities of housing or accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination.
(2) For the owner of an owner-occupied one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.
(3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age, or who are handicapped.
(4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women.
(5) To discriminate based on a person's age when such discrimination is required by state, federal or local law.
(6) To refuse to enter a contract with an un-emancipated minor.
(7) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
(8) To refuse to admit persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
(9) For an educational institution to limit the use of its facilities to those affiliated with such institution.
(10) To provide discounts on products or service to students, minors and senior citizens.
(11) To discriminate in any arrangement for the sharing of a dwelling unit.
(12) To restrict use of lavatories and locker room facilities on the basis of sex.
(13) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
(14) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.

Sec. 54-11. - Violations and penalties.

- (a) A violation of any provision of this chapter is a civil infraction, punishable by a fine of not more than \$500.00, plus the costs of investigation and prosecution. Upon a finding or an admission of responsibility, the court may issue and enforce any judgment, writ, or order necessary to enforce this chapter.
(b) Each day upon which a violation occurs shall constitute a separate violation.
(c) Nothing contained in this chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any other person for the prevention or correction of discrimination. Private actions and remedies shall be in addition to any actions for a violation which the City may take."

Section 2. That all other provisions of the Westland City Code shall remain in full force and effect.

Section 3. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Repeal. All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

Section 5. Publication. The City Clerk shall cause this Ordinance to be published in the manner required by law.

Section 6. Effective Date. This Ordinance shall become effective upon publication as required by law.

Adopted: July 17, 2017

Effective: July 27, 2017

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