

CITY OF HARTFORD
COUNTY OF VAN BUREN
STATE OF MICHIGAN
**PROPOSED
FIRST READING**

ORDINANCE No. 334 – 2023

**AN ORDINANCE TO ADD A NEW TITLE XVI, ENTITLED “HOUSING DISCRIMINATION,”
TO HARTFORD CITY CODE TO PROHIBIT DISCRIMINATION AGAINST
PROTECTED CLASSES IN THE PROVISION OF HOUSING**

THE CITY OF HARTFORD, VAN BUREN COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1. Amendment. A new Title XVI, entitled “Housing” is added to the Hartford City Code to read in its entirety as follows:

**Title XVI
Housing**

**Chapter 161
Housing Discrimination**

Sec. 161.1. Purpose and Interpretation.

- (a) It is the intent of the City of Hartford that no person shall be denied the equal protection of the laws, nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of race, color, religion, national origin, age, sex, sexual orientation, gender identity, height, weight, marital status, or disability.
- (b) The prohibitions against discrimination in this chapter are intended to supplement federal and state civil rights law prohibiting discrimination in the area of housing accommodation.
- (c) This chapter shall, to the fullest extent possible given the language used herein, be construed and applied in a manner consistent with applicable jurisprudence regarding freedom of speech, freedom of association, and free exercise of religion under the First Amendment to the United States Constitution.

Sec. 161.2. Definitions.

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

Age means chronological age except as otherwise provided by law.

Authorized City Official means a police officer, code enforcement personnel or any other city personnel designated and authorized by the City Manager, by any provision of the City of Hartford City Code, or by state law to investigate or issue municipal civil infraction citations or municipal civil infraction violation notices.

City Manager means the individual appointed by the city council as the City Manager, acting City Manager or Interim City Manager and that individual’s designee(s).

Complaint means a verified, written statement alleging a violation of this chapter that is in a form and contains the information required in this chapter.

Controlled substance means that term as defined in section 7104 of the Michigan public health code, 1978 PA 368, MCL 333.7104 or any statutory provision that replaces it.

Disability means:

- (a) One or more of the following:
 - (1) A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic substantially limits one or more of that individual's major life activities and is unrelated to the individual's ability to acquire, rent, or maintain property.
 - (2) A history of a determinable physical or mental characteristic described in subparagraph (1).
 - (3) Being regarded as having a determinable physical or mental characteristic described in subparagraph (1).
 - (4) Genetic information about an individual.
- (b) For purposes of subsection (a) of this definition, major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- (c) Disability does not include a determinable physical or mental characteristic caused by the current illegal use of a controlled substance by that individual. It also does not include a determinable physical or mental characteristic caused by the current use of alcoholic liquor by that individual, if that physical or mental characteristic negatively impacts that individual's ability to perform the duties of that individual's job.

Discrimination or 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, age, sex, sexual orientation, gender identity, height, weight, marital status, or disability of another person that results in the unequal treatment or separation of any person, or denies, prevents, limits or adversely affect the benefit or enjoyment of any person in regards to housing accommodations.

Discrimination based on sex includes sexual harassment.

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 biological sex assigned at birth.

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

National origin means the nation of origin of an individual or that individual's ancestor.

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

Person means an individual, agent, association, organization, corporation, limited liability company, partnership or other unincorporated or incorporated public or private entity of any kind.

Religious organization means a religious corporation, association, educational institution or society owned, supported, controlled or managed by a particular religion a purpose of which is the propagation of that particular religion and the inculcation of religious values or the provision of charity; that primarily employs persons who share its religious tenets; and that primarily serves persons who share its religious tenets or, on a charitable basis, the broader community. Religious organization or institution includes, for illustration and not limitation:

churches, mosques, synagogues and other houses of worship; and educational institutions affiliated with, controlled, or managed by those houses of worship or with articles of incorporation, bylaws and other documents stating an intention to inculcate its religious tenets in students.

Sex includes, but is not limited to, marital status, pregnancy, childbirth, and medical conditions related to pregnancy or childbirth.

Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under any of the following conditions:

- (a) Submission to the conduct or communication is made a term or condition either explicitly or implicitly to obtain housing accommodations.
- (b) Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's housing accommodations.
- (c) The conduct or communication has the purpose or effect of substantially interfering with an individual's housing accommodations, or creating an intimidating, hostile, or offensive housing accommodations environment.

Sexual orientation means real or perceived male or female homosexuality, heterosexuality, bisexuality, or asexuality.

Sec. 161.3. Housing.

(a) It shall be considered an unfair housing practice when:

(1) An owner, a real estate broker, or any other person:

- (A) Refuses to negotiate for a real estate transaction with a person because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (B) Refuses to engage in a real estate transaction with a person because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (D) Discriminates against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (E) Refuses to receive from, or to fail to transmit to, a person, a bona fide offer to engage in a real estate transaction because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (F) Represents to a person that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to the person's attention, or to refuse to permit that person to inspect real property, under reasonable conditions, because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (G) Publishes or advertises, directly or indirectly, an intent to make a limitation, specification or discrimination based on race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (H) Uses a form of application for a real estate transaction for the purpose of making a limitation, specification or discrimination based on race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.

- (I) Makes a record or inquiry in connection with a prospective real estate transaction which indicates the race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity of a person.
 - (J) Offers, solicits, accepts, uses or retains a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith with respect to race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (2) A person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance or improvement of real property, or a representative of such a person:
- (A) Discriminates against the applicant because of race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
 - (B) Uses a form of application for financial assistance or to make or keep a record of inquiry in connection with applications for financial assistance which indicated, directly or indirectly, the applicant's race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity.
- (3) A person, for the purpose of inducing a real estate transaction from which the person may benefit financially:
- (A) Initiates, instigates or participates in a series of representations, advertisements or contacts within a block, neighborhood or area designed to promote real estate transactions in the block, neighborhood or area based on the implication, directly or indirectly, that changes have occurred or will or may occur in the composition with respect to race, religion, color, national origin, gender, sex, age, height, weight, marital status, disability, sexual orientation, or gender identity of the owners or occupants in the block, neighborhood or area in which the real property is located.
 - (B) Solicits the sale or listing for sale of real property, by telephone, mail or personally, after the property owner has expressly requested the solicitor or the company the person represents to cease such solicitation.
- (4) A person:
- (A) Retaliates or discriminates against a person because that person has opposed an unfair housing practice, or because that person has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under this chapter.
 - (B) Coerces a person to engage in an unfair housing practice.
 - (C) Interferes willfully with the performance of a duty or the exercise of a power by the any person investigating or taking action regarding an alleged violation of this chapter.
 - (D) Obstructs or prevents willfully a person from complying with the provisions of this chapter or an order issued hereunder.
- (b) A person shall not:
- (1) Discriminate in leasing, selling, or otherwise making available any housing accommodation.
 - (2) Discriminate in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with any housing accommodation.
 - (3) Discriminate in providing financing for the purchase, repair, or remodeling of any housing accommodations.

- (4) Discriminate in making referrals, listings or otherwise providing information regarding housing accommodations.
- (5) Engage in, participate in, or, with respect to any real property the person owns or has an interest in, and allow others to engage in or participate in an unfair housing practice.
- (c) Notwithstanding any other provision that may suggest otherwise, the following activities shall not, in and of themselves, be deemed a violation of this article:
 - (1) The rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.
 - (2) The rental of a housing accommodation for not more than 12 months by the owner or lessor if it was occupied by him or her and maintained as his or her home for at least three months immediately preceding occupancy by the tenant and is maintained as the owner's or lessor's legal residence.
 - (3) With respect to the age provision and the familial status provision only, the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.
 - (4) Arrangements for the shared ownership, lease or occupancy of a housing accommodation.
 - (5) The owner of a housing accommodation devoted entirely to the housing of individuals of one gender may restrict the occupancy of that housing accommodation on the basis of gender.
 - (6) Actions by a religious organization to restrict the occupancy of any of its housing accommodations or place of public accommodations operated as a part of its religious activities to persons of its denomination or those who conform to the religious tenets of that religious organization or institution.
 - (7) Refusal to enter a contract with an un-emancipated minor.
 - (8) Good faith actions to comply with the terms and conditions of any state or federal grant or loan agreement.
 - (9) Good faith actions to comply with any affirmative action laws, rules or regulations of any level of government.
- (d) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.
- (e) This section does not preclude the use by a landlord of reasonable accommodations as required by section 102(2) of the Michigan Handicappers' Civil Rights Act, 1976 PA 220 MCL 37.1102.

Sec. 161.4. Complaints, investigation and enforcement.

- (a) A person believing a violation of this chapter has occurred may file a complaint with the City Manager within 180 days of the date the alleged violation occurred. A complaint shall include at least the following:
 - (1) The complainant's name, address, telephone (cell) number, e-mail address and any other contact information.
 - (2) If the complainant is not the victim of the alleged violation, the victim's name, address, telephone (cell) number, e-mail address and any other contact information.
 - (3) To the extent known, the name, address, telephone (cell) number, e-mail address and any other contact information about the person alleged to have committed or participated in the violation of this chapter.
 - (4) The place(s) at which the alleged violation of this chapter occurred.

- (5) To the extent known, the name, address, telephone (cell) number, e-mail address and any other contact information about any persons believed to have witnessed or to have information about the violation of this chapter.
 - (6) What provisions of this chapter were violated.
 - (7) Details about the incident(s), violation(s), person involved, and other information that may be needed or helpful in investigating the complaint.
- (b) If the complaint alleges violations of state or federal laws, rules or regulations that are within the purview of any state or federal agency, the city Manager shall transmit and refer the complaint to that state or federal agency. Such referral shall fully satisfy the City Manager's duties under this chapter.
 - (c) If the complaint does not allege a violation of state or federal laws, rules or regulations or, in the City Manager's opinion, referral to a state or federal agency is otherwise inappropriate, the City Manager, in consultation with or direction of City personnel and the City Attorney, shall:
 - (1) Investigate the complaint to determine whether or not a violation of this chapter occurred. Any investigation shall include communications with the respondent for an opportunity to provide any information the respondent deems appropriate and, if the respondent desires to do so, to file a written response to the complaint. A respondent shall have a right to a copy of the complaint before responding to the complaint.
 - (2) If the City Manager determines a violation of this chapter did not occur, cannot be reasonably proved, or likely cannot be successfully prosecuted due to a viable defense arising under the First Amendment to the U.S. Constitution, the City Manager shall notify the complainant in writing of that determination and that no action will be taken on the complaint. The complainant may pursue any other remedies for violation of this chapter. For purposes of determining whether a viable First Amendment defense exists, the City Manager shall consult with the City Attorney regarding current interpretations of the First Amendment as memorialized in opinions of the U.S. Supreme Court, federal appellate courts, and Michigan appellate courts.
 - (3) If the City Manager determines that a violation of this chapter occurred, the City Manager may do one or more of the following:
 - (A) 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.
 - (B) Refer the matter to an authorized City official to issue one or more municipal civil infraction citations and prosecute the matter as municipal civil infraction(s).
 - (C) Implement another remedy consistent with the purposes of this chapter.
 - (d) The City Manager shall at regular periods report to the City Council about the numbers and resolutions of any complaints filed under this chapter.

Sec. 161.5. 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, including injunctive relief, 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. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect 10 days after its adoption or upon publication of the notice of adoption, whichever occurs later.

This Ordinance shall become effective upon publication as required by law.

Motion by Commissioner _____ supported by Commissioner _____, to adopt the resolution.

Ayes: Commissioners'

Nays: Commissioners'

Absent:

Ordinance declared adopted upon publication.

The City of Hartford

Richard A. Hall, Mayor

RoxAnn Rodney-Isbrecht, Clerk

First Reading: August 28, 2023

Second Reading: September 25, 2023

Adopted:

Published: