

## ORDINANCE 1784

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. 1784 OF THE CITY OF HOLLAND, BY ADDING A NEW CHAPTER CONSISTING OF SECTIONS 25-1 THROUGH 25-9, WHICH NEW CHAPTER SHALL BE DESIGNATED AS CHAPTER 25 OF SAID CODE.**

**The City of Holland hereby ordains:**

That Chapter 25, consisting of Sections 25-1 through 25-9, is added to read as follows:

### **Chapter 25 Protection Against Discrimination**

#### **Sec. 25-1. Purpose.**

It is the policy of the City of Holland to exercise its police power to ensure public safety, public health, and a person's general welfare. It is the intent of the City that no individual be denied equal protection of the laws, nor shall an individual be denied the enjoyment of their civil rights or be discriminated against because of age, race, national origin, color, disability, education, familial status, sex, sexual orientation, gender expression, gender identity, height, marital status, religion, source of income or weight.

#### **Sec. 25-2. Definitions.**

The terms used in this Chapter that are also defined in the Michigan Elliot-Larsen Civil Rights Act, being MCL 37.2101 et seq., and in the Michigan Persons With Disabilities Act, being MCL 37.1101, et seq., shall have the same meaning as used in those Acts unless otherwise defined herein.

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

*Department* shall mean the City's Department of Human Relations or a department designated by the City Manager as part of the City Manager's administrative plan.

*Discrimination or discriminate* shall mean without limitation, any act which, because of age, race, national origin, color, disability, education, familial status, sex, sexual orientation, gender expression, gender identity, height, marital status, religion, source of income or weight results in the unequal treatment, termination or separation of any person, or denies, prevents, limits, adversely affect the benefits or enjoyment by any person of (i) employment, (ii) the

advertising, listing, showing, inspection, negotiation, purchase, sale, exchange, ownership or financing of an interest in real property or the leasing or occupancy of real property (iii) public accommodations, or (iv) public services.

*Sexual Orientation* shall mean, emotional, romantic, and/or sexual attractions, or the absence thereof, to 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.

*Gender Expression* shall be defined as, a gender-based appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

*Gender Identity* shall be defined as, an individual's internal sense of their own sex and a defining component of sex.

### **Sec. 25-3. Prohibition of Discrimination.**

No person or persons shall discriminate against any person or persons within the City regarding:

- (a) Employment;
- (b) The advertising, listing, showing, inspection, negotiation, purchase, sale, exchange, ownership, or financing an interest in real property or the leasing or occupancy of real property;
- (c) Public accommodations; or
- (d) Public services

on the basis of age, race, national origin, color, disability, education, familial status, sex, sexual orientation, gender expression, gender identity, height, marital status, religion, source of income or weight.

### **Sec. 25-4. Exceptions.**

This Chapter shall not apply:

- (a) To a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are

made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Act of 1933, being MCL §§ 436.1 et seq., the Michigan Liquor Control Act, as amended;

- (b) To a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution or organization which limits admission or gives preference to an applicant of the same religion;
- (c) To the rental of housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other if the owner or a member of the owner's immediate family resides in one of the housing accommodations, or to 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;
- (d) To the rental of housing accommodations for not more than 12 months by the owner or lessor where it was occupied by him/her and maintained as his/her home for at least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence;
- (e) With respect to age or familial status only, to 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;
- (f) A governmental entity or agency where a person's qualification is expressly limited by statute, charter, ordinance or policy as otherwise provided at law;
- (g) Any conduct lawfully protected by the Holland City Charter or by the Michigan Constitution or the United States Constitution; or
- (h) Any conduct that is exempt under the Michigan Elliot-Larsen Civil Rights Act, Michigan Persons With Disabilities Act, or federal anti-discrimination laws.

## **Sec. 25-5. Complaint Procedures.**

(a) If any individual believes that they were discriminated against in violation of this Chapter, they may file a written complaint with the Department within:

- (1) 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action; or
- (2) 180 calendar days from the date when the individual should have known of the alleged discriminatory action.

If an individual fails to file a complaint alleging a violation of this Chapter within the specified time frame, the complaint will not be considered by the City.

(b) The complaint should be made in writing to the Department. The complaint may be filed in person, by email, or by mail. Instructions for filing the complaint shall be included on the City's web site and with printed forms.

(c) The complaint must contain information about the alleged discrimination, such as (i) name, address, phone number of the complainant, (ii) name, address, phone number (to the extent available) of the party alleged to have violated this Chapter, and (iii) the location, date and description of the alleged violation of this Chapter.

(d) Upon receipt, the Department will review the complaint, and take appropriate action with respect to the matter, including, but not limited to:

- (1) If involving the City or a City employee, investigating the complaint and attempting to resolve it by informally mediating the complaint.
- (2) Referring the complaint to the Fair Housing Center of West Michigan or its successor or to the Michigan Department of Civil Rights for investigation and remedy.
- (3) Requesting that a person to produce books, papers, records or other

documents which may be relevant to a violation or alleged violation of this Chapter. If said person does not comply with such request, the City may apply to the Circuit Court for an order requiring production of said materials.

- (e) The Department will take action on the complaint within 30 days of receipt of the complaint. If additional time is necessary, the Department will notify the complainant of the need for additional time.
- (f) All communications with the complainant regarding actions taken or additional time necessary will be in writing or by electronic communication.
- (g) All complaints received by the Department and responses from the respondent will be retained by the City for at least 3 years.
- (h) Neither the filing of a complaint with the Department nor the filing of an action filed by the City under Section 25-6 shall be deemed to bar

(1) A private action by the complainant; or

(2) A complaint directly with the Michigan Department of Civil Rights

to enforce their rights to protect against discrimination under state or federal law.

- (i) No individual shall provide false information in a complaint or to any authorized individual investigating a complaint regarding an alleged violation of this Chapter.

#### **Sec. 25-6. Prosecution.**

For any complaint not within the jurisdiction of the Michigan Department of Civil Rights, the City may initiate an action to prosecute a violation of this Chapter on the basis of an investigation initiated by a complaint filed under Section 25-5 and may act based on the evidence gathered by, or findings of, the Department or otherwise.

#### **Sec. 25-7. Violations, Fines, and Penalties.**

- (a) Any person who violates this Chapter shall be responsible for a municipal civil infraction, and upon a determination or admission of

responsibility shall be subject to a civil fine of not more than \$500.00, costs of prosecution and such other costs, damages, expenses, sanctions, and remedies as authorized by law, including but not limited to those specified in the Revised Judicature Act, and specifically MCL 600.8302, as amended. The director of the Department is designated as the enforcing officer under this Section.

- (b) Any person who violates this Chapter shall be deemed in default with the City and not eligible for official appointment or the award of a contract by or with the City while in violation, as provided in Holland City Charter 4.17.
- (c) Violation of this Chapter shall be good cause for suspending or revoking a person's business license described in Chapter 17 of the Holland City Code.

**Sec. 25-8. Report to Council.**

The Department will provide an annual report to City Council promptly after the close of each fiscal year regarding the complaints received and actions taken.

**Sec. 25-9. Interpretation.**

This Chapter shall:

- (a) Be interpreted liberally to achieve the purposes set for above;
- (b) Not be read to prohibit or interfere with a person's, or a religious institution's, free exercise of religion as protected by the First Amendment to the United States Constitution and Article 1, Section 4, of the Michigan Constitution.

Adopted: August 19, 2020

Effective: September 9, 2020