

## **TITLE 23 CIVIL RIGHTS**

### **Chapter 23.01**

### **CIVIL RIGHTS**

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**Chapter 23.01**

**CIVIL RIGHTS**

(New Title added by Ord. No.  
164709, Oct. 3, 1991.)

**Sections:**

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**23.01.010 Policy.**

(Amended by Ordinance No. 175158, effective January 15, 2001.) It is the policy of the City of Portland to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Such discrimination poses a threat to the health, safety and general welfare of the citizens of Portland and menaces the institutions and foundation of our community.

**23.01.020 Intent.**

(Amended by Ordinance No. 175158, effective January 15, 2001.) The City Council finds that discrimination on the basis of sexual orientation, gender identity and source of income exists in the City of Portland and that state law does not clearly prohibit such discrimination. It is the intent of the Council, in the exercise of its powers for the protection of the public health, safety, and general welfare and for the maintenance of peace and good government, that every individual shall have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing, and public accommodations be removed.

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**23.01.030 Definitions.**

(Amended by Ordinance No. 175158, effective January 15, 2001.)

- A. “Sexual Orientation”** - actual or supposed male or female homosexuality, heterosexuality or bisexuality.
- B. “Source of Income”** - the means by which a person supports himself or herself and his or her dependents, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding any money or property derived in a manner made illegal or criminal by any law, statute or ordinance.
- C. “Gender Identity”** – a person’s actual or perceived sex, including a person’s identity, appearance, expression or behavior, whether or not that identity, appearance, expression or behavior is different from that traditionally associated with the person’s sex at birth.
- D.** All other terms used in this ordinance are to be defined as in Oregon Revised Statutes Chapter 659.

**23.01.040 Exceptions.**

(Amended by Ordinance No. 175158, effective January 15, 2001.)

- A.** The prohibitions in this Chapter against discriminating on the basis of sexual orientation and gender identity do not apply:
  - 1.** To the leasing or renting of a room or rooms within an individual living unit which is occupied by the lessor as his or her residence;
  - 2.** To dwellings with not more than two individual living units where one of the units is owner occupied;
  - 3.** To space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.
- B.** The prohibitions in this Chapter against discriminating on the basis of source of income do not prohibit:
  - 1.** Inquiry into and verification of a source or amount of income;
  - 2.** Inquiry into, evaluation of, and decisions based on the amount, stability, security or creditworthiness of any source of income;

3. Screening prospective purchasers and tenants on bases not specifically prohibited by this chapter or state or federal law;
  4. Refusal to contract with a governmental agency under 42 U.S.C. §1437f(a) “Section 8.”
- C. The prohibitions in this Chapter against discriminating on the basis of gender identity do not prohibit:
1. Health or athletic clubs or other entities that operate gender-specific facilities involving public nudity such as showers and locker rooms, from requiring an individual to document their gender or transitional status. Such documentation can include but is not limited to a court order, letter from a physician, birth certificate, passport, or driver’s license.
  2. Otherwise valid employer dress codes or policies, so long as the employer provides, on a case-by-case basis, for reasonable accommodation based on the health and safety needs of persons protected on the basis of gender identity.
  3. The above exceptions do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

**23.01.050 Discrimination in Employment Prohibited.**

(Amended by Ordinance No. 175158, effective January 15, 2001.)

- A. It shall be unlawful to discriminate in employment on the basis of an individual’s race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.030 and 659.425.
- B. In addition, it shall be unlawful to discriminate in employment on the basis of an individual’s sexual orientation, gender identity, source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.030 when committed against the categories of persons listed therein.

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**23.01.060 Discrimination in Selling, Renting, or Leasing Real Property Prohibited.**

(Amended by Ordinance No. 175158, effective January 15, 2001.)

- A.** It shall be unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's race, religion, color, sex, national origin, marital status, familial status, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.033 and 659.430.
- B.** In addition, it shall be unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's sexual orientation, gender identity, source of income, or age if the individual is 18 years of age or older except as is excluded in ORS 659.033 subsection 6 (a) and (b), by committing against any such individual any of the acts already made unlawful under ORS 659.033 when committed against the categories of persons listed therein.

**23.01.070 Discrimination in Places of Public Accommodation Prohibited**

(Amended by Ordinance No. 175158, effective January 15, 2001.)

- A.** It shall be unlawful to discriminate in public accommodations on the basis of an individual's race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.037, 659.425, or ORS 30.670 to 30.685.
- B.** In addition, it shall be unlawful in public accommodations to discriminate on the basis of an individual's sexual orientation, gender identity, source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.037 or ORS 30.670 to 30.685 when committed against the categories of persons listed therein.

**23.01.080 Enforcement and Administration.**

(Amended by Ord. No. 165319, Apr. 15, 1992.)

- A.** Enforcement of all or any part of this Chapter shall be governed by the procedures established in ORS Chapter 659. Rules adopted by the City Attorney pursuant to section 23.01.090 of this Chapter may also be used to implement enforcement and administration of this Chapter.

- B.** Any person claiming to be aggrieved by an unlawful employment practice under this Chapter may file a complaint with the Commissioner of the Bureau of Labor and Industries under procedures established in ORS 659.040, and any person claiming to be aggrieved by an unlawful practice under this Chapter relating to selling, renting or leasing real estate or discrimination in public accommodations, may file a complaint with the Commissioner under procedures established in ORS 659.045.
- C.** The Commissioner may then proceed and shall have the same enforcement powers under this Chapter, and if the complaint is found to be justified the complainant shall be entitled to the same remedies, under ORS 659.050 to 659.085 as in the case of any other complaint filed under ORS 659.040 or 659.045.
- D.** Any order issued by the Commissioner of the Bureau of Labor and Industries under this Chapter shall be viewed as one issued by a hearings officer employed by the City within the meaning of ORS 46.045 (3) and shall be fully enforceable by the City.
- E.** Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of this code shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659.095 and 659.121. The court may grant such relief as it deems appropriate, including, but not limited to, such relief as is provided in ORS 659.121.

**23.01.090 Authority of City Attorney to Adopt Rules.**

- A.** The City Attorney is hereby authorized to adopt rules, procedures and forms to assist in the implementation of the provisions of this Chapter.
- B.** Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- C.** During the public review, a designee of the City Attorney shall hear testimony or receive written comment concerning the proposed rules. The City Attorney shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process, and shall either adopt the proposal, modify it or reject it. If a substantial modification is made, additional

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public review shall be conducted, but no additional notice shall be required if such additional review is announced at the hearing at which the original comments are received.

- D.** Unless otherwise stated, all rules shall be effective upon adoption by the City Attorney and shall be filed in the office of the City Auditor.
- E.** Notwithstanding paragraphs B and C of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties. The finding shall state the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

#### **23.01.100 Construction.**

This Chapter shall be broadly construed, consistent with its remedial purpose.

#### **23.01.110 Severability of Provisions.**

If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.