

ORDINANCE NO. 8750

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS CONCERNING THE CITY OF LAWRENCE HUMAN RELATONS CODE AMENDING SECTIONS 10-102.10, 10-102.12, 10-102.18, 10-102.19, 10-102.20, 10-102.21, 10-102.22, 10-102.23, 10-102.24, 10-102.25, 10-102.26, 10-102.27, 10-102.28, 10-102.29, 10-102.30, 10-102.31, 10-102.32, 10-109.6, 10-109.9 and 10-109.10 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2011 EDITION AND AMENDMENTS THERETO.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

Section 1. Chapter 10, Article 1, Section 10-102.10 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.10 **DISABILITY**

means, with respect to a person:

(A) a physical or mental impairment which substantially limits one or more of such person's major life activities;

(B) a record of having such an impairment; or

(C) being regarded as having such an impairment. Disability does not include current illegal use of, or addiction to, a controlled substance, as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802), in housing. In employment and public accommodations, the term "disability" does not include an individual who is currently engaging in the illegal use of drugs where possession or distribution of such drugs is unlawful under the Controlled Substances Act (21 U.S.C. 812), when the covered entity acts on the basis of such use.

(D) The definition of disability in this act shall be construed in favor of broad coverage of individuals under this act, to the maximum extent permitted by the terms of this act;

(E) an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability;

(F) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and

(G) the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as the following:

(1) Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eye glasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(2) use of assistive technology;

(3) reasonable accommodations or auxiliary aides or services; or

(4) learned behavioral or adaptive neurological modifications.

(H) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether and impairment substantially limits a major life activity.

(I) As used in this subparagraph:

(1) "Ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(2) "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

Section 2. Chapter 10, Article 1, Section 10-102.12 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.12 **EMPLOYER**

means any person in this city ~~employing two (2) or more~~ employing four (4) or more persons who are not members of such person's immediate family, as defined in Section 10-102.15, any person acting directly or indirectly for any employer, and labor organizations, nonsectarian organizations, organizations engaged in social service work and all political subdivisions of the city, state and federal governments, but shall not include a nonprofit fraternal or social association or corporation.

Section 3. Chapter 10, Article 1, Section 10-102.18 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.18 **"Genetic screening or testing"**

means a laboratory test of a person's genes or chromosomes for abnormalities, defects or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects or deficiencies, and not an indirect manifestation of genetic disorders.

Section 4. Chapter 10, Article 1, Section 10-102.19 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.19 **GOVERNING BODY**

means the Board of Commissioners of the City of Lawrence, Kansas.

Section 5. Chapter 10, Article 1, Section 10-102.20 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.20 **HOUSING/REAL PROPERTY**

means and includes:

(A) All vacant or unimproved land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof which is occupied or designed or intended for occupancy as a residence by one or more families;

(B) Any residential or commercial building or structure having all or a portion thereof which is occupied or designed or intended for occupancy as a residence by one or more families.

Section 6. Chapter 10, Article 1, Section 10-102.21 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.21 **LABOR ORGANIZATION**

includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers on behalf of employees concerning grievances, terms or conditions of employment or other mutual aid or protection in relation to employment.

Section 7. Chapter 10, Article 1, Section 10-102.22 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.22 **“Major life activities”**

means major life activities include, but are not limited to, caring for one-self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

It also includes 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, en-docrine and reproductive functions.

Section 8. Chapter 10, Article 1, Section 10-102.23 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.23 **OFFICIAL OFFICE OF THE COMMISSION**

means the Office of the Human Relations Division of the City of Lawrence, Kansas. (Ord. 8672)

Section 9. Chapter 10, Article 1, Section 10-102.24 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.24 **PERSON**

means and includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trust, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies, joint-stock companies, liability companies, or unincorporated organizations.

Section 10. Chapter 10, Article 1, Section 10-102.25 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.25 **PUBLIC ACCOMMODATION**

means any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any lodging establishment or food service establishment, as defined by K.S.A. 36-501 and amendments thereto; any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility, and all governmental departments or agencies which serve the public. Public accommodations do not include a religious or nonprofit fraternal or social organization or corporation.

Section 11. Chapter 10, Article 1, Section 10-102.26 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.26 **REASONABLE ACCOMMODATION**
means making places of employment, public accommodations, and housing/real property readily accessible to and usable by persons with disabilities, including in rules, policies, practices, procedures, and services, in accordance with applicable local, state and federal laws and regulations.

Section 12. Chapter 10, Article 1, Section 10-102.27 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.27 **“Regarded as having such an impairment”**

means the absence of a physical or mental impairment but regarding or treating an individual as though such an impairment exists. An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that such individual has been subjected to an action prohibited under this act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. A person is not regarded as having such an impairment if the impairment is transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

Section 13. Chapter 10, Article 1, Section 10-102.28 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.28 **RESPONDENT**

means the person, as defined herein, against whom a written verified complaint alleging discrimination has been filed with the Director.

Section 14. Chapter 10, Article 1, Section 10-102.29 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.29 **TO RENT**

means to lease, sublease, to let, to assign or otherwise grant for a consideration, the right to occupy premises not owned by the occupant.

Section 15. Chapter 10, Article 1, Section 10-102.30 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.30 **SEXUAL ORIENTATION**

means heterosexuality, homosexuality or bisexuality. Sexual Orientation shall not mean conduct which is prohibited by law. (Ord. 6658)

Section 16. Chapter 10, Article 1, Section 10-102.31 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.31 **UNLAWFUL ACT OR PRACTICE**

means any unlawful employment practice, any unlawful public accommodations practice, or any unlawful housing practice as defined herein, and includes segregate or separate.

Section 17. Chapter 10, Article 1, Section 10-102.32 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.32 **UNLAWFUL EMPLOYMENT PRACTICE**

means and includes those practices and acts specified as unlawful in Section 10-109 of this Article, and includes segregate or separate.

Section 18. Chapter 10, Article 1, Section 10-102.33 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.33 **UNLAWFUL HOUSING PRACTICE**
means and includes any act or practice specified as unlawful in Section 10-111 of this Article.

Section 19. Chapter 10, Article 1, Section 10-102.34 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.34 **UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICE**
means and includes any act or practice specified as unlawful in Section 10-110 of this Article.

Section 20. Chapter 10, Article 1, Section 10-102.35 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-102.35 **WRITTEN VERIFIED COMPLAINT**
means a complaint, in writing, alleging unlawful discrimination, filed in accordance with Section 10-108.1 of this Article, which has been witnessed and signed by a notary public. (Ord. 5436; Ord. 6522; Ord. 6658)

Section 21. Chapter 10, Article 1, Section 10-109.6 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-109.6 An employer, labor organization, employment agency, or school which provides, coordinates, or controls apprenticeship, on the job, or other training or retraining program, to maintain a practice of discrimination, segregation, or separation because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, disability, or gender identity in any aspect of such program, ~~except where directly related to a bona fide occupational qualification. (Ord. 6658, Ord. 8672) or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.~~

Section 22. Chapter 10, Article 1, Section 10-109.9 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-109.9 For an employer, labor organization, employment agency or joint labor-management committee to: (A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (B) participate in a contractual or other arrangement or relationship, including a relationship with an employment of referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this act; (C) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis or disability or that perpetuate the discrimination of others who are subject to common administrative control; (D) exclude or otherwise deny jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association; (E) not make reasonable accommodations to the known physical or mental limitations of an otherwise emqualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof; (F) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to

the physical or mental impairments of the employee or applicant; (G) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class or individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or (H) fail to select and administer tests concerning employment in that most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

Section 23. Chapter 10, Article 1, Section 10-109.10 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto, is hereby amended to read as follows:

10-109.10 For any employer to:

(A) Seek to obtain, to obtain or to use genetic screening or testing information of an employee or a prospective employee to distinguish between or discriminate against or restrict any right or benefit otherwise due or available to an employee or a prospective employee; or

(B) Subject, directly or indirectly, any employee or prospective employee to any genetic screening or test.

Section 24. Repeal. Chapter 10, Article 1, Sections 10-102.10, 10-102.12, 10-102.18, 10-102.19, 10-102.20, 10-102.21, 10-102.22, 10-102.23, 10-102.24, 10-102.25, 10-102.26, 10-102.27, 10-102.28, 10-102.29, 10-102.30, 10-102.31, 10-102.32, 10-109.6, 10-109.9 and 10-109.10 of the Code of the City of Lawrence, Kansas, 2011 Edition and amendments thereto is hereby repealed, it being the intent to replace said section with the contents herein.

Section 25. Severability. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

Section 26. Effective Date. This ordinance shall take effect and be in force upon its passage and publication once in the official city paper as provided by law.

ADOPTED by the Governing Body this _____ day of June, 2012.

PASSED:

Robert J. Schumm, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

APPROVED AS TO LEGAL FORM:

Toni R. Wheeler
Director, Legal Department