

CHAPTER X. HUMAN RELATIONS

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ARTICLE 1. HUMAN RELATIONS

10-101

DECLARATION OF POLICY.

The practice or policy of discrimination against persons by reason of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability is a matter of concern to the City of Lawrence, since such discrimination not only threatens the rights and privileges of the inhabitants of the city, but also menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the City of Lawrence, in exercise of its police power for the protection of the public safety, public health and general welfare, for the maintenance of business and good government, and for the promotion of the city's trade and commerce, to eliminate and prevent discrimination, segregation, or separation because of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability. It is further declared to be the policy of the City of Lawrence to assure equal opportunity and encouragement for every person, regardless of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability, to secure and hold, without discrimination, employment in any field of work or labor for which the person is otherwise properly qualified; to assure equal opportunity for all persons within this city to full and equal public accommodations and the full and equal use and enjoyment of the services, facilities, privileges and advantages of all governmental departments or agencies, and to assure equal opportunity for all persons within this city in housing, without distinction on account of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation or disability. (Ord. 5436; Ord. 6522; Ord. 6658)

10-102

DEFINITIONS.

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

10-102.1

AFFIRMATIVE ACTION PROGRAM

means a positive program designed to ensure that a good faith effort will be made to employ applicants and to treat employees equally without regard to their race, sex, religion, color, national origin, age, ancestry or disability. An affirmative action program shall include, where applicable, but not be limited to, the following: recruitment, recruitment advertising, employment, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay, other forms of compensation, other terms or conditions of employment, selection for training, and apprenticeship. An affirmative action program shall include goals, methodology and a timetable for implementation of the program. Submission of an affirmative action program to the Director shall be required only as:

- (A) A provision of a conciliation agreement or order in the event of failure of conciliation;
- (B) As required in Section 10-113 of this Article. The words "applicants" and "employees" as used in this Subsection shall include Minority and Women Business Enterprise subcontractors in contracts addressed in Section 10-113 of this Article.

10-102.2

AGE

means the chronological age of a person who is at least 40 years of age, but less

than 70 years of age.

- 10-102.3 **AGGRIEVED PERSON**
means any person who claims they are being or have been injured by an unlawfully discriminatory act or practice; and/or believes they will be injured by an unlawfully discriminatory act or practice that is about to occur.
- 10-102.4 **COMMISSION**
means the Human Relations Commission as established by this Article.
- 10-102.5 **COMPLAINANT**
means an aggrieved person who has filed a written verified complaint alleging unlawful discrimination, or on whose behalf another person has filed such a complaint, in accordance with Section 10-108.1 of this Article.
- 10-102.6 **CONCILIATION**
means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director or the Director's designee.
- 10-102.7 **CONCILIATION AGREEMENT**
means a written agreement setting forth the resolution of the issues in conciliation.
- 10-102.8 **CONTRACT**
means any contract to which the City of Lawrence is a contracting party from the effective date of this ordinance except as otherwise provided in this Article, and specifically including "contract" as defined in Section 10-113.
- 10-102.9 **DIRECTOR**
means the Director of the Department of Human Relations as established by this Article.
- 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.
- 10-102.11 **EMPLOYEE**
means any person employed by an employer, but does not include any individual employed by a member of his or her immediate family, as defined in Section 10-102.15, or in the domestic service of any person.
- 10-102.12 **EMPLOYER**
means any person in this city employing two (2) 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, and all political subdivisions of the city, state and federal governments.

- 10-102.13 **EMPLOYMENT AGENCY**
includes any person or government agency undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employees.
- 10-102.14 **FAMILIAL STATUS**
means one or more individuals, who have not attained the age of 18 years, being domiciled with:
- (A) a parent or another person who has legal custody of such individual or individuals; or
 - (B) the designee of such parent or other person who has such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not, or individuals who have not, attained the age of 18 years.
- 10-102.15 **FAMILY**
includes a single individual; **IMMEDIATE FAMILY** means and includes parent, child, grandparent, grandchild, sibling and spouse.
- 10-102.16 **FRATERNAL OR SOCIAL ORGANIZATION**
shall mean and include organizations founded and operated primarily for social purposes and shall neither mean nor include organizations founded or maintained primarily for trade or professional purposes.
- 10-102.17 **GOVERNING BODY**
means the Board of Commissioners of the City of Lawrence, Kansas.
- 10-102.18 **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.
- 10-102.19 **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.
- 10-102.20 **OFFICIAL OFFICE OF THE COMMISSION**
means the Office of the Human Relations Department of the City of Lawrence, Kansas.

- 10-102.21 **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.
- 10-102.22 **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.
- 10-102.23 **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.
- 10-102.24 **RESPONDENT**
means the person, as defined herein, against whom a written verified complaint alleging discrimination has been filed with the Director.
- 10-102.25 **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.
- 10-102.26 **SEXUAL ORIENTATION**
means heterosexuality, homosexuality or bisexuality. Sexual Orientation shall not mean conduct which is prohibited by law. (Ord. 6658)
- 10-102.27 **UNLAWFUL ACT OR PRACTICE**
means any unlawful employment practice, any unlawful public accommodations practice, or any unlawful housing practice as defined herein.
- 10-102.28 **UNLAWFUL EMPLOYMENT PRACTICE**
means and includes those practices and acts specified as unlawful in Section 10-109 of this Article.
- 10-102.29 **UNLAWFUL HOUSING PRACTICE**
means and includes any act or practice specified as unlawful in Section 10-111 of this Article.
- 10-102.30 **UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICE**
means and includes any act or practice specified as unlawful in Section 10-110 of this Article.
- 10-102.31 **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)

10-103

HUMAN RELATIONS COMMISSION, CREATED.

- (A) There is hereby created a Commission to be known as the Human Relations Commission. Said Commission shall consist of nine (9) members to be drawn from diverse racial, ethnic, commercial, industrial and other segments of the community, who shall be citizens of the City of Lawrence, and who shall be appointed by the Mayor, with the consent of the Governing Body. The term of office of each member of the Commission shall be for three (3) years or until a successor is appointed with three (3) members to be appointed on October 1 of each subsequent year hereafter. No member shall serve more than two (2) successive full terms.
- (B) The Commission shall elect one of its members as Chair, who shall preside at all meetings of the Commission and shall perform all duties and functions of the Chair. The Commission shall elect, in the same manner, one of its members as Vice Chair, who shall act as Chair during the absence or incapacity of the Chair, and, when so acting, the Vice Chair shall have and perform all the duties and functions of the Chair. The term of office of the Chair and Vice Chair shall be for one (1) year, and no person shall serve for more than two (2) consecutive terms in the same office, unless such election to the immediately subsequent term be made by the members of the Commission by a unanimous vote. The Chair or Vice Chair may resign from office at any time and may do so without resigning from the Commission. In such event, the Commission shall elect another member to serve the unexpired term of office. A majority of the presently serving members of the Commission shall constitute a quorum for the purpose of conducting business. The members of the Commission shall serve without compensation. (Ord. 5436; Ord. 6522)

10-104

POWERS, DUTIES OF COMMISSION.

The Commission shall have the following functions, powers, duties and responsibilities.

10-104.1

To endeavor to eliminate prejudice among the various racial, ethnic and other groups in the city and to further goodwill among all people of Lawrence.

10-104.2

To create an advisory agency or agencies and a conciliation committee. Such agencies or committees may be created:

- (A) To study the problem of discrimination or any other matter which may have an adverse impact on community relations;
- (B) To promote goodwill, cooperation and conciliation among elements of the population of this city;
- (C) To recommend to the Commission policies, procedures and educational programs which the Commission may then recommend to the Governing Body. Any agency or committee created by authority of this Subsection shall be composed of representative citizens of this city and shall serve without compensation. Notwithstanding any other provision or provisions of this Subsection, the Commission, itself, may make the studies and perform the acts authorized by this Subsection, including attempting to eliminate discrimination by conciliation and persuasion.

10-104.3

To accept and expend contributions from any person or governmental unit, except as provided in Subsection 10-104.4, to assist in the effectuation of this Article, and to

seek and enlist the cooperation, including financial assistance, of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this Article. Expenditures of such funds shall be subject to review by the Governing Body. All funds so contributed and expended shall be audited annually by the City Treasurer.

- 10-104.4 To solicit, receive and accept city, county, state and federal funds to effectuate the purposes of this Article. Any such funds shall be received through the Governing Body and shall be subject to an annual audit by the City Treasurer.
- 10-104.5 To issue such publications, results of investigation not confidential in nature, and research as, in the judgment of the Commission and Director, will tend to promote goodwill and minimize or eliminate discrimination.
- 10-104.6 To cooperate with the Kansas Human Rights Commission and with other organizations or agencies, both public and private, whose purposes are consistent with this Article.
- 10-104.7 To meet regularly at a place and time decided by the Commission and to hold special meetings as may be called by the Chair or by a majority of the members of the Commission then serving.
- 10-104.8 To advise and support the Director and staff of the Human Relations Department and receive and accept reports of their activities.
- 10-104.9 To advise the members of the Governing Body, regularly, through distribution of its minutes, memoranda, reports and other pertinent documents, the items of business brought before the Commission, and the activities and recommendations of the Commission.
- 10-104.10 To receive, investigate, decide, and attempt to conciliate a complaint or complaints alleging discrimination, segregation, or separation in employment, public accommodations, or housing.
- 10-104.11 To permit the initiation of a complaint or complaints by an individual Commissioner when a Commissioner has reason to believe that unlawful discrimination is being practiced by a person or persons as defined herein. Any complaint or complaints initiated shall be filed with the Director as specified in Section 10-108 of this Article.
- 10-104.12 To hold such public hearings as are provided in Section 10-108. The Commission shall adopt rules and regulations necessary for the conduct of such hearings. (Ord. 5436; Ord. 6522)

10-105 **HUMAN RELATIONS DEPARTMENT, DIRECTOR.**

- (A) There is hereby created a Human Relations Department for the purpose of administering and enforcing the provisions of this Article.
- (B) There is hereby created the position of Director of Human Relations of the City of Lawrence. The Director shall be appointed by and directly responsible to the City Manager. The salary of the Director shall be fixed by the Governing Body. (Ord. 5436; Ord. 6522)

10-106 **POWERS, DUTIES AND RESPONSIBILITIES OF THE DIRECTOR.**

The Director shall have the following powers, duties and responsibilities:

- (A) To endeavor to eliminate prejudice among the various racial, ethnic and other groups in the city and to further goodwill among all the people of

Lawrence;

- (B) To administer and enforce the provisions of this Article;
- (C) To initiate and file a written verified complaint in accordance with the provisions of Section 10-108 of this Article whenever he or she has reason to believe that any person has engaged or is engaging in any act or practice in violation of this Article;
- (D) To receive, investigate, decide, and attempt to conciliate all complaints alleging unlawful discrimination, segregation, or separation in employment, public accommodations or housing filed in accordance with the provisions of Section 10-108 of this Article;
- (E) To act as the administrative staff member of the Commission;
- (F) To exercise any other powers, duties and responsibilities specified as the Director's in any Section of this Article; and
- (G) To delegate his or her powers, duties, functions and responsibilities to any staff personnel employed as authorized in Section 10-107 of this Article. (Ord. 5436; Ord. 6522)

10-107

STAFF PERSONNEL.

The employment of such personnel as may be reasonably necessary to carry out the provisions of this Chapter may be authorized, and their compensation fixed, by the Governing Body. (Ord. 5436; Ord. 6522)

10-108

COMPLAINT PROCEDURES.

The following procedures shall govern the filing, investigation and resolution of all complaints.

10-108.1

INITIATION OF COMPLAINT.

- (A) Any aggrieved person, as defined by 10-102.3, who claims they have been, are being, or are about to be, discriminated against by an alleged unlawful act or practice in violation of this Article may, personally, or by their parent or other legal guardian, or by an attorney at law, make, sign and file with the Director at the official office of the Commission a written verified complaint which shall state the names and addresses of the person or persons, hereinafter referred to as respondent, alleged to have committed, be committing, or be about to commit, the unlawful act or practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Director.
- (B) The Director or a member of the Commission on their initiative may, in like manner, make, sign and file such a complaint. Any employer whose employees, or some of whom, refuse or threaten to refuse to cooperate with the provisions of this Article, may file with the Director a written verified complaint asking for assistance by conciliation or other remedial action.
- (C) If a complaint is filed by the Director or a member of the Commission, that person shall not participate thereafter in the investigation of the complaint or in any public hearing thereon, except as a witness. If a complaint is filed by the Director, the Commission shall designate a staff member to perform the duties of the Director thereafter with regard to the investigation and

resolution of that complaint.

10-108.2

AMENDMENT OF COMPLAINT.

- (A) Any complaint may be reasonably and fairly amended at any time before the final closure of the complaint. Notification of any such amendment must be mailed by certified mail, return receipt requested, to all parties to said complaint within five working days of the amendment.
- (B) If a person is not named as a respondent in a complaint, but is identified as a respondent in the course of investigation, such person may be joined as an additional or substitute respondent upon written notice, within five working days of such identification, by certified mail, return receipt requested, to such person, the complainant, and the respondent originally named in the complaint. Said notice shall include an explanation of the reason or reasons such person is joined as an additional or substitute respondent and the reason or reasons said person was not named in the complaint originally.

10-108.3

CONFIDENTIALITY.

Neither the Commission nor the Director or staff of the Human Relations Department shall divulge the names or addresses of complainants or respondents, or any other particulars of any complaint, investigation, finding or remedy, except as necessary to implement this or other Sections, such as 10-108.10, Subsection (H) of this Article, or until a complaint becomes the subject of a public hearing or court proceeding, unless otherwise provided by law.

10-108.4

COMPLAINT FILING PERIOD.

Complaints filed pursuant to this Act must be filed within ninety (90) days after the alleged act of discrimination, unless the act complained of constitutes a continuing pattern or practice of discrimination in which event it will be from the last act of discrimination, except complaints alleging discrimination in housing, which must be filed no later than one year after an alleged discriminatory housing practice has occurred or terminated. Except in the filing of complaints alleging discrimination in housing, if good cause, in the sole discretion of the Director, is shown for the filing of the complaint after the expiration of the ninety (90) day filing period, the Director may extend the filing period for up to an additional ninety (90) days.

10-108.5

NOTICE TO COMPLAINANT.

Within five (5) working days after the filing of the complaint, the Director shall cause a copy of the complaint, or amended complaint, and written notification acknowledging its filing and advising of the time limits and choice of forums provided by local, state, and federal law to be mailed by certified mail, return receipt requested, to the complainant.

10-108.6

NOTICE OF INVESTIGATION.

Within five (5) working days after the filing of the complaint, the Director shall cause a copy of such complaint and written notification of their procedural rights and obligations under the law to be served by certified mail, return receipt requested, on all persons alleged to have engaged, be engaging, or be about to engage, in an unlawful act or practice. Said notice shall include the provisions of Subsection 10-108.7 of this Article, and the time limits and choice of forums provided under local, state, and federal law.

10-108.7

RIGHT OF RESPONDENT TO FILE ANSWER.

Each respondent may file, not later than ten working days after receipt of notice of the complaint, or any amended complaint, a written verified answer to any such

complaint.

10-108.8

PROMPT JUDICIAL ACTION.

If the Director or Commission concludes, at any time following the filing of a complaint alleging an unlawful housing practice, that prompt judicial action is necessary to carry out the purposes of this Article, the Director or Commission may commence a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this Section. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with appropriate Rules of Civil Procedure. The commencement of a civil action under this Subsection does not affect the initiation or continuation of administrative proceedings provided under local, state or federal law.

10-108.9

INVESTIGATION AND DETERMINATION OF PROBABLE CAUSE.

- (A) Whenever the Director has received a written verified complaint alleging that any person has engaged, is engaging, or is about to engage, in an unlawful act or practice in violation of this Article, the Director, or his or her designee, shall investigate that alleged unlawful act or practice.
- (B) The Director, in the course and furtherance of the investigation of any written verified complaint, may issue a subpoena to compel the testimony of any person or to require the production of books, records, papers or any other material relevant or possibly relevant to the complaint. In the event that a subpoenaed person fails to appear and testify, or that the subpoenaed books, records, papers, or other materials are not produced, the Director may seek enforcement of such subpoena in the manner provided by law.
- (C) The investigation of a complaint alleging unlawful discrimination in housing shall be commenced before the end of the 30th day after receipt of the complaint, and completed within one hundred (100) days after receipt of the complaint unless it is impracticable to do so, in which event the Director shall cause both the complainant and the respondent to be notified in writing of the reasons for not doing so. Failing completion of investigation within one hundred (100) days, the provisions of the following paragraph shall apply to the investigation of housing complaints.
- (D) The investigation of a complaint shall be completed within one hundred fifty (150) days from the date the complaint was filed with the Director, except that for good cause, the Director may extend the time limit for completion of the investigation for an additional sixty (60) days. If it is impracticable to complete the investigation within the maximum time allowed by this Subsection, the Director shall notify both the complainant and respondent, in writing, of the reasons for not doing so, and the investigation may continue until its completion.
- (E) Upon completion of the investigation, the investigator shall, within five (5) business days, prepare a final investigative report and present it to the Director for his or her review. The final investigative report shall contain at least:
 - (1) the names and dates of contacts with witnesses;
 - (2) a summary and the dates of correspondence and other contacts with the complainant and the respondent;
 - (3) a summary description of other pertinent records;

- (4) a summary of witness statements; and
 - (5) answers to all interrogatories.
- (F) Within ten (10) business days after receipt of the final investigative report, the Director shall determine whether probable cause exists for crediting the allegations of the complaint, and shall cause notice of that determination to be mailed to the complainant and respondent by certified mail, return receipt requested.
- (1) If the Director determines there is probable cause to credit the allegations of the complaint, the notice of the determination of probable cause:
 - (a) shall consist of a short and plain statement of the facts upon which probable cause has been found;
 - (b) shall be based on the final investigative report;
 - (c) need not be limited to the facts or grounds alleged in the complaint filed under Section 10-108.1;
 - (d) shall include notification of the commencement of, and provisions regarding, conciliation and persuasion;
 - (e) shall include notification of provision for a public hearing in the event of failure of conciliation and persuasion; and
 - (f) shall include notification of the choice of forums available.
 - (2) If the Director determines there is no probable cause to credit the allegations of the complaint, the notice of the determination shall also include a statement advising the parties that the complaint has been dismissed.

10-108.10 **CONCILIATION AND PERSUASION.**

- (A) During the period beginning with the filing of a complaint and ending with the filing of an order by the Human Relations Commission or dismissal by the Director, the Director or his or her designee shall, to the extent feasible, engage in conciliation with respect to such a complaint.
- (B) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to the approval of the Director.
- (C) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
- (D) If the Director, after investigation of a complaint, determines that probable cause exists for crediting the allegations of the complaint, the Director, or his or her designee, shall immediately endeavor to eliminate the unlawful act or practice complained of by conference, conciliation, and persuasion.
- (E) The complainant, respondent and Director shall have forty-five (45) days

from the receipt of notification of the determination of probable cause to enter into a conciliation agreement signed by all parties in interest, including the Director, or his or her designee, indicating the agency's approval of the agreement.

- (1) Upon agreement by all parties, the time for entering into such agreement may be extended.
 - (2) The Director may, in any event, for good cause grant an additional thirty (30) days for conciliation and persuasion upon the request of either the complainant or respondent.
- (F) Nothing said or done in the course of conciliation under this Article may be made public or used as evidence in a subsequent proceeding under this Article without the written consent of the persons concerned.
- (G) Notwithstanding paragraph (F), the Director shall make available to the complainant and the respondent, upon request, following completion of the investigation, information derived from an investigation and any final investigative report relating to that investigation.
- (H) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required to further the purposes of this Article.
- (I) Any of the parties to a conciliation agreement may apply to the district court for specific performance of any such conciliation agreement.

10-108.11

NOTICE OF PUBLIC HEARING.

In case of failure to eliminate or remedy such unlawful act or practice by conference, conciliation, and persuasion, or in advance thereof, if in the judgment of the Director or the Commission circumstances so warrant, the Director or the Commission shall cause to be issued and served in the name of the Commission, a written notice, together with a copy of such complaint, as the same may have been amended, unless such a copy was previously served upon the respondent, requiring the respondent to answer the charges of such complaint at a hearing before at least three (3) Commissioners, hereinafter referred to as Hearing Commissioners, at a time not less than thirty (30) days nor more than ninety (90) days after the service of the notice unless the respondent requests in writing and is granted a continuance. The place of such hearing shall be at City Hall, Lawrence, Kansas.

10-108.12

ELECTION OF CIVIL ACTION IN LIEU OF PUBLIC HEARING.

- (A) In lieu of a public hearing under Subsection 10-108.14 in the matter of a complaint alleging discrimination in housing, a complainant, a respondent, or an aggrieved person on whose behalf a complaint was filed may elect to have the claims asserted in the complaint decided in a civil action, in accordance with Subsection 10-108.22 of this Article.
- (B) The election must be made not later than twenty (20) days after the receipt, by the electing person, of service of the notice of a public hearing in accordance with Subsection 10-108.11. The person making the election shall give notice to the Commission, the Director, and to all complainants and respondents to whom the complaint relates.
- (C) If a timely election is made under this Subsection, the Commission shall file, not later than thirty (30) days after election is made, a civil action on behalf

of the complainant as is provided in Subsection 10-108.22, through an attorney appointed by the City Manager.

- (D) If election is not made within the prescribed time period, a public hearing shall be held in accordance with Subsection 10-108.14.

10-108.13 **SUBPOENAS.**

- (A) The complainant or respondent may apply to the Director for the issuance of a subpoena for the attendance of any person or the production or examination of any books, records or documents pertinent to the proceeding at the hearing. Upon such application the Director shall issue such subpoena. The Hearing Commissioners may, as a result of their own decision that such action is necessary, issue a subpoena to compel the attendance and testimony of any person or to require the production of any books, papers, records, or other materials relevant, or possibly relevant, to the complaint.
- (B) In the event that any subpoenaed person fails to attend and testify, or the subpoenaed documents are not produced, the Hearing Commissioners may request that the subpoena be enforced in the manner provided by law and continue the hearing until compliance with the subpoena can be so compelled.

10-108.14 **PUBLIC HEARING.**

- (A) The case in support of the complaint shall be presented before the Hearing Commissioners by an attorney appointed by the City Manager.
- (B) The complainant may appear in person, with or without counsel, present evidence, cross-examine witnesses, submit testimony, and request the completed complaint file be submitted as evidence.
- (C) Any Commissioner who participated in the investigation previously shall not participate in the hearing except as a witness.
- (D) Any endeavors at conciliation shall not be received in evidence.
- (E) The respondent may file a written verified answer to the complaint, as provided in Subsection 10-108.7, and appear at such hearing in person or otherwise, with or without counsel, present evidence, cross-examine witnesses, and submit testimony.
- (F) The Hearing Commissioners, or the complainant, shall have the power to amend any complaint reasonably and fairly, and the respondent shall have like power to amend his or her answer.
- (G) The Hearing Commissioners shall be bound by the rules of evidence prevailing in courts of law or equity, and only relevant evidence of reasonable and probative value shall be received.
- (H) Reasonable examination and cross-examination shall be permitted.
- (I) All parties shall be afforded opportunity to submit briefs prior to adjudication.
- (J) The testimony taken at the hearing shall be under oath or affirmation and be recorded.

- (K) The Commission shall, not later than 180 days after enactment of this Section, adopt and issue rules and regulations for public hearings.
- (L) A public hearing may not be commenced regarding any alleged unlawful discriminatory practice after the beginning of the trial of a civil action commenced by the complainant under this Article or state or federal law seeking relief with respect to that alleged unlawful discriminatory practice.

10-108.15

ORDER; REMEDIES.

- (A) If, upon all the evidence in the hearing, the Hearing Commissioners find by a preponderance of the evidence that the respondent has engaged in, is engaging in, or is about to engage in, any unlawful act or practice as defined in this Article, the Hearing Commissioners shall state the findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful act or practice and to take such affirmative corrective action as, in the judgment of the Hearing Commissioners, will effectuate the purposes of this Article, including, but not limited to:
 - (1) in employment complaints, the hiring, reinstatement and/or upgrading of employees, with or without back pay, with or without retroactive benefits, and the admission or restoration to membership in any respondent labor organizations, denied in violation of this Article, including a requirement for report of the manner of compliance;
 - (2) in public accommodations complaints, the admission to and full and equal use and enjoyment of the goods, services, facilities, and accommodations offered by the respondent place of public accommodation denied in violation of this Article, including a requirement for report of the manner of compliance; or,
 - (3) in housing complaints, the selling or renting or assigning of specified housing/real property and the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of housing/real property, or the granting of loans or other financial assistance secured by housing/real property, denied in violation of this Article, including a requirement for report of the manner of compliance.
- (B) Pursuant to violation of Section 10-111, UNLAWFUL HOUSING/REAL PROPERTY PRACTICES, and its Subsections of this Article, any such order may also include an award of actual damages, including damages caused by pain, suffering and humiliation. Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:
 - (1) in an amount not exceeding \$10,000.00, if the respondent has not been adjudged to have committed any prior unlawful housing practice;
 - (2) subject to the provisions of Subsection 10-108.15(B)(4), in an amount not exceeding \$25,000.00, if the respondent has been adjudged to have committed one other unlawful housing practice during the five-year period ending on the date of the filing of the complaint; and

- (3) subject to the provisions of Subsection 10-108.15(B)(4), in an amount not exceeding \$50,000.00, if the respondent has been adjudged to have committed two or more unlawful housing practices during the seven-year period ending on the date of the filing of the complaint; except that
- (4) if the acts constituting the unlawful housing practice that is the object of the complaint are committed by the same natural person who has previously been adjudged to have committed acts constituting an unlawful housing practice, then the civil penalties provided by Subsections 10-108.15(B)(2) and 10-108.15(B)(3) may be imposed without regard to the period of time within which any subsequent unlawful housing practice occurred.
- (5) Any such civil penalty shall be paid to the General Fund of the City of Lawrence, Kansas.

10-108.16

ORDER; DISMISSAL.

If, upon all the evidence, the Hearing Commissioners find that a respondent has not engaged in, is not engaging in, and is not about to engage in, any such unlawful act or practice, the Hearing Commissioners shall state their findings of fact and shall issue and cause to be served on both the complainant and the respondent an order dismissing the complaint as to such respondent.

10-108.17

SERVICE OF ORDER.

A copy of the order shall be delivered by certified mail, return receipt requested, in all cases by the Director to the complainant, to the respondent, and to such other public officers as the Commission may deem proper.

10-108.18

RECONSIDERATION OF ORDER.

In the event any party is dissatisfied with the decision or order of the Hearing Commissioners, the dissatisfied party, within ten (10) days from the date of receipt of notification of such decision or order, may apply for reconsideration with respect to any matter determined in the public hearing. Any such request for reconsideration shall be made to the Director at the official office of the Commission. The purpose of an application for reconsideration is to afford the Hearing Commissioners an opportunity to correct any errors in their decision and order. To that end, the application for reconsideration shall set forth, specifically, the ground or grounds on which the applicant considers the decision or order of the Hearing Commissioners to be in error. The application for reconsideration shall be granted or denied by the Hearing Commissioners within fourteen (14) days from the date such application is received. If an application for reconsideration is not granted within fourteen (14) days, it shall be deemed denied. In their order granting reconsideration, the Hearing Commissioners shall specify the issue or issues to be reconsidered and the additional evidence, if any, to be allowed. If additional evidence is to be allowed, the Director shall schedule a public hearing on the matter no less than ten (10) days nor more than twenty-five (25) days after the application for reconsideration was granted.

If reconsideration is granted, the matter shall be determined by the Hearing Commissioners within the later of thirty (30) days after the application for reconsideration is granted, or fourteen (14) days after the conclusion of the public hearing, if one is held for the admission of additional evidence. An order made after reconsideration abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision.

10-108.19

TIME LIMIT FOR FINAL ADMINISTRATIVE DISPOSITION.

Final administrative disposition of a complaint should be made within one year following its receipt, unless it is impracticable to do so, in which event the Director shall cause the complainant and respondent to be notified, in writing, of the reasons for not doing so.

10-108.20

APPEAL TO DISTRICT COURT.

The final decision and order of the Hearing Commissioners shall constitute the decision of the Human Relations Commission and may be appealed as such to the District Court of Douglas County, Kansas, pursuant to K.S.A. 12-16,106.

10-108.21

CIVIL ENFORCEMENT OF ORDER.

(A) The Director or Commission may secure enforcement of the final decision and order of the Hearing Commissioners in accordance with the Act for Judicial Review and Civil Enforcement of Agency Actions as provided by K.S.A. 12-16,106 through an attorney appointed by the City Manager.

(B) Within forty-five (45) days after an order issued by the Hearing Commissioners pursuant to Subsection 10-108.15 has become final, or within thirty (30) days after the Commission or Director has received written notification of the manner in which a respondent has complied with the Hearing Commissioners' final order, an aggrieved person may bring a civil action in the district court of the county in which the alleged unlawful housing practice is alleged to have occurred, or in which the respondent resides or transacts business. Such action may be brought to enforce the final order of the Hearing Commissioners, or to enforce any of the rights granted or protected by Section 10-111 of this Article insofar as such rights relate to the subject of the complaint with respect to which the order was issued. All such actions shall be heard by the court in trial de novo. Upon application of any party to such action, the Director shall make available to all parties the records and information gathered during any investigation or hearing conducted pursuant to the authority granted by this Article, except that any records or information concerning the commission's or Director's efforts to eliminate or correct the alleged unlawful housing practice by informal methods of conference, conciliation and persuasion shall not be admissible as evidence in such action. If the respondent requests a copy of the transcript of the hearing, the respondent shall pay for the cost of its preparation.

(C) In a civil action under this Subsection, if the court finds that an unlawful housing practice has occurred or is about to occur, the court may, in its discretion, grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order, but any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Article, involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Article shall not be affected.

10-108.22

ELECTION OF CIVIL ACTION.

(A) A complainant may commence a civil action in a district court of the county in which the alleged unlawful housing practice is alleged to have occurred, or in which the respondent resides or transacts business, not later than two (2) years after the occurrence or the termination of an alleged unlawful housing practice, or the breach of a conciliation agreement entered into under this Article to resolve an alleged unlawful housing practice, whichever

occurs last, to obtain appropriate relief with respect to such alleged unlawful housing practice or breach. Except in the case of an action arising from a breach of a conciliation agreement, the computation of the two-year period shall not include any time during which an administrative proceeding under said act or this Article was pending with respect to a complaint under said act or this Article based on such an alleged unlawful housing practice.

- (B) If the United States Department of Housing and Urban Development, the Kansas Human Rights Commission, or the Commission or Director has obtained a conciliation agreement with the consent of the complainant, no action may be filed under this Subsection by such complainant with respect to the alleged unlawful housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (C) A complainant may not commence a civil action under this Subsection with respect to an alleged unlawful housing practice which:
 - (1) forms the basis of a determination of probable cause by the Director; and
 - (2) on which a public hearing as set out in Subsection 10-108.14 of this Article, and amendments thereto, has commenced on the record.
- (D) In a civil action under this Subsection, if the court finds that an unlawful housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to Subsection 10-108.22, paragraph (E), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court, in its discretion, may allow the prevailing party reasonable attorney fees and costs. The City of Lawrence shall be liable for such fees and costs to the same extent as a private person.
- (E) Relief granted under this Subsection shall not affect any contract, sale, encumbrance or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the filing of a complaint with the Commission or civil action under this Article.

10-108.23 Whenever a complaint is filed alleging violation of Subsection 10-111 of this Article, or a public hearing or civil action commenced under the provisions of this Article relative to a complaint alleging violation of Subsection 10-111 of this Article, the Director may post notice thereof on any housing/real property which is the subject of such complaint or action. (Ord. 6120; Ord. 6522)

10-109 **UNLAWFUL EMPLOYMENT PRACTICES.**
It shall be an unlawful employment practice for:

10-109.1 An employer to refuse to hire or employ or to bar or discharge from employment or to otherwise discriminate against any person in compensation or in the terms, conditions or privileges of employment, or to limit, segregate, separate, classify, or make any distinction with regard to employees, or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation on the basis of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability, without a valid business motive. (Ord. 6658)

- 10-109.2 A labor organization to exclude or to expel any person from its membership or to discriminate in any way against any of its members or against any employer or any person employed by the employer on the basis of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability. (Ord. 6658)
- 10-109.3 Any employer, employment agency, labor organization or joint labor-management committee to print or circulate, or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for employment or membership, or make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification. (Ord. 6658)
- 10-109.4 Any employer, employment agency, labor organization or joint labor-management committee, to discharge, expel or otherwise discriminate against any person because he or she has promoted the provisions of this Article, or because he or she has filed a complaint, testified, or assisted in any proceeding, investigation or hearing authorized by this Article or by appropriate state or federal law.
- 10-109.5 An employment agency to refuse to list or properly classify for employment, or refuse to refer any person for employment or otherwise discriminate against any person because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability, or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability, unless such request represents a bona fide occupational qualification. (Ord. 6658)
- 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, or disability in any aspect of such program, except where directly related to a bona fide occupational qualification. (Ord. 6658)
- 10-109.7 Any person, whether an employer or an employee, or other to aid, abet, incite, compel, or coerce the doing of any acts forbidden under this Article, or to attempt to do so.
- 10-109.8 It shall not be an unlawful employment practice to fill vacancies in such a way as to eliminate or reduce imbalance with respect to race, sex, religion, color, national origin, age, ancestry or disability. (Ord. 5436; Ord. 6522)
- 10-110 **UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICES.**
It shall be an unlawful public accommodations practice for any person, who is the owner, operator, lessee, manager, administrator, public servant, agent or employee of any place of public accommodation:
- 10-110.1 To refuse, deny, segregate, separate, discriminate, or make a distinction, directly or indirectly, in offering its goods, services, facilities or accommodations to any person because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability. (Ord. 6658)
- 10-110.2 To refuse, deny, segregate, separate, discriminate, or make a distinction, directly or indirectly, in any way, against any person in the full and equal use and enjoyment of

the services, facilities, privileges, advantages or enforcement powers of any institution, department or agency of the City or any political subdivision thereof, or any other governmental entity within the City limits because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, or disability. (Ord. 6658)

10-110.3 For any person, whether or not specifically prohibited from discriminating under any provisions of this Article, to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this Article, or to attempt to do so.

10-110.4 To coerce, intimidate, threaten, retaliate against, or otherwise interfere with, any person, or attempt to do so, because he or she has promoted the provisions of this Article, or because he or she has filed a complaint, testified, or assisted in any proceeding, investigation or hearing authorized by this Article or by appropriate state or federal law.

10-110.5 Nothing in this Article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting its offerings of goods, services, facilities and accommodations to persons of the same religion, or from giving preference to such persons, provided that such offerings mentioned above are not, in fact, offered for commercial purposes. Nor shall anything in this Article prohibit a religious or nonprofit fraternal or social organization or corporation, not in fact open to the public which, incident to its primary purpose, provides public accommodations as herein defined, for other than commercial purposes, from limiting such accommodations to its members or giving preference to its members.

10-110.6 Nothing in this Section shall require physical changes to make a place of public accommodation accessible to persons with disabilities unless required by other state, federal or municipal laws, statutes, ordinances or regulations, including the federal Americans with Disabilities Act.

10-110.7 Nothing in this Section shall prohibit the establishment of programs or other public accommodations designed and operated for a particular age group. However, such public accommodations shall not discriminate on the basis of race, sex, religion, color, national origin, ancestry, sexual orientation, or disability. (Ord. 5436; Ord. 6522; Ord. 6658)

10-111 **UNLAWFUL HOUSING/REAL PROPERTY PRACTICES.**
It shall be an unlawful housing/real property practice for any person:

10-111.1 To refuse to sell, broker, appraise, assign, or rent, or make unavailable sales, brokerage, appraisal, assignment or rental services with regard to any housing/real property available for sale, assignment or rental, or fail to transmit, or otherwise make unavailable, any application for assignment or rental, or fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale, assignment, or rental of such housing/real property, or otherwise make unavailable or deny any housing/real property or services or facilities in connection therewith, because of the race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability of: any buyer, renter or person involved in any such transaction; any person residing in or intending to reside in the housing/real property before or after it is sold, rented, or made available; or any person associated with the buyer, renter, or any other person involved in any transaction or representation related to the sale, assignment or rental of housing/real property or services or facilities in connection therewith. (Ord. 6658)

10-111.2 To make, print, publish, disseminate or use, or cause to be made, printed, published,

disseminated or used, any notice, statement, advertisement or application with respect to the sale or rental of housing/real property, that indicates any preference, limitation, specification or discrimination based on race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability, or any intention to make any such preference, limitation, specification or discrimination. (Ord. 6658)

- 10-111.3 To discriminate against any person in the terms, conditions or privileges of the sale, brokerage, appraisal, assignment or rental of housing/real property or in the provision of services or facilities in connection therewith, because of the race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability of: any buyer, renter or person involved in any such transaction; any person residing in or intending to reside in the housing/real property before or after it is sold, rented, or made available; or any other person involved in any transaction or representation related to the sale, assignment or rental of housing/real property or services or facilities in connection therewith. (Ord. 6658)
- 10-111.4 To represent to any person that any housing/real property is not available, or to make any housing/real property otherwise unavailable, for inspection, sale, assignment or rental, when such housing/real property is, in fact, so available, on the basis of race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability. (Ord. 6658)
- 10-111.5 To induce, or attempt to induce, any person to sell, assign or rent housing/real property by any representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability. (Ord. 6658)
- 10-111.6 To deny any person access to, or membership in, or participation in, or otherwise make unavailable, any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting housing/real property, or to discriminate against him or her in the terms or conditions of such access, membership, or participation because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability. (Ord. 6658)
- 10-111.7 To discriminate against any person in, or otherwise make unavailable for, his or her use or occupancy of housing/real property because of the race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability of the person or persons with whom such person associates. (Ord. 6658)
- 10-111.8 To deny or not make available: a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining housing/real property; or any loan or other financial assistance secured by housing/real property, because of the race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability of
- (1) Such person; or
 - (2) Any person associated with such person in connection with such loan or other financial assistance or associated with him or her in connection with the purposes of such loan or other financial assistance.
- 10-111.9 To discriminate against any person in the fixing of the amount, interest rate, duration, or other terms or conditions of: such loan or other financial assistance, or such loan or financial assistance secured by housing/real property because of the race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability of

- (1) Such person;
 - (2) Any person associated with such person in connection with such loan or other financial assistance, or such loan or financial assistance secured by housing/real property, or associated with him or her in connection with the purpose of such loan or other financial assistance, or such loan or financial assistance secured by housing/real property; or
 - (3) The present or prospective owners, lessees, tenants, or occupants of the housing/real property in relation to which such loan or other financial assistance, or loan or financial assistance secured by housing/real property, is to be made, given, or secured. (Ord. 6658)
- 10-111.10 To use a form of application for financial assistance, or to make any inquiry or make or keep any record in connection with such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification, or discrimination because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability. (Ord. 6658)
- 10-111.11 To separate, segregate, or discriminate against, any person who has, is regarded as having, or has a record of having, or being regarded as having, a disability in any manner which is prohibited by local, state or federal laws, regulations or orders. For the purposes of this Subsection, discrimination includes:
- (A) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;
 - (B) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy housing/real property; or
 - (C) In connection with the design and construction of covered multifamily housing/real property for first occupancy on and after March 13, 1991, a failure to design and construct such residential real property in accordance with the provisions of K.S.A. 44-1016.
 - (D) As used in Subsection 10-111.11 (C), above, "covered multifamily housing/real property" means:
 - (1) buildings consisting of 4 or more units if such buildings have one or more elevators; and
 - (2) ground floor units in other buildings consisting of 4 or more units.
- 10-111.12 To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by any of the provisions of this Article.
- 10-111.13 (A) Nothing in this Section shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, assignment or occupancy of any housing/real property which it owns or operates, for other than commercial

purposes, to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, age, ancestry, familial status, sexual orientation, or disability. (Ord. 6658)

- (B) Nor shall anything in this Section prohibit a nonprofit private club, not, in fact, open to the public, which, incident to its primary purpose or purposes, provides lodging which it owns and operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (C) Nor shall anything (other than Sections 10-111.2, 10-111.6, 10-111.8, 10-111.9 and 10-111.12) in this Article apply:
 - (1) To the rental or leasing of housing accommodations for not more than two (2) families living independently of each other, if the owner resides in one (1) such housing unit; or
 - (2) To the rental or leasing to less than four (4) persons within a single housing accommodation by the occupant or owner of such housing accommodation if the owner resides therein.

10-111.14

Nothing in this Section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this Section regarding familial status apply with respect to housing/real property provided under any state or federal program, which has been approved by the Secretary of the United States Department of Housing and Urban Development, specifically designed and operated as housing to assist elderly persons, as defined in the state or federal program, and approved by the Secretary of the United States Department of Housing and Urban Development, or to housing for older persons.

- (A) As used in this Section 10-111., "housing for older persons" means housing communities:
 - (1) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Intended for, and at least 80% occupied by, at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this Subsection, the regulations developed by the Secretary of the United States Department of Housing and Urban Development shall be followed, which require at least the following factors:
 - (a) the existence of significant facilities and services specifically designed to meet the physical or social needs of such persons or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

- (b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
- (c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. However, discrimination, segregation or separation in said housing for older persons on the basis of race, sex, religion, color, national origin, ancestry, sexual orientation, or disability is prohibited as defined elsewhere in this Section. (Ord. 6658)

10-111.15 Nothing in this Section prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Federal Controlled Substances Act (21 U.S.C. 802). (Ord. 5436; Ord. 6522)

10-112 **AFFIRMATIVE ACTION PROGRAM FOR CITY PERSONNEL.**
The affirmative action program for personnel in the City of Lawrence shall be as follows:

10-112.1 **POLICY.**
It is the policy of the City to take affirmative action to achieve equal employment opportunity for all minorities, women, and persons with disabilities in all personnel actions and procedures including, but not limited to, recruitment, hiring, training, transfer, promotion, compensation, and other benefits, and to comply with all other Sections of this Article.

10-112.2 **GENERAL OBJECTIVES.**
The general objectives and purposes of the affirmative action program shall be to:

- (A) Continue efforts to recruit minorities, women, and persons with disabilities for every level of responsibility;
- (B) As resources are available, develop and/or identify special training programs to assist minorities, women and persons with disabilities to qualify for entry level positions as well as for advanced positions; and
- (C) Develop procedures for monitoring the application flow, final hiring and disposition of minorities, women and self-identified persons with disabilities.

10-112.3 **IMPLEMENTATION.**
All administrative personnel, to include department heads, other administrative and professional personnel, and supervisors, shall be responsible for implementing the affirmative action program within their respective division, department, or other administrative unit. The personnel office shall be responsible for development of recruitment and training programs, to include hiring goals, for each City department.

10-112.4 **DISSEMINATION OF POLICY.**
The City Manager shall be responsible for ensuring that information concerning the City's policy of affirmative action is disseminated, which shall include, but not be limited to:

- (A) Equal Employment Opportunity posters shall be posted conspicuously on bulletin boards in each department where personnel are employed by the City, as well as where applications for employment are received. Posters shall be provided to each department annually by the Equal Employment

Opportunity Officer.

- (B) The policy shall be sent to all appropriate recruitment sources. The intent of the policy shall be communicated with all letters or invitations for persons to submit resumes or applications for consideration for employment.
- (C) During orientation of new personnel, the City's affirmative action program shall be discussed and printed material regarding affirmative action and equal employment opportunity shall be distributed to each new employee.
- (D) The policy of the City shall be forwarded to minority, women and persons with disabilities group leaders and organizations, and to churches and other community organizations, as appropriate, particularly those composed of minority populations, as well as to schools, contractors, subcontractors, suppliers and other agencies.

10-112.5

RECRUITMENT AND SELECTION.

The City Personnel Department shall:

- (A) Recruit personnel in such a manner that the City's interest in the employment of minorities, women and persons with disabilities is clearly demonstrated.
- (B) Establish communication with educational institutions and community organizations, leaders, or spokespersons which encourages referral of qualified or qualifiable minority, women and persons with disabilities to apply for positions which are or may become available in the City government.
- (C) Identify referral sources of minority, women and persons with disabilities in Lawrence and within the scope of the recruitment area.
- (D) Consider applicants on the basis of those able to be qualified to perform the job. If minorities, women, and persons with disabilities who apply have qualifications to perform the job, or are qualifiable with a reasonable amount of training and expenditure, they shall be given equal consideration for employment. Where appropriate, affirmative action shall be taken.

10-112.6

AUDIT PROCEDURES.

- (A) The Director of Employee Relations shall prepare an annual affirmative action report which shall include all personnel in each department. The report shall include, but not be limited to, a statistical summary of:
 - (1) The number of employees;
 - (2) The position of each employee;
 - (3) The race, sex and age of each employee; and
 - (4) The number of employees who have identified themselves as persons with disabilities.
- (B) A position interview record shall be completed by the Director of employee relations or by any other person interviewing applicants for positions of employment for each applicant interviewed, which shall state the reason for failure to employ, if applicable. These records are to be maintained in the personnel office.

- (C) Applicant flow data shall be kept for applicants which shall indicate the race, sex, age and, if applicable, disability status of each applicant, as well as the source of recruitment. The applicant flow data shall be kept separate from, and shall not track with, the paperwork included in the selection process. The applicant flow data shall be maintained in the personnel office.
- (D) The personnel office shall prepare a quarterly report (list) of new employees, transfers, demotions, promotions and terminations indicating the personnel who have resigned, retired, were fired or released by reduction in force, noting in each case the race, sex, age, and, if applicable, disability, and position of employment or position change during the quarter covered by the report. The report shall include a statistical summary of new employees, transfers, demotions, promotions, and terminations by race, sex, age, and, if applicable, disability. The report shall be filed with the City Manager and a copy shall be sent to the Equal Employment Opportunity Officer. Any department which is not directly serviced by the Personnel Department shall meet the same requirements and file a similar quarterly report with the City Manager and send a copy to the Equal Employment Opportunity Officer.

10-112.7

EQUAL EMPLOYMENT OPPORTUNITY OFFICER.

The City shall designate the Director of Human Relations as the Equal Employment Opportunity Officer for the purpose of coordinating the City's efforts in the implementation of its affirmative action program and to advise and assist key staff in the implementation of the affirmative action program.

10-112.8

DUTIES OF THE EQUAL EMPLOYMENT OPPORTUNITY OFFICER.

The duties of the Equal Employment Opportunity Officer shall include, but not be limited to:

- (A) Conducting departmental reviews as necessary or indicated by reports to be necessary, in order to determine compliance with the City's affirmative action program.
- (B) Reporting to the Human Relations Commission and the City Manager the results obtained, problems encountered and any resistance or failure experienced in the implementation of the affirmative action program. The Equal Employment Opportunity Officer shall recommend remedial action whenever he or she deems such remedial action advisable.
- (C) Serving as a consultant and resource person to the Personnel Office and/or department heads in the development of recruitment programs, selection procedures, training programs, or other personnel functions to implement the City's affirmative action program.
- (D) Playing a leadership role in establishing liaison between the City and the minority community.

10-112.9

EXCEPTIONS.

The provisions of this Section shall not apply to positions filled on a part-time or temporary basis or to the record keeping associated with such hiring. However, adverse impact analyses shall be conducted on a biannual basis for all personnel actions related to part-time or temporary positions to determine if such adverse impact has occurred with regard to any protected class identified in this Article. (Ord. 5436 and; Ord 6522)

10-113

AFFIRMATIVE ACTION IN PUBLIC CONTRACTS.

The term "contract," as used in this Section, means any contract entered into by the City or any of its political subdivisions, from the effective date of this ordinance, except that the term "contract" shall not include:

- (A) Emergency requisitions of goods, supplies or services; or
- (B) Contracts for goods, supplies or services the cost of which will not exceed \$10,000, provided that if any supplier or contractor shall do an aggregate annual business with the City in excess of \$10,000, such supplier or contractor shall comply with this Section. Aggregate annual business shall be measured by the amount of business done by the supplier or contractor with the City during the current calendar year and, if this amount shall not exceed \$10,000, then by the amount of business done by such supplier or contractor with the City during the next preceding year; or
- (C) Recipients of Industrial Revenue and Industrial Development Bonds, except to the extent included in Section 10-113.1.

10-113.1 **INDUSTRIAL REVENUE AND INDUSTRIAL DEVELOPMENT BONDS, INCLUDED.**

Construction contractors employed by the recipients of Industrial Revenue and/or Industrial Development Bonds (as defined by 26 U.S.C. 103, as amended from time to time) of the City of Lawrence, Kansas, shall be subject to the contract provisions of Section 10-113 through Section 10-113.5 during the construction of any project financed by said Industrial Revenue or Industrial Development Bonds in contracts for the construction of the project. The documents required by Section 10-113.2 shall be submitted to the Director prior to the inception of the project so financed. All job openings in construction or with tenants of such projects shall be advertised in Lawrence and filled in a nondiscriminatory manner.

10-113.2 **SUBMISSION OF PROGRAM.**

Prior to entering into any contract, as defined herein, with the City of Lawrence, all persons seeking such contract shall submit to the Director, in writing, an affirmative action program, a work force analysis and, if applicable, a commitment and plan to comply with the City's Minority and Women Business Enterprise Program. Such affirmative action program, work force analysis, and commitment and plan to comply with the City's Minority and Women Business Enterprise Program shall be submitted concurrently with or prior to any contract or bid proposal. The affirmative action program and work force analysis shall be submitted in the form of answers to a specific written questionnaire to be provided by the City, and which, by this reference, is hereby made an integral part hereof as if set out verbatim and at length in this Article. The Director may, at his or her discretion, supplement said questionnaire. If any person shall fail, or refuse, to submit an affirmative action program, work force analysis and commitment and plan to comply with the City's Minority and Women Business Enterprise Program, if applicable, as required by this Section, such person shall be ineligible to enter into any contract or to receive any contract from the City until he or she has so complied. Affirmative action programs may be required for any contract to include, but not be limited to:

- (A) Utilization of a percentage of minority and/or female employees in a work force substantially equal to the current minority population of the city; and
- (B) Utilization of Minority and Women Business Enterprises as subcontractors to receive a minimum percentage of the total dollar amount of the contract which is substantially equal to the current minority population of the city.

10-113.3 **REVIEW BY DIRECTOR OF HUMAN RELATIONS.**

- (A) **Affirmative Action Programs.** The Director shall receive and review affirmative action programs, work force analyses, and commitments and plans to comply with the City's Minority and Women Business Enterprise Program submitted, and shall specify in writing any modification of a program, work force analysis, or commitment and plan to comply needed to make it conform to the requirements of this Section, provided that, prior to rejection of any program, work force analysis, or commitment and plan to comply, the Director shall advise and consult with the person who submitted such program, work force analysis, or commitment and plan to comply, for the purpose of assisting him or her to develop an acceptable affirmative action program, work force analysis, or commitment and plan to comply. In any event, the Director shall notify the City Manager of the determination in a time period appropriate to facilitate awarding of contracts.
- (B) **Optional Annual Submissions.** Any person who so desires may file an affirmative action program annually which shall apply to all bids or proposals which such person shall make during the calendar year next succeeding the date of such filing. However, annual submission of an affirmative action program shall not excuse any person from submission of a work force analysis and a commitment and plan to comply with the City's Minority and Women Business Enterprise Program either concurrently with or prior to any contract bid or proposal, as required in this Section. Any annual submission shall be subject to review by the Director and shall be amended at such time and in such manner as the Director may require to make it conform to the requirements of this Section.

10-113.4

ACCEPTANCE OF PROGRAM.

The determination of acceptance or rejection of the affirmative action program shall be made by the Director. The Director's decision may be appealed to the City Manager, whose decision may, in turn, be appealed to the Governing Body. The decision of the Governing Body, whether it upholds the determination of rejection or overturns it, shall be final and binding.

10-113.5

CONTRACT CONDITIONS.

- (A) Any person who has been awarded a contract shall not discriminate against any person in the performance of work under the contract because of race, sex, religion, color, national origin, age, ancestry or disability, except by reason of a bona fide occupational qualification.
- (B) In all solicitations or advertisements for employees, the contractor shall include the phrase "Equal Opportunity Employer," or a similar phrase which shall have been approved by the Director prior to its use.
- (C) If the contractor fails to comply with the provisions of this Section, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated, or suspended in whole, or in part, by the Governing Body. In the event a contractor addressed in Section 10-113.1 fails to comply with the provisions of this Section, the recipient of the Industrial Revenue Bond or Industrial Development Bond shall be involved in any conciliation efforts to achieve compliance. Conciliation efforts shall take place before any action of the Governing Body.

10-113.6

DUTIES AND AUTHORITY OF THE DIRECTOR OF HUMAN RELATIONS.

The Director is hereby charged with administration and enforcement of this Section and is hereby authorized and empowered:

- (A) **Affirmative Action Program, Work Force Analysis, and Commitment and Plan to Comply with the City's Minority and Women Business Enterprise Program; Review, Eligibility Certification.**
To receive, review, and approve or reject affirmative action programs, work force analyses, and commitments and plans to comply with the City's Minority and Women Business Enterprise Program, submitted by persons seeking any City contract and to certify eligible persons to the City.
- (B) **Compliance Investigation.**
To initiate investigations into or to survey and review any and all affirmative action programs, work force analyses, commitments and plans to comply with the City's Minority and Women Business Enterprise Program, and contracts subject to this Section, and to take such action with respect thereto as shall ensure compliance with the terms of this Section.
- (C) **Conciliation.**
To attempt to eliminate any unlawful practice or any alleged violation of the terms of this Section by means of conference, conciliation, persuasion and negotiation.
- (D) **Initiate Complaints.**
To initiate complaints alleging violation of this Section.
- (E) **Complaint Investigation.**
To receive, investigate and rule upon, complaints of violation of this Section. (Ord. 5436; Ord. 6522)

10-114

UNLAWFUL ACTS.

Coercion, intimidation, retaliation, threats, or interference with exercise of rights.

- (A) It shall be unlawful for any person to coerce, intimidate, retaliate, threaten, or otherwise to interfere with, any person, including the Commission, the Director, or any other staff personnel of the Department of Human Relations, or to attempt to do so, in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right or privilege, duty, power, function, or responsibility granted or protected by this Article.
- (B) Any person who violates this Section shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than one (1) year, or by a fine of not more than \$1,000.00, or by both such fine and imprisonment.
- (C) Prosecution shall ensue by the filing of a complaint in Municipal Court. (Ord. 5436; Ord. 6522)

10-115

CONSTRUCTION.

The provisions of this Article shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this Article shall be deemed to have repealed any of the provisions of any other law of this City relating to discrimination because of race, sex, religion, color, national origin, age, ancestry, sexual orientation, familial status, or disability unless the same is specifically repealed by this Article. (Ord. 5436; Ord. 6522; Ord. 6658)

10-116

INVALIDITY IN PART.

If any clause, sentence, paragraph or part of this Article, or any application thereof to any person or persons or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Article and the application thereof to other persons or circumstances and shall be confined in its operation to the clause, sentence, paragraph or part thereof directly related to the controversy in which judgment shall have been rendered. It is hereby declared to be the legislative intent that this Article would have been adopted had such provision or provisions not been included. (Ord. 5436; Ord. 6522)

ARTICLE 2. DOMESTIC PARTNERSHIP REGISTRY

10-201

DOMESTIC PARTNER DEFINED.

Whenever used in this Article, "domestic partner" shall be construed to mean two individuals who are residents of the City of Lawrence, as defined in Section 10-202, who have reached 18 years of age, who have the mental capacity to contract, and who live together in a relationship of indefinite duration, with a mutual commitment in which the partners share the necessities of life and are financially interdependent. Domestic partners are not married to another person, do not have another domestic partner and are not related by blood more closely than would bar their marriage in this state. (Ord. 8120)

10-202

RESIDENT DEFINED.

For the purpose of registering a partnership with the City of Lawrence under this Article, a "resident" shall mean a person who has established at least 60 consecutive days prior to filing a Declaration of Domestic Partnership with the office of the City designated by the City Manager, a present and fixed residence within the city limits of Lawrence, Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence. (Ord. 8120)

10-203

CRITERIA FOR ESTABLISHING A DOMESTIC PARTNERSHIP.

The following criteria must be met for two individuals to be considered domestic partners for the purposes of registering the partnership with the City of Lawrence: (Ord. 8120)

- (A) Both individuals are residents of the Lawrence, Kansas as defined in Section 10-202.
- (B) Both individuals share a common permanent residence. It is not necessary that the legal right to possess the common residence be in both of the individual's names;
- (C) Both individuals agree to be in a relationship of mutual interdependence;
- (D) Both individuals contribute to the maintenance and support of the household. The individuals are not required to contribute equally to the household.
- (E) Neither individual is married to a third individual or a member of a domestic partnership with a third individual;
- (F) Each individual is 18 years of age or older;
- (G) Each individual has the mental capacity to contract;
- (H) The two individuals are not related by blood in a way that would prevent

them from being married to another in this State; and

- (I) Both individuals agree to file a Declaration of Domestic Partnership with the City pursuant to this article.

10-204

REGISTRATION.

- (A) Two persons seeking to register as domestic partners may complete and file a Declaration of Domestic Partnership with an office of the City designated by the City Manager. (Ord. 8120)
- (B) No individual who has previously filed a Declaration of Domestic Partnership in this City may file a new Declaration of Domestic Partnership until at least ninety (90) days after the date that a Request for Removal from the Domestic Partnership Registry was filed with the City under this article. This prohibition does not apply if the previous domestic partnership ended because one of the partners died. (Ord. 8120)

10-205

REMOVAL FROM REGISTRY UPON DEATH OR VOLUNTARY DISSOLUTION OF PARTNERSHIP.

- (A) A domestic partnership registered with the City shall be removed from the registry in accordance with this Section: (Ord. 8120)
 - (1) Reasons for removal from registry:
 - (a) One of the partners dies and the City is notified thereof; or
 - (b) A Request for Removal from the Domestic Partner Registry has been filed by one or both of the individuals registered as domestic partners with the City or
 - (2) Procedure for removal from registry:
 - (a) Within ninety (90) days of the dissolution of the domestic partnership, at least one former partner shall file a Request for Removal from the Domestic Partner Registry with an office of the City designated by the City Manager pursuant to procedures adopted by the City Manager. Upon receipt, the City shall provide the domestic partner who filed the Request for Removal from the Domestic Partner Registry with two copies of the Request marked "filed." Unless the partners jointly file the Request, the partner filing the Request, shall within five days send a copy of the filed Request to the other partner's last known address. This notice requirement does not apply if the removal request is due to a death of one of the domestic partners.
 - (b) The request shall be effective upon filing the Request for Removal from the Domestic Partner Registry with the City by one or both partners or on the date of the death of one.
 - (c) A former domestic partner who has given a copy of the Declaration of Domestic Partnership to any third party to qualify for any benefit or right and whose receipt of that benefit or enjoyment of that right has not otherwise terminated, shall notify the third party in writing of the

Request for Removal from the Domestic Partner Registry, at the last known address of the third party.

- (d) Failure to provide third-party notice required in Section 10-205(A)(2)(c) shall not delay or prevent the removal of the domestic partnership from the registry. The City shall have no duty to provide notice to third parties.

10-206 **REMOVAL FROM REGISTRY FOR FAILURE TO MEET DEFINITION OF DOMESTIC PARTNER.**

If it appears based upon a preponderance of the evidence that one or both of the partners in a registered domestic partnership no longer meets the definition of a domestic partner under this article, the City shall, after notice and an opportunity to be heard, remove the partnership from the Registry. The City Manager shall develop procedures for the implementation of this Section. (Ord. 8120)

10-207 **REGISTRATION.**

- (A) The City Manager shall develop procedures and standard forms for the "Registration of Domestic Partnership" and "Notice of Removal from the Domestic Partnership Registry". (Ord. 8120)
- (B) The City Manager, or his or her designee, shall determine a reasonable fee based upon the cost of processing the forms and the City shall charge these fees to the persons filing a Declaration of Domestic Partnership. No fee shall be charged for filing a Request for Removal from the Domestic Partnership Registry. (Ord. 8120)
- (C) The City shall maintain the registry based upon the information provided by the individuals filing the Declaration of Domestic Partnership. The City shall have no duty to independently verify the information provided by the individuals filing the Declaration of Domestic Partnership. (Ord. 8120)

10-208 **LEGAL EFFECT.**

Registration pursuant to this Article creates no legal rights, other than the right to have the registered domestic partnership included in the City's Domestic Partner Registry pursuant to this Article. No parties are prohibited from extending rights or benefits to persons listed in the Domestic Partner Registry. (Ord. 8120)

10-209 **OTHER APPLICABLE LAWS.**

This Article shall not be interpreted nor construed to permit the recognition of a relationship that is otherwise prohibited by State law. (Ord. 8120)

10-210 **REGISTERING A PARTNERSHIP WITHOUT THE INDIVIDUALS' CONSENT.**

No person shall register or attempt to register a domestic partnership pursuant to the Article without the consent of the persons to be registered. Any person who is convicted of a violation of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$500 or a jail term of not less than 30 days, or both such fine and jail term. (Ord. 8120)

10-211 **SEVERABILITY.**

If any provision, clause, sentence or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. (Ord. 8120)