

CHAPTER 13. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Art. I. In General, §§ 13-1--13-50

Art. II. Human Relations Commission, §§ 13-51--13-70

Art. III. Unlawful Practices, §§ 13-71--13-80

Art. IV. Complaint Procedures, §§ 13-81--13-100

Art. V. Housing, §§ 13-101--13-130

Art. VI. Public Contracts, §§ 13-131--13-140

Art. VII. The Organizational Structure and Responsibilities for Carrying Out the City's Commitment to the Principle of Nondiscrimination in City Employment, §§ 13-141--13-160

ARTICLE I. IN GENERAL

Sec. 13-1. Declaration of policy.

(a) The practice or policy of discrimination against individuals by reason of race, sex, familial status, disability, religion, age, color, national origin or ancestry is a matter of concern to the city since such discrimination threatens not only the rights and privileges of the inhabitants of the city but menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the city to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation or separation in all areas of public accommodations, and to eliminate and prevent discrimination, segregation or separation in housing as provided in this chapter.

(b) It is also declared to be the policy of [this] city to assure equal opportunities and encouragement to every citizen regardless of race, sex, disability, religion, age, color, national origin or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which a person is properly qualified or qualifiable, to assure equal opportunity to all persons within the city to full and equal public accommodations, and to assure equal opportunities in housing without distinction on account of race, sex, familial status, disability, religion, color, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this chapter and the opportunity for full and equal housing are civil rights of every citizen. To protect these rights, it is hereby declared to be the purpose of this chapter to establish and to provide a city human relations commission and a human relations department.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-2. Definitions.

When used in this chapter, the following words and phrases shall have the meaning indicated. This chapter prohibits discrimination based upon sex, and accordingly, the personal pronouns and gender of nouns used in this chapter shall not be construed as limiting the provisions of this chapter to one or to the other sex:

Editor's note: Sections 1, 2, of Ord. No. 92-9493, adopted Feb. 3, 1992, repealed Ch. 13, §§ 13-1--13-3, 13-16--13-22, 13-26--13-28, 13-41--13-44, 13-56--13-59, 13-71--13-78 in its entirety and added a new Ch. 13 to read as herein set out. Former Ch. 13 pertained to similar subject matter and derived from the Code of 1966, §§ 11A-1, 11A-2, 11A-10, 11A-11, 11A-30, 11A-31, 11A-40, 11A-50, 11A-60--11A-64, 11A-70--11A-73, 11A-80, 11A-91--11A-96, 11A-98 and Ord. No. 81-8889, § 1, 12-7-81. *In order to keep related material together, the editor has combined the sections pertaining to definitions to read as herein set out; thus reserving any unused sections originally provided for in Ord. No. 92-9493.* **Cross references:** Administration, Ch. 2.

Age means an age of forty (40) or more years but less than seventy (70) years.

Chairperson means the person chairing the human relations commission created by this chapter. *Commission* means the human relations commission created by this chapter.

Complainant means any person claiming to be aggrieved by any unlawful discriminatory practice or violation of this chapter.

Contract means any contract entered into by the city or any of its agencies.

Contractor means any individual, partnership, corporation, association, or other entities entering into a contract with the city and who is an employer as herein defined.

Director means the director of the human relations department. *Disability* means, with respect to an individual:

- (1) A physical or mental impairment that substantially limits one (1) or more of the major life activities of such individual;
- (2) A record of such an impairment; or
- (3) Being regarded as having such an impairment by the person or entity alleged to have committed the unlawful discriminatory practice complained of.

"Disability" does not include current, illegal use of a controlled substance as defined in section 102 of the federal controlled substance act (21 U.S.C. 802), in housing discrimination. In employment and public accommodation discrimination, "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 substance act (21 U.S.C. 812) when the covered entity acts on the basis of such use.

Dwelling means any building, structure or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Employee means any person employed by an employer but does not include any individual employed by such individual's parents, spouse, or child, or in the domestic service of any person.

Employer includes any person in the city employing four (4) or more persons, and any person acting directly or indirectly for an employer, labor organizations, nonsectarian corporations, organizations engaged in social service work, and the City of Salina and all political and municipal subdivisions thereof, but shall not include a nonprofit fraternal or social association or corporation.

Employment agency includes any person or governmental agency undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employees.

Familial status means having one (1) or more individuals less than eighteen (18) years of age domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections against discrimination afforded individuals on the basis of familial status shall apply to any person who is pregnant or is in the processing of securing legal custody of any individual who has not attained the age of eighteen (18) years.

Financial institution means any person regularly engaged in the business of lending money or guaranteeing loans on housing accommodations or real property.

Hotel means every building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin camp, tourist cabin, motel or other type of lodging unit.

Housing accommodation means:

(1) Any building or portion thereof which is used or intended for use as the residence or sleeping place of one (1) or more persons.

(2) The term "housing accommodations" shall not mean or include:

a. The rental of a dwelling, or a portion thereof, containing accommodations for no more than two (2) families, one (1) of which is occupied by the owner or his family at the time of rental;

b. The rental of less than four (4) rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodations in which he or members of his family reside.

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

Occupational qualifications as used herein, are those qualifications which can be shown to be demonstrably valid to the normal operation or performance of a particular job, business or enterprise.

Owner shall mean and include the owner, lessee, sublessee, assignee, manager, agent, or other person, firm or corporation having the right to sell, rent or lease any housing accommodation or real property within the corporate limits of the city.

Person includes one (1) or more individuals, partnerships, associations, organizations, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

Person aggrieved means any person who claims to have been injured by a discriminatory act or practice or believes that such person will be injured by a discriminatory act or practice that is about to occur.

Probable cause means the presence of a reasonable ground for belief in the existence of the allegation of a violation of any statute, ordinance, or other authority, orders, rules or regulations.

Public accommodations shall include 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. Public accommodations do not include a religious or nonprofit fraternal or social association or corporation.

Real estate broker means any person who, for a fee or other valuable consideration, sells, purchases, exchanges, rents, negotiates, offers or attempts to negotiate the sale, purchase, exchange or rental of housing accommodations or real property of another person.

Real estate salesman or agent means any person employed by a real estate broker to perform, or to assist in the performance of, any or all of the functions of a real estate broker.

Reasonable accommodation means:

(1) (In the context of employment under article III of this chapter) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring; part time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

(2) (In the context of housing under article V of this chapter) those reasonable measures which may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

Restaurant means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside stand, industrial feeding establishment, catering kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

Respondent means any person alleged to have committed any unlawful act or violation of this chapter.

Subcontractor means any individual, partnership, corporation, association, or other entity, or any combination of the foregoing which shall undertake, by virtue of a separate contract with a contractor as defined herein, to fulfill all or any part of any contractor's obligation under a contract with the city, or who shall exercise any right granted to a franchise holder, and who is an employer as herein defined.

To rent means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (Ord. No. 92-9493, § 1, 2-3-92; Ord. No. 92-9519, § 1, 7-20-92) **Cross references:** Definitions and rules of construction, generally, § 1-2.

Sec. 13-3. Construction.

(a) The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this city relating to discrimination because of race, religion, color, sex, disability, national origin or ancestry, unless the same is specifically repealed by this chapter.

(b) Nothing in this chapter shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-4. Invalidity of part.

If any clause, sentence, paragraph or part of this chapter or the application thereof to any person 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 chapter and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and the persons or circumstances involved. It is hereby declared to be the legislative intent

that this chapter would have been adopted had such provisions not been included. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-5--13-50. Reserved.

ARTICLE II. HUMAN RELATIONS COMMISSION₂

Sec. 13-51. Created.

There is hereby created the human relations commission. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-52. Composition, appointment.

The human relations commission shall consist of nine (9) members, at least three (3) of whom shall be members of a significant ethnic or minority group within the community, who shall be appointed by the mayor, with the consent of the board of commissioners. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-53. Terms.

Initial appointments to the human relations commission shall be for one-, two-, and three-year terms, and thereafter all appointments shall be for a term of three (3) years and until a successor is qualified, provided; however, no person shall serve for more than eight (8) consecutive years. The term of office of each chairperson and vice-chairperson 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 is made by members of the commission by unanimous vote. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-54. Compensation.

The members of the human relations commission shall serve without compensation. (Ord. No. 92-9493, § 1, 2-3-92) ² **Cross references:** Administration, Ch. 2; boards and commissions generally, § 2-136 et seq.

Sec. 13-55. Officers.

The human relations commission shall elect one (1) of its members as chairperson, who shall preside at all meetings of the commission and perform all the normal duties and functions of the chairperson. The mayor shall convene the first meeting of the commission and conduct the election of the chairperson.

The commission shall elect, in the same manner, one (1) of its members as vice chairperson who shall act as chairperson during the absence or incapacity of the chairperson and, when so acting, the member so designated shall have and perform all the duties and functions of the chairperson of the commission. The chairperson or vice-chairperson may resign from office without resigning from the commission. In such event, the commission shall elect another member as a replacement for the unexpired term. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-56. Quorum.

A majority of the presently serving members of the human relations commission shall constitute a quorum for the purpose of conducting its business. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-57. Powers and duties.

The commission shall have the following functions, powers and duties:

(1) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion, color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.

(2) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine record and copy such materials and take and record the testimony or statements of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction; provided that the commission first complies with the provisions of Article 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures.

(3) To hold public hearings, administer oaths, and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, the human relations commission may make application to the district court to compel compliance pursuant to state law.

(4) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this chapter, by including any term in a conciliation agreement as could be included in a final order under this chapter.

(5) To apply to the district court for enforcement of any conciliation agreement by seeking specific performance of such agreement.

(6) To issue such final orders after a public hearing as may remedy any existing situation found to violate this chapter and prevent its recurrence; and, if necessary, to seek enforcement of such final orders pursuant to federal and state law.

(7) To endeavor to eliminate prejudice among the various ethnic groups and people with disabilities in the city and to further good will among such groups.

(8) To create such advisory agencies and conciliation councils, as in its judgment will aid in effectuating the purposes of this chapter; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, sex, disability, national origin or ancestry; to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of the city; and to make recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the city commission. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this paragraph. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster good will and cooperation among all elements of the population of the city.

(9) To accept contributions from any person to assist in the effectuation of this chapter and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this chapter.

(10) To issue such publications and such results of investigation and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, disability, national origin, or ancestry.

(11) To render each year to the city manager and to the city commission a full written report of all of its activities and of its recommendations.

(12) To receive and accept federal funds to effectuate the purposes of this chapter and to enter into agreements with any federal agency for such purpose. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-58. Creation of department.

There is hereby created a human relations department for the purpose of administering and enforcing the provisions of this chapter or as hereafter amended.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-59. Position of director of human relations created; appointment, salary.

There is hereby created the position of director of human relations of the city to be appointed by and directly responsible to the city manager. The human relations commission may submit recommendations to the city manager of applicants for this position, but merit and fitness shall be the governing criteria in the selection of the director of human relations. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-60. Duties, responsibilities, and authority of human relations director.

The director shall have the following duties, responsibilities, and authority. The administration of this chapter shall be the responsibility of the director of the human relations department and his designated staff. The director shall promulgate procedure to implement, expedite, and effectuate the provisions of this chapter. In addition to any powers and responsibilities heretofore conferred in the director, the director shall have the power and responsibility to:

(1) Seek to eliminate and prevent discrimination in employment because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status, by employers, labor organizations, employment agencies, or other persons, and to take other actions against discrimination because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status, as provided herein;

(2) Effectuate the purposes of this chapter first by conference, conciliation, and persuasion so that persons may be guaranteed their civil rights and good will fostered;

(3) Seek cooperation from, and upon request, make technical assistance available to all city government departments and agencies;

(4) Receive, investigate, initiate and attempt to conciliate complaints alleging discrimination in employment, housing and public accommodations because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status;

(5) Pursue the goals of affirmative action implementation within municipal government and external to municipal government through continued dialogue and technical assistance;

(6) In conducting an investigation, the director or his staff shall have access at all reasonable times to premises, records, documents, and other evidence or possible sources

of evidence, and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. In case of the refusal of any person to comply with any subpoena issued by the local human relations commission, or to testify to any matter regarding which such person may be lawfully questioned, the district court of Saline County may, upon application of the local human relations department, order such person to comply with such subpoena and to testify to the extent such person could be so compelled pursuant to the provisions of subsection (2) of section 13-57 and state law;

(7) Request that the city attorney apply to the district court of Saline County for temporary or permanent injunctive relief to enjoin violation of this chapter;

(8) Request that the city attorney apply to the district court of Saline County for enforcement of any conciliation agreement by seeking specific performance of such agreement;

(9) Attend all meetings and serve as secretary of the human relations commission; provide necessary reports, such as agenda, minutes, and schedules of commission meetings to the commission, to the governing body, and to the city manager; advise the local news media of commission meetings and agenda. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-61--13-70. Reserved.

ARTICLE III. UNLAWFUL PRACTICES

Sec. 13-71. Unlawful employment practices.

(a) It shall be an unlawful employment practice:

(1) For an employer, because of the race, religion, age, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business necessity.

(2) For a labor organization, because of the race, religion, age, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization 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 to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, age, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency, or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person

because of such person's race, religion, age, color, sex, disability, national origin or ancestry; 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, religion, color, sex, disability, national origin or ancestry.

(6) For 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, religion, age, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or attempt to do so.

(8) For an employer, labor organization, employment agency, or joint labor-management committee to:

- a. Limit, segregate, or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;
- b. Participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this chapter;
- c. Utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control;
- d. Exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;
- e. Not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;
- f. Deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;
- g. Use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or

h. Fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(b) It shall not be an unlawful employment practice to fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, age, color, sex, disability, national origin or ancestry. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-72. Unlawful public accommodation practices.

It shall be an unlawful public accommodation practice:

(1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this chapter because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from discriminating under any provisions of this chapter, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so.

(3) For any person, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof.

(4) Nothing in this chapter 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 above mentioned are not, in fact, offered for commercial purposes. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-73. Unlawful housing practices.

Those acts which are unlawful housing practices are set forth in article V of this chapter. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-74--13-80. Reserved.

ARTICLE IV. COMPLAINT PROCEDURES

Sec. 13-81. Filing of complaint.

(a) Any person claiming to be aggrieved by an alleged unlawful act or practice may, personally or by an attorney-at-law, make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful practice complained of, and which shall set forth the particulars

thereof and contain such other information as may be required by the commission. The director or commission upon its own initiative, or the city attorney, may, in like manner, make, sign and file such complaint.

(b) In the event a complaint is against the city or any of its officials or employees, the complaint will be referred to the Kansas Commission on Civil Rights.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-82. Time for filing complaint.

Any complaint filed pursuant to this chapter, except as otherwise provided in the case of an alleged discriminatory housing practice, must be so filed within six (6) months after the alleged unlawful act or practice, unless the act complained of consists of a continuing pattern or practice of discrimination in which event it will be from the last act of

discrimination. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-83. Submission of a false, misleading or incomplete complaint, statement, response or report.

Any person who knowingly and intentionally submits or files or causes to be submitted or filed, a false, misleading, or incomplete complaint, statement, response or report with the commission, the director or any of the department's personnel, shall be guilty of a misdemeanor. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-84. Investigation by commission.

Whenever the commission has, in its own judgment, reason to believe that any person has engaged in a practice in violation of this chapter, or has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for in the investigation of complaints. The person to be investigated shall be advised of the nature and scope of the investigation prior to its commencement.

The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of this chapter has occurred. The information gathered in the course of the first investigation may be used in processing the complaint. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-85. Conciliation.

(a) During the period beginning with the filing of such complaint and ending with the commencement of an administrative hearing or a dismissal of the complaint, the director shall, to the extent feasible, engage in conciliation with respect to such 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 approval by the director. Such agreements may include in the provisions thereof any terms or condition which may be included in a final order of the commission.

(c) In a manner consistent with K.S.A. 44-1019(f)(1) and amendments thereto, each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this article.

(d) Any of the parties to a conciliation agreement may apply to the Saline County District Court for specific performance of any such agreement. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-86. Notice and investigation.

After the filing of any complaint by an aggrieved individual, by the commission, or by the city attorney, the commission shall within ten (10) days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this chapter. The director shall then make, with the assistance of staff, a prompt investigation of the alleged unlawful act or practice. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-87. Probable cause; conciliation; determination.

(a) Upon completion of the investigation, two (2) commissioners will be assigned by the chairperson to determine, with the advice of the city prosecutor, whether probable cause exists based upon the documented results of the investigation. If the two (2) commissioners are unable to agree on whether probable cause exists, the city prosecutor shall determine the matter.

(b) If it is determined that no probable cause exists for crediting the allegations of the complaint, the director within ten (10) business days from such determination, shall cause to be issued and served upon the complainant and respondent written notice of such determination. The director shall then administratively close the commission's complaint file.

(c) If it is determined that probable cause exists for crediting the allegations for the complaint, the director shall immediately endeavor to eliminate the unlawful act or practice complained of by conference and conciliation. The complainant, respondent and commission shall have forty-five (45) days from the date respondent is notified in writing of a finding of probable cause to enter into a conciliation agreement. The members of the commission shall not disclose what has transpired in the course of such endeavors.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-88. Administrative hearing.

In case of failure to eliminate the unlawful act or practice complained of by conference and conciliation within the time allowed under section 13-87(c), or in advance thereof, if in the judgment of the commission circumstances so warrant, the commission shall commence a hearing in accordance with the provisions of the Kansas administrative procedures act naming as parties the complainant and the person(s), named in such complaint, hereinafter referred to as respondent. A copy of the notice of hearing shall be served on the respondent. The municipal judge shall serve as the hearing officer.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-89. Subpoenas.

The complainant or respondent may apply to the director with a request that the commission issue subpoenas 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 commission shall issue such subpoenas. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-90. Presentation of case.

The case in support of the complaint shall be presented before the hearing officer by the city attorney or city prosecutor, or by private counsel of the complainant. Any endeavors at conciliation shall not be received in evidence. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-91. Order of hearing officer; affirmative action; notice of compliance.

(a) If the hearing officer finds a respondent has engaged in or is engaging in any unlawful employment practice or unlawful discriminatory practice as defined in this chapter, the hearing officer shall render an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including but not limited to, the hiring reinstatement, or upgrading of employees, with or without back pay, and the admission or restoration to membership in any respondent labor organizations, the admission to and full and equal enjoyment of the goods, services, facilities, and accommodations offered by any respondent place of public accommodation denied in violation of this chapter, as, in the judgment of the hearing officer, will effectuate the purposes of this chapter, including a requirement for report of the manner of compliance. Such order may also include an award of compensatory damages and damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of two thousand dollars (\$2,000.00).

(b) The order of the hearing officer shall be deemed an order of the commission.

(c) The commission's order shall be subject to enforcement and review pursuant to K.S.A. 12-16,106 and amendments thereto.

(d) Within fifteen (15) days after the hearing officer's order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.

(e) In the case of an order with respect to a discriminatory practice that occurred in the course of a business subject to a licensing or regulation by a state agency, the commission may, not later than thirty (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under subparagraph (c) above, thirty (30) days after such order is in substance affirmed upon such review:

(1) Send copies of the findings of fact, conclusions of law, and the order, to that agency; and

(2) Recommend to the agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-92. Dismissal of complaint.

If the hearing officer finds that a respondent has not engaged in an unlawful discriminatory practice, the hearing officer shall render an order dismissing the complaint as to such respondent. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-93. Rules.

The commission is hereby authorized to adopt rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-94--13-100. Reserved.

ARTICLE V. HOUSING

Sec. 13-101. Unlawful discriminatory housing practices.

Subject to the provisions of section 13-104 and amendments thereto, it shall be unlawful for any person:

(1) To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(3) 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 a dwelling that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.

(4) To represent to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, familial status, national origin or ancestry.

(6) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting a dwelling, or to discriminate against such person in the terms or conditions of such access, membership or participation, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(7) To discriminate against any person in such person's use or occupancy of a dwelling because of the race, religion, color, sex, disability, familial status, national origin or ancestry of the people with whom such person associates.

(8) a. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

1. That buyer or renter;
2. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
3. Any person associated with that buyer or renter.

b. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a disability of:

1. That person;
2. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
3. Any person associated with that person.

c. For purposes of this subsection (8), discrimination includes:

1. 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; except that, in the case of a rental, the landlord may where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. 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 a dwelling; or

3. In connection with the design and construction of covered multifamily dwellings for first occupancy on and after February 15, 1992, a failure to design and construct such dwelling in such a manner that:

(i) The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

(ii) With respect to dwellings with a building entrance on an accessible route:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities who are in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

(1) An accessible route into and through the dwelling;

(2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(3) Reinforcements in bathroom walls to allow later installation of grab bars; and

(4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of subsection (8)c.3.(ii)(c).

e. As used in this subsection (8), "covered multifamily dwellings" means:

1. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and

2. Ground floor units in other buildings consisting of four (4) or more units.

f. Nothing in this chapter shall be construed to invalidate or limit any state law or ordinance that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.

g. Nothing in this subsection (8) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. (Ord. No. 92-9493, § 1, 2-3-92; Ord. No. 92-9519, § 2, 7-20-92)

Sec. 13-102. Real estate transactions.

(a) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person making available such a transaction, or in the terms or conditions of such a transaction, because of the race, religion, color, sex, disability, familial status, national origin or ancestry of such person or of any person associated with such person in connection with any real estate related transaction.

(b) As used in this section, "real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

- a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- b. Secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(c) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status, national origin or ancestry. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-103. Intimidation, interference.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 13-101 or 13-102 and amendments thereto. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-104. Limitations.

(a) Nothing in this chapter 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 or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or ancestry. Nor shall anything in this chapter prohibit a nonprofit private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or 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.

(b) Nothing in this chapter, other than the prohibitions against discriminatory advertising as provided in subparagraph (3) of section 13-101, and amendments thereto, shall apply to:

(1) The sale or rental of any single-family house by an owner, provided the following conditions are met:

- a. The owner does not own or have any interest in more than three (3) single-family houses at any one (1) time; and
- b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this subsection applies to only one (1) such sale in any twenty-four-month period; or

(2) Rooms or units in buildings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as the owner's residence.

(c) (1) Nothing in this chapter 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 chapter regarding familial status apply with respect to housing for older persons.

(2) As used in this subsection "housing for older persons" means housing:

a. Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

c. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection the following factors must also be present:

(i) The existence of significant facilities and services specifically designed to meet the physical or social needs of older 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

(ii) That at least eighty (80) percent of the units are occupied by at least one person fifty five (55) years of age or older per unit; and

(iii) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

a. Persons residing in such housing as of the date of enactment of this act who do not meet the age requirements of subsections (c)(2)b. or c.; provided, that new occupants of such housing meet the age requirements of sections (c)(2)b. or c.; or

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsections (c)(2)b. or c.

(d) Nothing in this chapter prohibits conduct against a person because such person has been convicted two (2) 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. No. 92-9493, § 1, 2-3-92; Ord. No. 92-9519, § 3, 7-20-92; Ord. No. 92-9535, § 1, 9-21-92)

Sec. 13-105. Administration.

The authority and responsibility for administering this article shall be in the commission. The complaint procedure set forth in article IV of this chapter shall apply to complaints filed under this article, except to the extent rights of the parties and the applicable procedures are more specifically addressed herein. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-106. Complaints.

(a) Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a

discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one (1) year after the alleged discriminatory housing practice occurred, but may be reasonably and fairly amended at any time. The commission upon its own initiative or the city attorney may, in like manner, make, sign and file such complaint.

(b) Upon receipt of any such complaint the commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this article. Within ten (10) days after the filing of the complaint the director shall serve on the respondent a notice identifying the alleged discriminatory housing practice and advising the respondent of respondent's procedural rights and obligations under this article, together with a copy of the original complaint. Service of the notice shall be made in the manner prescribed by the code of civil procedure.

(c) A respondent may file an answer to the complaint with the commission no later than ten (10) days after service of the notice of the complaint.

(d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsections (a) and (b), to such person from the commission. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-107. Conciliation.

(a) During the period beginning with the filing of such complaint and ending with the commencement of an administrative hearing or a dismissal of the complaint, the director shall, to the extent feasible, engage in conciliation with respect to such 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 approval by the director. Such agreements may include in the provisions thereof any terms or condition which may be included in a final order of the commission.

(c) In a manner consistent with K.S.A. 44-1019(f)(1) and amendments thereto, each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this article.

(d) Any of the parties to a conciliation agreement may apply to the Saline County District Court for specific performance of any such agreement. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-108. Investigation.

After the commission assumes jurisdiction of a complaint, the commission shall within thirty (30) days after receipt of the complaint commence an investigation thereof, and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so. If the commission is unable to complete the investigation within one hundred (100) days, the commission shall inform the parties in writing of the reasons for not doing so. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-109. Prompt judicial action.

If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may bring a civil action in the district court of Saline County, 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 the rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this article. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-109.1. Final administrative disposition.

The commission shall make final administrative disposition within one (1) year after the filing of the complaint unless it is impracticable to do so. If the commission is unable to make final administrative disposition of the complaint within one (1) year of the date of filing, the commission shall inform the parties in writing of the reasons for not doing so. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-110. Probable cause, conciliation.

(a) Upon completion of the investigation, two (2) commissioners will be assigned by the chairperson to determine, with the advice of the city prosecutor, whether probable cause exists based upon the documented results of the investigation. If the two (2) commissioners are unable to agree on whether probable cause exists, the city prosecutor shall determine the matter.

(b) If it is determined that no probable cause exists for crediting the allegations of the complaint, the director, within ten (10) business days from such determination, shall cause to be issued and served upon the complainant and respondent written notice of such determination. The director shall then administratively close the commission's complaint file.

(c) If it is determined that probable cause exists for crediting the allegations of the complaint, the commission shall serve written notice of such determination on the person aggrieved. The commission shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion which shall be held, insofar as possible (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-111. Conciliation failure.

If the commission is unable to resolve the alleged unlawful discriminatory housing practice, it shall notify the parties in writing that conciliation efforts have failed. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-112. Election for civil action.

(a) After the commission has issued a notice of conciliation failure pursuant to section 13-111 of this article, the complainant, the respondent, or the commission may elect to have the claims and issues asserted in the reasonable grounds determination decided in a civil action commenced and maintained by the commission.

(1) An election for a civil action under this subsection shall be made no later than twenty (20) days after an electing complainant or respondent receives the notice of conciliation failure, or if the commission makes the election, not more than twenty (20) days after the notice of conciliation failure is issued. A complainant or respondent who makes an election for a civil action pursuant to this subsection shall give notice to the commission. If the commission makes an election, it shall notify all complainants and respondents of the election.

(2) If an election is made under this subsection, no later than sixty (60) days after the election is made the commission shall commence a civil action in the federal district court in its own name on behalf of the complainant. In such an action, the commission shall be represented by an attorney employed by the commission.

(b) In a civil action brought under this section, the rights and remedies of the parties shall be determined by applicable federal law. The relief that may be granted in such a civil action shall include at least actual and punitive damages, injunctive and equitable relief as provided by applicable federal law. (Ord. No. 92-9493, § 1, 2-3-92; Ord. No. 92-9519, § 4, 7-20-92)

Sec. 13-113. Administrative hearing.

If the commission is unable to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, and if an election for a civil action is not made pursuant to section 13-112, a hearing shall be held before a hearing officer in the manner provided in section 13-87 through 13-89 and the amendments thereto, for holding hearings under this chapter. In any such hearing, the burden of proof shall be on the complainant. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-114. Order of hearing officer; affirmative action; notice of compliance.

(a) If the hearing officer shall find that a respondent has engaged in or is engaging in any discriminatory housing practice, the hearing officer shall render an order requiring the respondent to cease and desist from such discriminatory housing practice, and such order may direct a respondent to take such affirmative action as the hearing officer deems necessary to effectuate the intent and purposes of this article, including, but not limited to, the selling or renting of specified real property and the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of real property. Such order may also include an award of compensatory damages and of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of two thousand dollars (\$2,000.00). Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:

- (1) In an amount not exceeding ten thousand dollars (\$10,000.00), if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
- (2) Subject to the provisions of subsection (a)(4), in an amount not exceeding twenty-five thousand dollars (\$25,000.00), if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the complaint;
- (3) Subject to the provisions of subsection (a)(4), in an amount not exceeding fifty thousand dollars (\$50,000.00), if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint; and
- (4) If the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice in the amounts provided by subsections (a)(2) and (a)(3) without regard to the period of time within which any subsequent discriminatory housing practice occurred.

Such civil penalties shall be paid into the city treasury to the credit of the city general fund.

- (b) The order of the hearing officer shall be deemed an order of the commission.
- (c) The commission's order shall be subject to enforcement and review pursuant to K.S.A. 12-16,106 and amendments thereto.
- (d) Within fifteen (15) days after the hearing officer's order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.
- (e) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a state agency, the commission may, not later than thirty (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under subparagraph (c) above, thirty (30) days after such order is in substance affirmed upon such review:
 - (1) Send copies of the findings of fact, conclusions of law, and the order, to that agency; and
 - (2) Recommend to the agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent. (Ord. No. 92-9493, § 1, 2-3-92; Ord. No. 92-9519, § 5, 7-20-92)

Sec. 13-115. Dismissal of complaint.

If the hearing officer finds that a respondent has not engaged in an unlawful discriminatory housing practice, the hearing officer shall render an order dismissing the complaint as to such respondent. (Ord. No. 92-9493, § 1, 2-3-92)

Sec 13-116. Rules.

The commission is hereby authorized to adopt rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-117--13-130. Reserved.

ARTICLE VI. PUBLIC CONTRACTS

Sec. 13-131. Required contract provisions.

- (a) Every contract for or on behalf of the city or any agency thereof, for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies, or services, shall contain provisions by which the contractor and any subcontractors agree that:
 - (1) The contractor and subcontractor shall observe the provisions of this chapter and shall not discriminate against any person in the performance of work under the present contract because of race, sex, religion, age, color, national origin, ancestry or disability.
 - (2) In all solicitations, or advertisements for employees, the contractor shall include the phrase equal opportunity employer, or a similar phrase to be approved by the director.
- (b) In any contract entered into by the city or any of its agencies or departments, there shall be included a provision that during the performance of the contract, the contractor will not discriminate against any employee or applicant for employment in the performance of the contract and every contractor shall include similar provisions in all subcontracts under such person's contract with the city. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-132. Affirmative action by contractors required.

- (a) Any contractor entering into a contract with the city and such person's subcontractor shall take affirmative action to insure that employees are treated equally without regard to their race, sex, religion, age, color, national origin, ancestry or disability. Such affirmative action shall include, but not be limited to, the following:

Employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor and subcontractor shall agree to post, in conspicuous places available to employees and applicants for employment, notices to be provided by the director setting forth provisions of this article. The contractor and such person's subcontractors shall provide all affirmative action information and necessary documents to implement the compliance with the requirements of all federal, state and local laws and ordinances.

- (b) It shall be no excuse that the employer has a collective bargaining agreement with any union providing for exclusive referral or approval systems. The failure of the contractor or subcontractors to comply with the requirements of this article shall be grounds for cancellation, termination, or suspension of the contract, in whole or in part, by the board of commissioners with the contractor or subcontractors until satisfactory proof with intent to comply will be submitted to and accepted by the board of commissioners.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-133. Affirmative action plans.

Every contractor and subcontractor prior to entering into a contract with the city shall submit to the director of human relations an acceptable written affirmative action plan which shall:

- (1) Identify areas of employment, employment policies, and employment practices which require action by the contractor or subcontractor to assure equal employment opportunity;
- (2) Analyze these areas, policies and practices to determine what actions by said contractor or subcontractor will be most effective;
- (3) Establish a plan with goals and timetables designed to achieve equal employment opportunity; and
- (4) Include provisions for implementation, monitoring, and periodic evaluation in order to insure that it continues to be a valid plan. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-134. Exemptions.

The provisions of this article shall not apply to:

- (1) Contractors or suppliers who would not be considered as an "employer" as defined in section 13-2;
- (2) Contracts and subcontracts not exceeding twenty thousand dollars (\$20,000.00); and
- (3) Call type or purchase order agreements which do not exceed twenty thousand dollars (\$20,000.00) in total per calendar year; provided, vendors, contractors and suppliers who will supply or expect to supply the city with goods or services exceeding twenty thousand dollars (\$20,000.00) during the subsequent calendar year not be exempt from the requirements of this article; provided, the above exemptions shall not conflict with applicable state or federal laws. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-135--13-140. Reserved.

ARTICLE VII. THE ORGANIZATIONAL STRUCTURE AND RESPONSIBILITIES FOR CARRYING OUT THE CITY'S COMMITMENT TO THE PRINCIPLE OF NONDISCRIMINATION IN CITY EMPLOYMENT

Sec. 13-141. Definitions.

The words and phrases defined in the following sections, when used in this article, shall have the meanings indicated:

Directors means the director of personnel and the director of human relations.

Minority as defined by the federal EEOC are members of racial or ethnic groups which have encountered, or now encounter, employment or other discrimination in our society because of such group membership or affiliations. Ethnic categories as defined by federal EEOC are:

(1) The category "white" should include persons of Indo-European descent, including Pakistani and East Indian.

(2) The category "black" should include persons of African descent as well as those identified as Jamaican, Trinidadian and West Indian.

(3) The category "Spanish Surnamed" should include persons of Mexican, Puerto Rican, Cuban, Central, South or Latin American or Spanish descent.

(4) The category "American Indian" or "Alaskan Native" should include persons having origin in any of the "original peoples" of North America, and who maintain cultural identification through tribal affiliation.

(5) The category "Asian American" or "Pacific Islander" should include persons having origins in any of the "original peoples" of the Far East, the Indian subcontinent or the Pacific Islands. This area includes China, India, Japan, Korea, Malaysia, Thailand, the Philippine Islands and Samoa.

Program means the affirmative action program. (Ord. No. 92-9493, § 1, 2-3-92)

Cross references: Definitions and rules of construction generally, § 1-2.

Secs. 13-142--13-144. Reserved.

Sec. 13-145. Administration.

The administration of this article shall be the responsibility of the city manager.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-146. Selection standards.

(a) The directors will cause a review of all job specifications to assure that requirements contained therein are job related and do not present unreasonable barriers for entry by minority, female or disabled applicants.

(b) The directors will cause a review of all written examinations administered to assure that they do not have a discriminatory effect on minority, female or disabled applicants.

(c) As new classifications are established, or new selection standards utilized, the directors will review each standard to assure its nondiscriminatory nature.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-147. Recruiting and advertising.

(a) In order to insure nondiscrimination in employment opportunities, the director of personnel shall promptly notify the director of human relations of any vacancy to be filled. The director of human relations shall, upon receiving any job vacancy listing,

promptly post notice of such in public locations in at least three (3) places throughout the city. The director of personnel shall be responsible for seeing that an advertisement is given publication in at least one (1) and not more than three (3) periodical news agencies with general circulation in the city. The city shall be responsible for the payment of all advertising costs. No person shall be employed to fill any vacancy, except in the semiskilled and laborer-type categories, within ten (10) days after the vacancy is listed with the director of human relations, unless in the opinion of the city manager, an emergency exists.

Vacancies in the semiskilled and laborer-type categories may be filled after publication of the vacancy. All applications for employment shall be filled with the director of personnel.

(b) Recruiting efforts shall be directed toward educational institutions having minority and/or female or disabled enrollment.

(c) Communications and referral relationships to be established and maintained with groups and organizations likely to yield minority, female or disabled applicants.

(d) Advertising for applicants shall be done in the manner most likely to reflect the city's affirmative desire to attract minority, female and disabled applicants.

(Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-148. Affirmative management.

(a) It shall be unlawful for the head of any department, official agent, or employee of the city or of any department thereof acting for or on behalf of said city in any manner involving employment by the city, to discriminate against any person otherwise qualified in employment or in tenure, terms or conditions of employment, or to discriminate in promotion or increase in compensation; or to publish offers of or to offer employment based upon such discrimination; or to adopt or enforce any rule or employment policy which discriminates between employees or prospective employees; or to seek information relating to age, race, sex, religion, color, national origin, ancestry or disability from any person or employee, as a condition of employment, tenure, terms or in connection with conditions of employment, promotion or increase in compensation unless such information is demonstrably valid as being an essential qualification, or to discriminate in the selection of personnel for training.

(b) The directors will work closely with each department head in the following areas:

(1) *Classification plan.* Analyze and restructure where justified to provide maximum opportunity for applicants to qualify for employment, as well as, for employees to advance.

(2) *Staff orientation.* Initiate programs to assure that all personnel responsible for selection and supervision are aware of and provided with training to develop skill in implementing the affirmative action program.

(3) *Identify areas for concentrated efforts.* The directors shall develop statistical information relative to the utilization of minorities, females and disabled in all departments of the city, identify areas of deficiency, and develop goals and methods for correcting such deficiencies. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-149. Evaluation.

(a) There is hereby established an affirmative action evaluation committee composed of the city manager or his designee, the director of personnel, the director of human relations and other department heads as the city manager may deem appropriate. The city manager or his designee shall serve as chairman of the committee.

(b) The committee shall advise the department heads on implementation procedures, identification of areas for concentrated efforts, and aid in other matters related to implementation of the program.

(c) The committee shall meet not less than quarterly to review overall progress on implementation of the program. They shall make any modifications as may be necessary to assure maximum, effective implementation of the program. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-150. Training for upward mobility.

The city manager will take measures to assure that maximum opportunity is afforded to minorities, women and disabled for entry into training or educational programs which will enhance their employment for upward mobility potential. (Ord. No. 92-9493, § 1, 2-3-92)

Sec. 13-151. Reports.

The city manager will submit an annual report to the board of commissioners on the status of the affirmative action program. (Ord. No. 92-9493, § 1, 2-3-92)

Secs. 13-152--13-160. Reserved.