

CERTIFICATION OF CLERK

I, Brenda K. Wolf, the duly appointed, qualified, and Assistant City Clerk of Manhattan, Kansas, do hereby certify that the foregoing Ordinance was duly adopted at a meeting of the City of Manhattan, Kansas, held on the 16th day of August, 2016, and that said Ordinance has been compared by me with the original thereof on file and of record in my office, is a true copy of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Manhattan, Kansas, 17th day of August, 2016.



Brenda K. Wolf

Brenda K. Wolf, CMC, Assistant City Clerk

ORDINANCE NO. 7235

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS; RELATING TO CIVIL RIGHTS.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS:

WHEREAS, state and federal laws provide protection against discrimination against certain classes of persons in employment, housing and public accommodations, and provide a complaint, investigation and enforcement process for parties who allege discrimination in violation of state or federal law; and,

WHEREAS, state and federal laws do not provide protection against discrimination on the basis of sexual orientation or gender identity in employment, housing or public accommodations, and parties who allege such discrimination do not have a complaint, investigation or enforcement process to pursue; and,

WHEREAS, Chapter 10 of the City Code relates to civil rights, establishing a policy against discrimination against certain classes of persons in employment, housing and public accommodations; and,

WHEREAS, the governing body desires to extend the policy against discrimination to include sexual orientation and gender identity discrimination; and,

WHEREAS, the governing body finds that providing individuals with protection from discrimination due to sexual orientation and gender identity promotes the health, safety and welfare of the citizens of Manhattan, and is in the public interest; and,

WHEREAS, the governing body finds that providing protection against discrimination contributes to the creation of a diverse, welcoming community that promotes harmony and mutual respect; and,

WHEREAS, the governing body's intent is to extend its policy against discrimination in housing, employment and public accommodation to prohibit discrimination on the basis of sexual orientation or gender identity; and,

WHEREAS, because no process currently exists at the state or federal level, the governing body's further intent is to create a complaint, investigation and enforcement process for sexual orientation or gender identity discrimination that arises within the City of Manhattan.

Section 1. That the existing provisions of Article I of Chapter 10, of the Code of Ordinances of the City of Manhattan, Kansas are hereby repealed and replaced with the following provisions, amended to read as follows:

Sec. 10-1. Declaration of policy.

- (a) The practice or policy of discrimination against individuals by reason of race, sex, familial status, military status, disability, religion, age, color, sexual orientation, gender identity, 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 city's policy, as implemented in this chapter, 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.
- (b) It is also declared to be the policy of the city, as implemented in this chapter, to assure equal opportunities and encouragement to every citizen regardless of race, sex, military status, disability, religion, age, color, sexual orientation, gender identity, 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, 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, military status, disability, religion, color, sexual orientation, gender identity, 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, and the opportunity for full and equal housing are civil rights of every citizen.
- (c) To protect these rights, it is hereby declared to be the purpose of this chapter to establish a city human rights and services advisory board to identify, discuss and prevent segregation and discrimination contrary to this chapter.
- (d) To further protect these rights, it is hereby declared to be the purpose of this chapter to provide a local process for the acceptance, investigation and resolution of complaints of discrimination relating to sexual orientation and/or gender identity arising hereunder.

Sec. 10-2. Definitions.

The definitions in the Kansas Acts Against Discrimination, K.S.A. 44-1001 to 44-1044; the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 to 44-1121; and the Discrimination Against Military Personnel Act, K.S.A. 44-1125 to 44-1128; all as may be amended from time to time, shall apply to this chapter unless specifically defined herein. In addition, the following words and phrases shall have these meanings when used in this Chapter:

Aggrieved person means any person who claims to be the person injured by an unlawfully discriminatory practice.

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 means any person in this city employing four (4) or more employees; and, any person acting directly or indirectly for an employer, labor organizations, nonsectarian organizations, organizations engaged in social service work, but shall not include a religious organization or a nonprofit fraternal or social association.

Gender identity means one's perceived or actual self-identification as a male or a female, regardless to one's anatomical sex at birth. It can be described as cisgender or transgender.

Hearing Officer means the Municipal Judge.

Investigator means the City Attorney, or his/her designee.

Nonprofit fraternal or social association/corporation means an association or corporation that meets all the following requirements: (1) it is organized in good faith for social or fraternal purposes; (2) membership entails the payment of bona fide initiation fees or regular dues; (3) there exists a regularly established means of self-government by the members thereof clearly set forth in a constitution or by-laws adopted by the membership; (4) there is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates; and (5) it is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.

Public Accommodation means any person who caters or offers goods, services, facilities or 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 accommodation shall not include a religious organization or a nonprofit fraternal or social association/corporation, and it shall not include a jail.

Religious organization includes but is not limited to churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

Rental housing means any real property, consisting of more than four dwelling units, but shall not include any real property owned or operated by a religious organization or a nonprofit fraternal or social association.

Respondent means the person against whom a complaint alleging discrimination has been filed with the investigator.

Sexual orientation means one's perceived or actual emotional, romantic, or sexual attraction to other people. It can be described as heterosexual, homosexual, or bisexual.

Sec. 10-3. Construction.

- (a) The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof.
- (b) Nothing in this chapter shall be construed to mean that an employer shall be forced to hire or retain unqualified or incompetent personnel, or to discharge qualified or competent personnel.

Sec. 10-4. 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.

Sec. 10-5. Reserved.

Section 2. That Sec. 10-7 of the Code of Ordinances of the City of Manhattan, Kansas is hereby repealed and replaced with the following provision, amended to read as follows:

Sec. 10-7. Composition, appointment .

- (a) The Human Rights and Services Board shall consist of seven (7) members. All board members shall be residents of the city and shall be appointed by the mayor with the advice and consent of the governing body.
- (b) The membership of the Human Rights and Services Board shall be maintained on a basis that will give representation to a broad segment of the citizenry, reflecting citizens of various economic standings, employment, races, religions, colors, disabilities, familial statuses, military statuses, sexual orientations, gender identities, national origins or ancestries, sexes and age.

Section 3. That Sec. 10-14 of the Code of Ordinances of the City of Manhattan, Kansas is hereby repealed and replaced with the following provision, amended to read as follows:

Sec. 10-14. Powers and duties.

The Human Rights and Services Board is an advisory board that shall have the following functions, powers and duties;

- (a) Recommend to the governing body, non-discrimination, equal opportunity and

civil rights policies, procedures and programs which will protect against discrimination, promote the health, safety, and welfare of the citizens of the city, and/or which will create a welcoming, diverse community.

- (b) Receive and consider questions or proposals which in and of themselves do not constitute formal complaints of unlawful discrimination but are related issues.
- (c) Provide education and outreach on the policies, procedures and purposes of this chapter.
- (d) Accept contributions from any person to assist in the implementation 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.
- (e) Regularly inform the members of the governing body, through distribution of its agendas, minutes, memoranda, reports, and other pertinent documents, of the items of business before the board, the ongoing status of such items, and the disposition of such items.
- (f) Cooperate with the federal and state agencies and other organizations or agencies whose purposes are not inconsistent with those of this chapter.
- (g) After obtaining governing body approval, the board shall be authorized to make application to any person, organization, city, county, state or federal governmental unit or agency for funds to implement or further the purposes of this chapter.

Section 4. That Sec. 10-15 and Sec. 10-16 of the Code of Ordinances of the City of Manhattan, Kansas are hereby repealed and replaced with the following provisions, amended to read as follows:

Sec. 10-15—Sec.10-16. Reserved.

Section 5. That Sec. 10-17 the Code of Ordinances of the City of Manhattan, Kansas is hereby repealed and replaced with the following provision, amended to read as follows:

Sec. 10-17. Unlawful Discriminatory Practices Related to Sexual Orientation and Gender Identity.

- (a) **Employment.** It shall be an unlawful discriminatory practice for an employer, because of the sexual orientation or gender identity 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.
- (b) **Housing.** It shall be an unlawful discriminatory practice for any person to discriminate against any person in the terms, conditions or privileges of the sale of real property or lease of rental housing, or in the provision of services or facilities in connection therewith, because of sexual orientation or gender identity, or to discriminate against any person in such person's use or occupancy of rental housing because of the sexual orientation or gender identity of the people with

whom such person associates. This provision shall not apply to the sale or rental of real property or rental housing owned by a religious organization, nor shall it apply to a jail.

- (c) **Public Accommodation.** It shall be an unlawful discriminatory practice 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 sexual orientation or gender identity.
- (d) Nothing in this Chapter shall be construed to make it lawful to discriminate against individuals by reason of race, sex, familial status, military status, disability, religion, age, color, or national origin or ancestry. Such discrimination is not addressed in Articles III and IV of this Chapter because federal and state law address unlawful discriminatory practices related to those protected classes, as well as provide a complaint, investigation and enforcement process for those protected classes.

Section 6. That Article IV of Chapter 10 of the Code of Ordinances of the City of Manhattan, Kansas is hereby repealed and replaced with the following new title and provisions, amended to read as follows:

Article IV. ENFORCEMENT

Sec. 10-18. Initiation of complaint.

- (a) An aggrieved person may file a complaint that he or she has been, or is being, discriminated against by an alleged unlawful discriminatory practice set forth in this Chapter on his or her own behalf or through an attorney; or if a minor, through his or her parent or legal guardian or attorney; by completing and signing the form provided by the city. The complaint form shall state the names and contact information of the aggrieved person, the person(s) alleged to have committed the unlawful discriminatory practice(s), and the respondent; shall describe the unlawful act or discriminatory practice; and shall include all other information as may be required by the city.
- (b) The complaint form shall be submitted to the investigator, and shall only be considered complete if all information requested has been provided.
- (c) The complaint form must be filed within 60 days of the alleged unlawful discriminatory practice, unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it must be filed within 60 days of the last act of discrimination.

Sec. 10-19. Notification to respondent; respondent's answer.

Upon receipt of a completed complaint, the investigator shall notify the respondent of the complaint, providing sufficient details related to the complaint so the respondent may respond. The investigator shall give the respondent thirty (30) days to file a written answer to the complaint, and to provide any documentation or evidence related to the complaint. The investigator may, at the respondent's request, extend the answer period an additional thirty (30) days.

Sec. 10-20. Investigation; determination of probable cause.

- (a) Following the conclusion of the answer period, the investigator may initiate an investigation period, requesting that the complainant and/or respondent provide additional information, documentation or testimony as needed to facilitate the investigation of the complaint. This investigation period shall be concluded within 60 days of the investigator's last request for information.
- (b) Within thirty (30) days of the conclusion of the investigation period, the investigator will review all information provided to the investigator and make a determination of whether probable cause exists that the respondent committed an unlawful discriminatory practice. If the investigator finds that probable cause does not exist, then the investigator shall notify the complainant and the respondent, and no further action shall be taken by the city. If the investigator finds that probable cause exists that an unlawful discriminatory practice was committed by respondent, the investigator shall notify the complainant and respondent and request conciliation and settlement.

Sec. 10-21. Finding of probable cause; conciliation and settlement.

If the investigator finds that probable cause exists that the respondent committed an unlawful discriminatory act against the complainant, the investigator will attempt to conciliate and settle the complaint between the parties. If a party refuses to participate in conciliation and settlement, or if a settlement agreement is not executed within 60 days of the date of the finding of probable cause, the matter shall be referred to the hearing officer for a hearing, pursuant to Section 10-22.

Sec. 10-22. Hearing.

If the investigator has determined that probable cause exists that the respondent committed an unlawful discriminatory practice against the complainant, and the complaint could not be conciliated and settled within 60 days of the date of such determination, the complaint shall be set for a hearing before the hearing officer. At such hearing, the parties and the investigator shall be entitled to call witnesses and to present such other evidence as appropriate. The hearing shall be conducted in accordance with such procedures as may be established by the hearing officer, but the rules of evidence used in courts of law need not be strictly enforced. The hearing officer shall issue a written determination within 10 days of the date of the hearing. The determination shall indicate whether the preponderance of the evidence proves that respondent committed the unlawful discriminatory practice against the complainant. If so, the hearing officer's

determination may order any remedy set forth in Section 10-23. Either party may appeal the hearing officer's order pursuant to K.S.A. 60-2101, as amended.

Sec. 10-23. Civil penalty.

The investigator's settlement agreement, or the hearing officer's order, may impose a civil penalty of up to \$500, if discrimination is found.

Sec. 10-24. Exemptions.

Because of the existence of other state and federal law protections and processes, the city will not enforce violations of Section 10-17 against the following:

- (a) Educational institutions, including but not limited to a school district, a school, or a university;
- (b) A department, agency, or political subdivision of the United States of America;
- (c) A department, agency or instrumentality of the State of Kansas;
- (d) Riley County or Pottawatomie County.
- (e) Riley County Law Enforcement Agency, including the Riley County Police Department and other departments thereof.

Section 7. That this ordinance shall be published in the official city newspaper and shall be effective on November 1, 2016.

PASSED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS, ON THIS 16TH DAY OF AUGUST, 2016.



ATTEST:



Gary S. Fees, MMC, City Clerk



Usha Reddi, Mayor

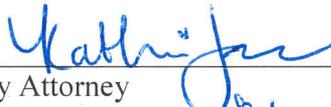
(PUBLISHED IN *THE MANHATTAN MERCURY* ON AUGUST 21, 2016)

ORDINANCE NO. 7235 SUMMARY

On August 16, 2016, the governing body of the City of Manhattan, Kansas passed an ordinance entitled:

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS; RELATING TO CIVIL RIGHTS.

The Ordinance extends the current policy of discrimination against certain classes of persons in employment, housing and public accommodations to include sexual orientation and gender identity discrimination. It also creates a complaint, investigation and enforcement process for sexual orientation or gender identity discrimination. The complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 1101 Poyntz Ave., Manhattan, Kansas, 66502, Monday – Friday, 8 a.m. – 5 p.m., and is available for at least one week following the publication date of this summary at www.cityofmhk.com. This Summary certified to be legally accurate and sufficient by City Attorney Katharine Jackson.



City Attorney
Date certified: 8/16/16