

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 241074

Amending various sections of Chapter 2, Code of Ordinances, Administration, and Chapter 38, Code of Ordinance, Civil Rights, to include persons with criminal histories in the classes of persons who may be aggrieved by alleged discrimination or unlawful practices under the City's Code of Ordinances, in order to combat the long-term impacts of incarceration.

WHEREAS, currently the classes of persons protected by the City's Code of Ordinances from unlawful discrimination include those persons aggrieved by alleged discrimination or unlawful practices due to their race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity, age, or source of income; and

WHEREAS, people with criminal histories often suffer from discrimination and as a result, struggle in many areas of life including employment, housing, and education; and

WHEREAS, in order to combat the long-term impacts of incarceration, it is the desire of the City to include persons with criminal histories in the classes of persons who may be aggrieved by alleged discrimination and/or unlawful practices; and

WHEREAS, on February 1, 2018, the City Council passed Committee Substitute for Ordinance No. 180034, which, among other things, prohibits discrimination against an applicant for employment based on the applicant's criminal history; and

WHEREAS, on January 25, 2024, the City Council passed Committee Substitute for Ordinance No. 231019, which, among other things, prohibits discrimination against an applicant for housing based solely on the applicant's prior convictions or arrests; and

WHEREAS, consistent with the City's previous efforts to combat the long-term impacts of incarceration, it is the desire of the City to take further steps to prohibit the unlawful discrimination against people with criminal histories; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinance of Kansas City, Missouri, is hereby amended by repealing Sections 2-364, 2-366, 2-367, and 2-1115, and enacting in lieu thereof new sections of like number and subject matter to read as follows:

Sec. 2-364. Equal employment opportunity policy.

(a) It is the policy of the city that all persons regardless of race, religion, color, sex (including pregnancy), national origin, ancestry, age (over 40), disability, marital status, genetic information, gender identity, sexual orientation, or criminal history status shall have an equal opportunity of employment including: recruitment, hiring, training, benefits, transfers, layoff, demotions, terminations, compensation, and any other terms or conditions of employment.

(b) It is the policy of the city that discrimination directed at or harassment of employees based on race, religion, color, sex (including pregnancy), national origin, ancestry, age (over 40), disability, marital status, genetic information, gender identity, sexual orientation, or criminal history status will not be tolerated in the workplace and is hereby prohibited. The director of human resources shall maintain a policy against inappropriate conduct that could lead to or be perceived as discrimination and harassment, including where such conduct may be reported.

(c) All city employees shall be notified of the city's equal opportunity/diversity program and the city's EEO policy.

(d) It is the policy of the city that retaliation against any person because that individual made a report, testified, assisted or participated in any manner in an investigation under the city's EEO policy or opposed any practice prohibited by the city's EEO policy is prohibited and will not be tolerated in the city workplace and is hereby prohibited. The director of human resources shall implement a policy against inappropriate conduct that is retaliatory as defined by this section, including where such conduct may be reported.

(e) Inappropriate sexual activity in the workplace, even between consenting adults, is prohibited and will not be tolerated in the city workplace.

(f) The city's EEO policy is designed to correct and prevent inappropriate conduct that could lead to or be perceived as discrimination, harassment or retaliation based on one or more protected categories listed in section (a), regardless of whether such conduct violates any law. A finding of violation of the city's EEO policy should not be considered a finding by the city that any state or federal law has been violated.

(g) For the purposes of this section, it shall not be a violation for the city to:

- (1) Base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, if the director of human resources can demonstrate that the employment-related decision was based on all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position.
- (2) Exclude an applicant with certain criminal convictions from employment due to local, state or federal law or regulation.

Sec. 2-366. Responsibility for equal employment opportunity/diversity program.

The director of human resources, through the office of equal employment opportunity/diversity will be responsible for the development and administration of a comprehensive equal employment opportunity/diversity program. This office shall be responsible for the following functions:

- (1) Encourage and promote programs for underrepresented groups that involve them at all levels of city employment.

- (2) Formulate the city equal employment opportunity/diversity program, procedures and problem identification for each department. In this regard, the office will work with the department director or their designee to establish individual department policy.
- (3) Design and implement monitoring and reporting systems to measure the effectiveness of the city's equal employment opportunity/diversity program.
- (4) Design and implement a system internally to mediate and/or resolve employee complaints of EEO policy violations.
- (5) Attempt to ensure that all persons are accorded equal employment opportunities by city departments.
- (6) Develop programs and policies that create an atmosphere in city government that values diversity and equal treatment regardless of race, religion, color, ancestry, sex (including pregnancy), national origin, age (over 40), disability, marital status, genetic information, gender identity, sexual orientation, or criminal history status.
- (7) Accumulate and evaluate data from all departments to attempt to ensure appropriate employment opportunities for underrepresented groups in all job classifications of the city.
- (8) Mediate/conciliate employee complaints filed under section 2-367 of this article.

Sec. 2-367. Reports and complaints.

(a) The city's EEO office will oversee and keep records on the enforcement of the city's EEO policy.

(b) Any employee who believes they have been discriminated against or harassed because of their race, religion, color, sex (including pregnancy), national origin, ancestry, age (over 40), disability, marital status, genetic information, gender identity, sexual orientation, or criminal history status, or who believes that another person has violated the city's EEO policy, or who believes they or someone else is being retaliated against because they made a complaint or report or testified, assisted or participated in any manner in an investigation under the city's EEO policy or opposed any practice prohibited by the city's EEO policy must submit a report or complaint with the city's EEO office and provide enough information that the allegations can be evaluated and, when warranted, investigated.

(c) Employees are required to promptly report reasonably suspected violations of the city's EEO policy. Complaints or reports of reasonably suspected violations of the city's EEO policy shall be filed immediately, and in any event shall be filed no later than 300 days from the last act of discrimination, harassment, or retaliation, unless good cause for delaying the complaint is shown as determined by the human resources director. In addition to good cause, alleged violations occurring more than 300 days prior to reporting may be investigated if they are part of a continuing violation of the city's EEO policy. Any supervisory employee who receives a report or complaint or who observes or otherwise becomes aware of any reasonably suspected conduct that may violate

the city's EEO policy shall report it to the city's EEO office within 48 hours of being put on notice of the conduct. Supervisory employees may not report to any other party, except the city EEO office and reporting to any other party is prohibited and shall not be considered compliance with the reporting requirements of this section.

(d) During the period beginning with the filing of such complaint or report, the city's EEO office may recommend conciliation/mediation to seek to resolve the complaint or report.

(e) Investigations of complaints or reports of a reasonably suspected violation of the city's EEO policy. Upon receiving a complaint or report, the human resources director shall immediately take whatever action is necessary to protect the person making the complaint or submitting the report from any continued or additional inappropriate conduct and from retaliatory acts. The city's EEO office will conduct an initial inquiry into the complaint or report to determine if the complaint or report warrants further investigation. If further investigation is required, the city's EEO office will investigate the complaint or report. Those assigned to investigate complaints and reports will prepare a finding of facts and present these findings to a committee made up of the director of human resources or designee, assistant city manager, and chief equity officer. This committee will review the findings of fact and issue a determination. If it is found that a violation of the city's EEO policy has occurred, the committee will recommend corrective or disciplinary action to the human resources director in an effort to end or to prevent the recurrence of any violations of the city's EEO policy. The human resources director shall not issue corrective or disciplinary measures that would conflict with the committee recommendation without city manager approval.

(f) Complaints to outside agencies. City employees may submit complaints of discrimination, harassment and retaliation to the equal employment opportunity commission or the Missouri Commission on Human Rights in accordance with the procedures and limitations applicable to those agencies. In the event an employee files a complaint alleging the same act or practice with an outside agency, the city's EEO office shall continue its investigation. In the event an employee elects to file a complaint only with an outside agency, the city's EEO office will defer to the outside agency to conduct the investigation.

Sec. 2-1115. Reduction in force; layoffs.

A department head may separate any employee without prejudice because of lack of funds or curtailment of work, after giving notice of at least ten working days to such employee. However, no regular employee shall be separated from the affected department while there are employees serving in essentially the same job class/title under the following areas of employment in the following order:

- (1) Temporary service agencies;
- (2) Seasonal;
- (3) Limited term contracts;
- (4) Limited term merits;
- (5) Initial probationary period;

- (6) Employees on special performance rating periods;
- (7) Provisional;
- (8) Part-time.

Whenever a classified position is abolished or a reduction in force becomes necessary, layoffs shall be accomplished in the following manner:

- (1) For all classified positions:
 - a. Affected employees considered non-exempt from certain overtime provisions of the Fair Labor Standards Act will be laid off in that department in inverse order of their total continuous city service within the same job classification, in accordance with the current pay ordinance, unless one or more criteria established by the director of human resources is present.
 - b. Affected employees considered exempt from certain overtime provisions of the Fair Labor Standards Act shall be subject to layoff in that department in inverse order of total continuous city service within the same job classification, in accordance with the current pay ordinance, unless one or more criteria established by the director of human resources is present.
- (2) Transfer, demotion or promotion in lieu of layoff. Whenever employees are to be laid off, the human resources director may transfer, demote or promote an employee to another vacant position in the city in order of total continuous city service providing that:
 - a. Positions are authorized, budgeted, and the city intends to fill the vacancies.
 - b. Employee meets qualifications of the new position as determined by the human resources director.
 - c. The department director agrees to place the employee in the vacant position.
- (3) Salary adjustments upon demotion. The city manager has the authority to determine whether:
 - a. The employees salary will be adjusted in accordance with the pay ordinance in effect; or
 - b. In the event of a demotion, the salary of an affected employee may be stabilized for a period not to exceed three months. However, after this period, the employees salary will be reduced consistent with the pay ordinance in effect.

- (4) Procedures. The Human Resources Director may waive any of the above provisions and implement the following as it relates to:
- a. Any department with a vacancy must accept an affected employee who has been certified and is qualified for the vacancy.
 - b. If an affected employee refuses the position offered, it will be the employee's responsibility to compete for other positions within the city system through the established competitive process.
 - c. The human resources department may coordinate outplacement assistance for those associates who leave the organization.
 - d. Decisions for layoff must be approved by the human resources director. An employee may file a written appeal to the city manager or designee to determine if the layoff was in compliance with the ordinance in effect. This appeal must be filed within ten calendar days of the effective date of action.
- (5) Within their authority, the city manager shall be authorized to develop and enter into severance agreements with displaced employees. Employees who receive severance pay shall not be eligible for reemployment with the city for one year from the effective date of their termination. In special circumstances, where an individual possesses specialized knowledge, skills and/or abilities needed by the city, upon written request by the hiring department, the director of human resources may waive the prohibition against an employee being reemployed by the city prior to the expiration of the 12-month period.
- (6) Nondiscrimination in reduction in force. Layoffs and demotions which result from a reduction in force shall be made without regard to an employee's race, color, religion, national origin or ancestry, gender, sexual orientation, age, marital status, disability, or criminal history status.
- (7) For those classes of positions covered by the provisions of the memorandum of understanding between the city and Local 500-American Federation of State, County and Municipal Employees, employees will be laid off in accordance with the provisions of the memorandum of understanding.
- (8) For those classes of positions covered by the provisions of the memorandum of understanding between the city and Local 42-International Association of Fire Fighters, employees will be laid off in accordance with the provisions of the memorandum of understanding.
- (9) For those classes of positions covered by the provisions of the memorandum of understanding between the city and Local 3808—International Association of Fire Fighters, employees will be laid off in accordance with the provisions of the memorandum of understanding.

Section 2. That Chapter 38, Code of Ordinances of Kansas City, Missouri, is hereby amended by repealing Sections 38-107, 38-109, and 38-113, and enacting in lieu thereof new sections of like number and subject matter to read as follows:

Sec. 38-107. Discrimination in commercial real estate loans.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, handicap, criminal history status or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling, or to discriminate against them in fixing the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, handicap, criminal history status or familial status of such person or of any person associated with them in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants, of the dwellings in relation to which such loan or other financial assistance is to be made or given.

Sec. 38-109. Discrimination in the provision of brokerage services.

It shall be unlawful for any person to deny any other person right to 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 dwellings, or to discriminate against any person in terms or conditions of such access, membership or participation, on the account of race, color, religion, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status or criminal history status.

Sec. 38-113. Discriminatory accommodation practices.

(a) It shall be a discriminatory accommodation practice for any owner, agent or employee of any place of public accommodation, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations mentioned in this chapter or to discriminate against any person in the furnishing thereof on account of race, religion, color, ancestry, national origin, sex, marital status, familial status, disability, sexual orientation, gender identity, or criminal history status of such person, or directly or indirectly public, circulate or display any written or printed communication, notice or advertisement to the effect that any of the accommodations or the facilities of such place of public accommodation will be refused, withheld from or denied to any person on account of race, religion, color, ancestry, national origin, sex, disability, marital status, familial status, sexual orientation, gender identity, or criminal history status, or that, for such reasons, the patronage or custom of any person described in this section is unwelcome or objectionable or not acceptable to such place.

(b) It shall be a discriminatory accommodation practice for any owner, agent, operator or employee of a business or facility within a redevelopment area to use a prohibited dress code as defined in section 38-1, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations mentioned in this chapter or to discriminate against any person in the furnishing thereof on account of race, religion, color, ancestry, national origin, sex, marital status,

familial status, disability, sexual orientation, gender identity, or criminal history status of such person. Any dress code enforced in a redevelopment area or in any establishment within such area must be posted in accordance with the requirements of section 10-331(d), and must contain the phone number of the city's civil rights and equal opportunity department and a phone number of a representative of the establishment who is available to respond to complaints regarding the enforcement of the dress code during all hours when the establishment is open or such dress code is in effect. Any such dress code shall list all prohibited items of dress. Notwithstanding the foregoing, nothing herein shall be construed as prohibiting:

- (1) Any owner or operator of a business or facility within a redevelopment area from establishing an employee dress code or requiring that an employee abide by the employee dress code while at work.
- (2) Any owner, agent, operator or employee of a business or facility within a redevelopment area from affirmatively requiring the wearing of specified articles of clothing, which may include collared shirts and ties, sports jackets, business suits, business casual, formal clothing or smart casual clothing in keeping with the ambiance and quality of the particular business or facility and formal footwear, so long as the requirements are enforced with regard to each and every patron, regardless of race, religion, color, ancestry, national origin, sex, marital status, familial status, disability, sexual orientation, gender identity, or criminal history status.

Approved as to form:

Julian Langenkamp
Assistant City Attorney