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Title: Sponsor(s): Councilmembers Ryana Parks-Shaw, Heather Hall, Dan Fowler , Kevin McManus and Mayor Quinton Lucas

Amending Chapter 2, Code of Ordinances, by repealing Sections 2-362, 2-364, and 2-367 and enacting in lieu thereof new sections of like number and subject matter to add clarifying language regarding the equal employment opportunity policy and enforcement by the EEO office, and extend the time within which a complaint must be filed.

Sponsors: Ryana Parks-Shaw, Heather Hall, Dan Fowler, Kevin McManus, Quinton Lucas

Indexes:

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| 3/23/2023 | 1 | Council | Passed as Substituted | Pass |
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[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230219

Sponsor(s): Councilmembers Ryana Parks-Shaw, Heather Hall, Dan Fowler , Kevin McManus and Mayor Quinton Lucas

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BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinances, entitled “Administration,” is hereby amended by repealing Sections 2-362, 2-364, and 2-367 and enacting in lieu thereof new sections of like numbers and subject matters to read as follows:

Sec. 2-362. Powers and duties of director.

(a) *Charter.* The director of human resources shall perform and exercise the duties and powers provided by the Charter to be by the director performed or exercised. All duties and powers set forth in the Charter for the director of personnel shall accrue to the director of human resources.

(b) *Collective Bargaining Agreement.* The authority of the human resources director to perform and exercise the above-referenced duties must be exercised consistently with the duties arising under any of the collective bargaining agreements to which the City is a party.

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, or sexual orientation shall have an equal opportunity of employment including: recruitment, hiring, training, benefits, transfers, layoffs, 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, or sexual orientation 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 has 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.

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, or sexual orientation, 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 of because that 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 for 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 forty-eight (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.

Approved as to form:

Katherine Chandler
Senior Associate City Attorney