



Legislation Text

File #: 241074, Version: 2

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 241074

Sponsor: Councilmember Melissa Robinson

COMMITTEE SUBSTITUTE

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 or on the basis of an order of protection.

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 38-1, 38-105, 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. 38-1. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning or an alternative definition has been provided:

- (1) *Age* means an age of 40 or more years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of 85 and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred

- compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least \$344,000.00.
- (2) *City* means the City of Kansas City, Missouri.
 - (3) *Commission* means the city human rights commission.
 - (4) *Complainant* means any person claiming injury by the alleged violation of Chapter 213, RSMo, or of this chapter, including persons who believe they will be injured by an unlawful discriminatory practice that is about to occur.
 - (5) *Complaint* means a verified written statement of facts and circumstances, including dates, times, places and names of persons involved in any alleged violation of any provision of Chapter 213, RSMo, or of this chapter.
 - (6) *Contract* means any contract to which the city shall be a contracting party, except the following:
 - a. Personal services contracts.
 - b. Emergency requisitions for goods, supplies or services.
 - c. Impressed accounts in the nature of petty cash funds.
 - d. Contract or lease, the cost of which will not exceed \$300,000.00.
 - (7) *Covered multi-family dwelling* means a building consisting of four or more units if the building has one or more elevators or a ground floor unit in a building consisting of four or more units.
 - (8) *Criminal history status* means the record of an individual's interactions with the criminal justice system, including but not limited to, arrests, detentions, convictions, court orders, and other contacts with law enforcement and the court system.
 - (9) *Department* means the department of civil rights and equal opportunity.
 - (10) *Director* means the director of the civil rights and equal opportunity department or their delegate.
 - (11) *Disability* means with respect to employment, a person who is otherwise qualified and who, with reasonable accommodation, can perform the essential functions of the job in question. Generally, a person with a disability is any person who:
 - a. Has a physical or mental impairment which substantially limits one or more major life activities;
 - b. Has a record of having such impairment; or
 - c. Is regarded as having such an impairment.

- (12) *Dwelling* means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one 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.
- (13) *Employee* means any individual employed by an employer, but does not include an individual employed by his parents, spouse or child or any individual employed to render services as a domestic in the home of the employer.
- (14) *Employer* includes any person employing six or more employees.
- (15) *Employment agency* means any person, agency or organization, regularly undertaking, with or without compensation, to procure opportunities for employment or to procure, recruit, refer or place employees.
- (16) *Familial status* means one or more individuals, who have not attained the age of 18 years, being domiciled with:
- a. A parent or another person having legal custody of such individual or individuals; or
 - b. The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. No provision in this chapter regarding familial status shall apply to housing for older persons, as defined in section 3607 of title 42 of the United States Code Annotated.
- (17) *Family* includes a single individual.
- (18) *Franchise holder* means any individual, partnership, corporation, association or other entity, or any combination of such entities, holding a franchise hereafter granted or renewed by the city.
- (19) *Gender identity* means the actual or perceived appearance, expression, identity or behavior of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.
- (20) *Labor organization* means any organization which exists for the purpose in whole or in part of collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.
- (21) *Owner* means any person who:
- a. Has legal title to any building or structure with or without accompanying actual possession thereof; or
 - b. Has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure or part thereof; or

- c. Is an agent or designee of a person listed in subsections a. or b. herein; or
- (22) *Performance of work* means the furnishing of any personal service, labor, materials or equipment used in the fulfillment of a contractor's obligation under a city contract.
- (23) *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and other organizations; except the term "person" does not include any local, state or federal governmental entity.
- (24) *Prohibited dress code* means a set of rules governing, prohibiting or limiting access to a place or business, or portion thereof, defined herein as a "public accommodation" because of any of the following:
- a. The wearing of jewelry, the manner in which jewelry is worn or the combination of items of jewelry worn,
 - b. The wearing of a garment or headdress which is generally associated with specific religions, national origins or ancestry,
 - c. The length of the sleeve of a shirt or the leg of a pair of pants or shorts is too long, except that nothing herein shall be construed to prohibit a dress code that requires the wearing of a shirt,
 - d. The style, cut or length of a hair style,
 - e. The colors of the garments,
 - f. In conjunction with a major Kansas City sporting event the wearing of athletic apparel which displays either a number, a professional or college team name or the name of a player;
 - g. The wearing of tee-shirts, except that nothing herein shall be construed to prohibit a dress code that requires such tee-shirts to have sleeves, or to prohibit a dress code that does not allow undershirts, undergarments, or tee-shirts of an inappropriate length. Designer tee-shirts, which are fitted and neat, cannot be banned.
- (25) *Public accommodation* means any place or business offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public, or providing food, drink, shelter, recreation or amusement, including but not limited to:
- a. Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence.

- b. Any restaurant, tavern, cafeteria, lunchroom, lunch counter, soda fountain or other facility principally engaged in selling food for consumption on the premises, including but not limited to any such facility located on the premises of any retail establishment.
 - c. Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof.
 - d. Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment.
 - e. Any public facility owned, operated or managed by or on behalf of this city or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds.
 - f. Any establishment which is physically located within the premises of any establishment otherwise covered by this definition or within the premises in which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.
 - g. Any institution, association, club or other entity that has over 250 members, provides regular meal service, and regularly receives payment for meals, beverages, dues, fees, the use of its facilities or services directly or indirectly from or on behalf of nonmembers in furtherance of trade or business.
- (26) *Redevelopment area* means a tax increment redevelopment area as defined in section 99.805 (11); RSMo, a planned industrial expansion project area as defined in section 100.300, et seq., RSMo; an urban renewal project area or land clearance project area as defined in section 99.300, et seq., RSMo; any area under the control of the port authority of Kansas City, Missouri, or subject to a contract, lease or other instrument to which the port authority is a party; or an area determined by the city to be blighted pursuant to chapter 353, RSMo.
- (27) *Rent* means to lease, sublease, let or otherwise grant for a consideration the right to occupy premises not owned by the occupant.
- (28) *Respondent* means any person against whom it shall be alleged by complaint or identified during the course of an investigation that such person has violated, is violating or is about to violate any provision of Chapter 213, RSMo, or this chapter.
- (29) *Screening practices* means the standard manner by which an owner evaluates and assesses prospective tenants prior to entering into a rental agreement.
- (30) *Sex* shall include sexual harassment.
- (31) *Sexual orientation* means actual or perceived heterosexuality, homosexuality or bisexuality.
- (32) *Source of income* means the type of income or finances used by an individual to acquire goods and services for themselves, their dependents, or others. It includes reasonably verifiable and

lawful income from any occupation, profession, contract, agreement, activity, any type of private, non-profit, or government assistance or payment such as federal housing choice vouchers as authorized by Section 8 of the Housing Act of 1937, military pension payments, disability payments, court ordered payments, or any other form of reasonably verifiable and lawful income, including cash or tipped wages and payments from strike funds. Source of income includes the program requirements for any type of private, non-profit, or government assistance or payment, unless compliance with such requirements would require unreasonable structural modifications to the dwelling.

- (33) *Subcontractor* means any individual, partnership, corporation, association or other entity, or other combination of such entities, which shall undertake, by virtue of a separate contract with a contractor, 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 has 50 or more employees exclusive of the parents, spouse or children or such subcontractor.
- (34) *Systematic investigation* means a series of investigations, as defined in section 38-23 , sufficient to understand an owner's common and usual screening practices and determine whether those practices violate any ordinance.
- (35) *Unlawful discriminatory practice* means any discriminatory practice as defined and prohibited by sections 38-103, 38-105, 38-107, 38-109, 38-111 and 38-113.

Sec. 38-105. Housing.

(a) It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the corporate limits of the city.

(b) Within this section, "protected trait" shall mean actual or perceived race, color, religion, national origin, sex, mental or physical disability, marital status, familial status, age sexual orientation or gender identity, gender expression, ethnic background, being a victim of domestic violence, sexual assault or stalking, criminal history status or source of income.

(c) If the director finds probable cause of a violation of this section, the director shall notify the director of health of the violation and assist the director of health in any related investigation, in addition to pursuing any enforcement authorized by Chapter 213 RSMo, this chapter or other city ordinances.

(d) The following discriminatory housing practices shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of property offered for sale or rental, or otherwise make unavailable or deny a dwelling to any person, because of a protected trait, other than, in the case of a potential sale, source of income.
- (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 a protected trait, other than, in the case of a potential sale, source of income.
- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or

advertisement with respect to the sale or rental of a dwelling that indicates any preference or limitation based on a protected trait or an intention to make any such preference, limitation, or discrimination, other than, in the case of a potential sale, source of income.

- (4) To represent to any person, because of a protected trait, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available, other than, in the case of a potential sale, source of income.
- (5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of persons of a particular protected trait, other than, in the case of a potential sale, source of income.
- (6) For a person in the business of insuring against hazards to refuse to enter into or discriminate in the terms, conditions or privileges of a contract of insurance against hazards to a dwelling because of a protected trait pertaining to persons owning or residing in or near the dwelling, other than, in the case of a potential sale, source of income.
- (7) 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:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with that buyer or renter.
- (8) 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:
 - a. That person;
 - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
 - c. Any person associated with that person.
- (9) To sexually harass a property owner or tenant.
- (10) To refuse to rent to a tenant solely on the basis of a rent-to-income ratio that does not take into account verifiable and lawful sources of income, such as vouchers, maintenance, disability payments, pensions, or other income supports. If a prospective tenant has a voucher, the landlord's requirement for any rent-to-income ratio shall apply only with respect to the portion of rent not covered by such prospective tenant's voucher amount, consistent with state and federal law, including, but not limited to, fair housing laws.
- (11) To refuse to rent to a tenant solely because of an adverse credit report or lack of credit history

without reference to additional information provided pursuant to section 38-105 (e).

- (12) To refuse to rent to a tenant solely because of prior evictions or alleged damages without reference to additional information provided pursuant to section 38-105 (e), except that prior evictions or alleged damages that occurred within one year of the date that the tenant would begin a new rental agreement may result in refusal to rent to that tenant.
- (13) To refuse to rent to a tenant solely because of prior convictions or arrests without reference to additional information provided pursuant to section 38-105 (e).
- (14) To increase charges, reduce services, or require the tenant bear financial or other responsibility for any penalties imposed as a result of violating sections 38-105, 38-111 or 38-113.
- (15) It shall not constitute a violation of this subsection to deny a rental application based on reference to two or more factors described in section 38-105 (d)(10)-(14).

(e) While a person may examine and consider a criminal background check, credit history, or rental history in reviewing an application for rental housing, the person shall review and consider additional information provided by the rental applicant, including, but not limited to, personal references, recency and status of any evictions, and any actions taken by the rental applicant to resolve past evictions, credit challenges, or alleged damages, the recency and severity of any convictions, the violent or sexual nature of any prior convictions, the facts or circumstances surrounding criminal conduct, the age of the applicant at the time of the conduct, the age or vulnerability of the victim of the conduct, evidence that the applicant has maintained a good tenant history in the intervening time, and evidence of rehabilitation efforts, consistent with state and federal law, including, but not limited to, fair housing laws. Denying an application based on reference to such factors specific to the individual applicant shall not constitute a violation of this section.

- (1) An owner shall not be responsible for misinformation or incorrect information obtained from third parties as part of screening practices so long as the landlord uses reasonable diligence in assessing the veracity and reliability of third-party information, and identifies the third-party source used. An owner who used misinformation or incorrect information to deny an application shall reconsider an application upon receipt of corrected information.
- (2) For the purposes of this section, it shall not be a violation to deny an applicant with certain criminal convictions due to local, state or federal law or regulation or on the basis of an order of protection.

(f) Anytime a person denies an application for rental housing, said person must inform the prospective tenant that their application was denied.

- (1) If a prospective tenant requests the rationale for their denied application, the person who denied their application must affirmatively state that it was not on the basis of their membership of a protected class or a protected trait as defined by this chapter, and inform the prospective tenant in writing of their rights as defined by this chapter.

(g) For purposes of this section, the term "discrimination" includes:

- (1) A refusal to permit at the expense of the disabled person 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's 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, a failure to design and construct those dwellings in a manner that:
 - a. The public and common use portions of such dwellings are readily accessible to and usable by disabled persons. This shall include at least one building entrance on an accessible route unless it is impracticable to do so because of the terrain or unusual characteristics of the site;
 - b. All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons 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.

Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, commonly cited as ANSI A1 17.1, suffices to satisfy that the requirements of subsection (b)(3)a. of this section are met.

- (4) For purposes of subsections (a)(7) and (8) of this section, discrimination includes any act that would be discrimination under 42 USC 3604(f)(3) through (9).

(h) Nothing in this section shall apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains or occupies one of such living quarters as the owner's residence, and if the dwelling contains any rooms, except hallways, which are shared by the families or the owner.

(i) Nothing in this section shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious

organization, association or society, from discriminating in the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose on the basis of religion, sexual orientation or gender identity, or from giving preference to persons on those bases.

(j) In the event any section, paragraph, sentence, clause, phrase or portions of this section is declared invalid for any reason, the remainder of this section shall remain in full force and effect.

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

(a) 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.

(b) For the purposes of this section, it shall not be a violation for a bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part the marking of commercial real estate loans to:

- (1) Deny an applicant a loan or other financial assistance due to orders of protection, local, state or federal law or regulation.

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

(a) 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.

(b) For the purposes of this section, it shall not be a violation to deny 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 due to orders of protection or certain criminal convictions due to local, state or federal law or regulation.

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.

(c) For the purposes of this section, it shall not be a violation for an owner, agent or employee of a place of public accommodation to:

- (1) Directly or indirectly refuse, withhold from or deny a person with certain criminal convictions due to local, state or federal law or regulation or on the basis of an order of protection.

Approved as to form:

Julian Langenkamp
Assistant City Attorney