



# City of Arkansas City

## EQUAL OPPORTUNITY AND ACCESSIBILITY ADVISORY BOARD AGENDA

Thursday, October 14, 2021 at 4:00 PM – 118 W Central Ave, Arkansas City, KS

Please join from your computer, tablet or smartphone:

<https://global.gotomeeting.com/join/324327101>

You can also dial in using your phone.

United States: [+1 \(571\) 317-3112](tel:+15713173112)

Access Code: [324-327-101](#)

**I. Call to Order**

**II. Roll Call**

**Board Members**

- Bob Baker
- Ethan Bartlett
- JoAnn Bierle
- James Fry
- Anita Judd-Jenkins
- Tammy Lanman-Henderson
- Frances “Rags” Smith

**Staff Liaisons**

- Mike Bellis
- Mike Crandall
- Randy Frazer
- Evan Haney
- Andrew Lawson
- Tony Tapia
- Josh White

**III. Consent Agenda**

- [1.](#) Approve minutes of the August 12, 2021, regular meeting. **(Voice Vote)**

**IV. Committee Updates**

1. Next 2022 Tacolalah Executive Committee meeting will be at **noon October 21** at 400 W. Madison Ave.

**V. Comprehensive Plan Discussion**

- [1.](#) **Chapter 6** (Infrastructure and Transportation)
- [2.](#) **Chapter 8** (Land Use and Growth Management)

**VI. Reports**

**VII. Other Items**

- [1.](#) **Discussion:** EOAAB Authorizing Ordinance
- [2.](#) **Discussion:** Review Title VI Plan update
- [3.](#) **Discussion:** Sidewalk Survey Project

**VIII. Adjourn**

**FINAL JOINT BOARD MEETING:** Thursday, October 28, 2021 at **1:00 PM** – Wilson Park, 701 N. Summit St.

**NEXT REGULAR BOARD MEETING:** Thursday, November 18, 2021 at **4:00 PM** – Water Treatment Facility, 400 W. Madison Ave.

**Arkansas City Equal Opportunity and Accessibility Advisory Board**  
8/12/2021 Minutes

A regular meeting was held **Thursday, August 12, 2021**, at the Water Treatment Facility. The meeting was called to order at **4 p.m.**

**Roll Call:**

**Board Members**

Bob Baker	<input type="checkbox"/>
Ethan Bartlett	<input type="checkbox"/>
JoAnn Bierle	<input type="checkbox"/>
James Fry	<input checked="" type="checkbox"/>
Anita Judd-Jenkins	<input checked="" type="checkbox"/>
Tammy Lanman-Henderson (by telephone)	<input checked="" type="checkbox"/>
Frances "Rags" Smith	<input checked="" type="checkbox"/>

**Staff Liaisons**

Mike Bellis	<input checked="" type="checkbox"/>
Mike Crandall	<input checked="" type="checkbox"/>
Randy Frazer	<input checked="" type="checkbox"/>
Evan Haney	<input type="checkbox"/>
Andrew Lawson	<input checked="" type="checkbox"/>
Tony Tapia	<input type="checkbox"/>
Josh White	<input checked="" type="checkbox"/>

**1. Approve July Regular Meeting Minutes:**

Rags made a motion to approve the minutes of the **July 8, 2021**, regular meeting as written. Anita seconded the motion, which was approved **4-0** on a voice vote. Tammy said Ethan recently called her to say he will be resigning from the Board.

**2. Direct Support Professionals Week Proclamation:**

Andrew said this proclamation will be issued by the City Commission at **5:30 p.m. September 7** in the commission room at City Hall. This week will be officially observed on **September 12-18**. Several Board members said they hope to attend.

**3. Select 2022 Tacolalah Executive Committee Member:**

Rags made a motion to appoint **Tammy Lanman-Henderson** as the Board's new representative to the Tacolalah Committee, with **Anita Judd-Jenkins** serving as an alternate. Anita seconded the motion, which was approved **4-0** on a voice vote.

The first regular 2022 Tacolalah Executive Committee meeting will be at **noon August 19** at the Water Treatment Facility.

**3. Comprehensive Plan Discussion:**

Andrew and Josh asked if the Board if they had any comments or questions regarding **Chapter 6**, "Infrastructure and Transportation," or **Chapter 7**, "Community Health." Rags said she is having trouble finding volunteers to assess sidewalks. Josh showed the Board an online web form he developed through which people can easily report sidewalk problems or needs. Mike C. talked about some webinars he recently attended on ADA and ADA advisory boards. There were some good ideas shared, but finding adequate funding to replace sidewalks, ADA ramps and curbs remains the biggest challenge to the City.

**4. Review ADA Transition Plan: Arkansas City Recreation Center**

The Board discussed the Arkansas City Recreation Center some more. A structural engineer will assess the north building.

**8. Other Miscellaneous Items:**

Andrew asked if changes are needed in the final draft of the redesigned Fair Housing flier. The Board will help distribute it. Fall Cleanup Day has not been set yet but likely will be sometime in **October**. (Note: This event was later set for **October 9**.) Andrew said there was a good community turnout for the City's Housing Inter-Agency Committee (HIAC) meeting in **July**. Andrew and Randy summarized the findings of the Paris Park Pool study with the Board. Andrew said it is mainly a City Commission and Recreation Commission concern. He mentioned the pool's ADA concerns were ranked No. 2 in importance. Andrew said the City Hall elevator is finally being replaced. There will be no ADA access to upper floors during this work.

Rags made a motion to adjourn the meeting. Tammy seconded the motion, which was approved **4-0** on a voice vote. The meeting was adjourned at **5:51 p.m.** The next meeting of the Equal Opportunity and Accessibility Advisory Board will be at **4 p.m. Oct. 14, 2021**.

## **Chapter Six: Infrastructure and Transportation**

- 6.1 Introduction**
- 6.2 Vision**
- 6.3 Survey Responses and Comments**
- 6.4 Existing Infrastructure and Transportation Systems**
- 6.5 Goals and Actions**

### **6.1 INTRODUCTION**

The quality and condition of infrastructure and transportation systems affect all communities and are central to the development or redevelopment of neighborhoods, regardless of the particular land use of a neighborhood. Meeting citizen needs for municipal services such as water, sanitary sewer, and transportation of goods and people within the community is a basic function of any city and is critical to maintaining an adequate quality of life for citizens. It is equally important in efforts to secure economic development.

### **6.2 VISION**

The City will be proactive in developing the best, most cost-effective methods of addressing the current shortcomings in its aging street network, aging utility network, and maintaining the flood protection systems, thereby positioning the city for desired growth.

### **6.3 SURVEY RESPONSES AND COMMENTS**

In early 2013, when asked for their input in a community survey conducted for this comprehensive plan, citizens responded they rated the quality of the City's infrastructure system as average, with the highest satisfaction with the sewer system. When asked how willing they were to pay increased taxes or fees for a variety of items, citizens ranked infrastructure improvements third as something they were very willing (24%) to pay for and first among the items they were somewhat willing to pay increased fees or taxes (50%). Further, when asked what three issues were the most important related to property development, the issue identified as most important was existing public water and sewer service, by a wide margin.

When asked about their level of agreement with the following statements, the results were:

		Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	TOTAL RESPONSES
A.	The overall street network in the City meets the needs of citizens	5%	14%	24%	<b>49%</b>	8%	687
B.	I support further construction of pathways and sidewalks to promote walking and bicycling in the City	11%	17%	26%	<b>34%</b>	13%	689
C.	The speed at which drivers travel in residential areas is unsafe	7%	22%	27%	<b>30%</b>	15%	689
D.	Obeying stop signs and signals in residential areas is a concern	6%	18%	29%	<b>31%</b>	16%	681
E.	I support a program for sidewalk replacement in residential areas	6%	14%	35%	<b>36%</b>	9%	672
F.	I support the use of public dollars for rail connections for passenger train service between Fort Worth, Oklahoma City, Wichita and Kansas City	11%	9%	23%	28%	<b>29%</b>	744
G.	I support City removal of snow on main arterials but not residential side streets	11%	23%	21%	<b>35%</b>	10%	685
H.	I support modernizing streetlights to reduce energy costs	5%	10%	30%	<b>41%</b>	15%	686
I.	I support reduced mowing and trimming along city streets to save public funds	13%	36%	<b>29%</b>	17%	6%	696
J.	I support planning for the West Bypass connection to Madison	11%	18%	<b>41%</b>	23%	8%	678
K.	The City needs to increase its planning efforts to encourage quality development	2%	7%	38%	<b>41%</b>	12%	685
L.	The City should encourage development within the City by offering incentives for redevelopment of properties	5%	7%	30%	<b>42%</b>	16%	689
M.	I support future expansion of the city limits if developers share in the cost of infrastructure improvements	8%	10%	28%	<b>40%</b>	13%	685
N.	The City is making acceptable progress on ADA/Handicap Accessible Routes	3%	6%	<b>46%</b>	38%	8%	664
O.	I support preservation of brick streets in the historic downtown area	10%	11%	27%	<b>32%</b>	20%	693
P.	I support preservation of all the brick streets in the City	14%	15%	<b>31%</b>	22%	18%	697

The city has begun designing a water treatment plant for the community and as part of the survey, wanted to gauge community support for some aspects of that plant, as follows:

	To make the best use of investment in the Water Treatment Plant Project the City should:	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	TOTAL RESPONSES
A.	Create a wetland for water re-use and educational programs for USD 470, Cowley College and the community	7%	9%	31%	<b>38%</b>	15%	655
B.	Create a wetland for a cleaner environment and to maximize usage of our limited water resources	6%	7%	27%	<b>41%</b>	19%	655
C.	Pursue opportunities to sell water to the casinos and communities south of the City	10%	15%	28%	<b>33%</b>	14%	635
D.	Explore new programs with Cowley College for the training of water treatment plant operators	5%	6%	30%	<b>43%</b>	16%	660
E.	Pursue sustainable building practices when constructing the new plant	2%	2%	26%	<b>47%</b>	22%	673

Given the history of flooding in the City, the management of stormwater is important so survey information was requested on this subject. When asked for their support for regulations that continued to make stormwater management and reduction of flooding a priority, 72% either agreed or strongly agreed. The feeling on other stormwater-related questions was not as strong, though 59% agreed or strongly agreed that working to improve the environment and rivers by having cleaner stormwater should also be action the City should take. Other stormwater survey questions resulted in a majority of neutral answers, so either more education or clarity needs to be had on these issues including requiring reduced runoff, stormwater impact fees, and exempting non-profits from stormwater fees.

**6.4 EXISTING INFRASTRUCTURE AND TRANSPORTATION SYSTEMS**

The City has been somewhat proactive in studying and investing in water and wastewater infrastructure over the years, but less so with regards to roads and stormwater systems. More work is needed to provide good management and growth of the existing transportation, water and wastewater systems for the future.

**Water**

A sound water system is crucial to any community and its ability to grow. Water supply, storage and distribution, including water flow, must be considered not only for meeting the needs of citizens on a daily basis, but also for firefighting. The City's water sources are from ground water rights to ten well areas that are fed by the Arkansas River in the Ark Alluvium aquifer system. Some of the water rights are vested, but two are not. A



vested right is fixed, unalterable and irrevocable, giving the city the most certainty. The vested combined water rights held by the City provide for 408 million gallons per year at a rate not to exceed 3,100 gallons per minute. Combined with the non-vested rights, the total rate of diversion from all ten wells is 1.264 billion gallons per year, with a not to exceed total of 6,000 per minute. During the drought, summer 2012, a record five million gallons per day was treated. The treatment consists primarily of chlorine and lime, with fluoride and other chemicals added as well.

The city's new water treatment system is expected to solve a number of problems that exist in the current treatment plant, with redundancy of equipment such as the clarifiers, lime system, and other equipment that has outlived its

functionality. The new plant will have pump valves that open gradually, a much better system for the supply system. The plant will provide six million gallons of water a day at capacity. There will be two one-million gallon clear wells constructed as well as better storage of chlorine. New technology will allow monitoring operations from off-site.

A city's water supply must also provide the water storage needed to adequately



fight fires. Average daily demand should be supplemented by at least enough water to fight a four-hour fire. Included in the supply calculations is water stored in water towers. The two elevated storage towers in Arkansas City, one 1,500,000 gallons, one 500,000 gallons, aid in water supply, particularly for fireflow. Other benefits of water storage are meeting peak hourly demand fluctuations and emergency supply due to interruption in source. Bryant Standpipe has a capacity of 1.5 million gallons and is located at 306 W. Bryant Road. Goff Tower has a capacity of 500,000 gallons and is located at

418 Goff Industrial Park Road. A current issue in the water supply system is the need to address flow concerns, through a looped system, east of the Walnut River.

**Sanitary Sewer**

Essential to the health of citizens in all cities is appropriate sanitary sewer treatment. Timely extension of sewer service lines is critical to development. Such extensions are affected greatly by topography. The most economical system uses topography within drainage basins, allowing gravity to move waste. The costs are more affordable at both installation time and over time, reducing ongoing maintenance. However lift stations are necessary in some locations. Good planning takes into account which areas can be served with gravity and which areas cannot, and future land use classification is one way to show that this factor is understood. Once waste is collected, mechanical and biological processes break it down. The final treatment separates the mixture into water and bio-solids. In Arkansas City, the treated wastewater is returned to the Arkansas River.

The sanitary sewer treatment plant is located at 1701 S. M Street and went online in 1958. There have been some major modifications such as the grit settling basin converted to aeration tank in 1980, along with pump upgrade, recirculation wetwell and pump station construction. Since 2000, the effluent pump station and UV disinfection were constructed, barscreens replaced and clarifier return sludge valves replaced. Also pumps were replaced and a laboratory upgrade made. More recently, in 2009 the final clarifier drive was replaced and in 2011 the primary clarifiers were rebuilt. The capacity of the plant is 2.1 million gallons a day (MGD), average flow, with a maximum of 4.7 MGD,

and an hourly peak of 6.6 MGD. The City's average flow is 1.2 MGD, with peak flows historically in July of 2007 (flooding) of 7.2 MGD. The treatment process is an extended aeration secondary which means the ammonia is removed by nitrification, with two biological processes trickling filters and activated sludge. The sludge handling is an anaerobic digestion dewatered in drying beds, which produces Class A EQ bio-solids. Within the next five years, the City will have to evaluate the life of the Wastewater Treatment Facility to determine if additional upgrades are best or if a new plant will be required to be constructed to meet the community needs.

The sanitary system is comprised of 80 miles of sanitary sewers mains and five lift stations. The system outlet for all lines is the municipal wastewater treatment plant in southeast Arkansas City, at 1701 South M Street.

***Other Utilities***

Electrical supply is provided by Westar Energy and natural gas is supplied by Kansas Gas Service. Local telephone service is provided by AT&T and cable by Cox Communication.

***Stormwater Management***

Stormwater volume and flow can limit future development. Areas with a significant propensity to flooding are commonly designated as a 100-year floodplain, hence there is a 1:100 or greater chance that they will flood each year. It is preferable to avoid any urban development in the floodplain; although development regulations recognize a distinction should be made between the floodway and the flood-fringe.

The floodway incorporates the center channel of the waterway and carries a majority of the floodwaters, or in other terms, the center portion of the floodplain which can carry an additional one foot of water after the entire floodplain has been filled.

The flood-fringe is the area between the floodway and the edge of the floodplain. Land within this area can be developed if precautionary measures are taken. These measures include building on enough fill to raise the level of the lowest floor a minimum of one foot above the flood elevation, or sufficiently floodproofing the building itself from hydrostatic and hydrodynamic effects.

A floodplain management program was adopted by the City in the early 1980s, but the most recent regulation was adopted in August of 2010, after a study to determine the flood hazard areas. By having the areas mapped and regulations adopted, owners of property are eligible to purchase flood insurance.

Floodplains include area around both the Arkansas River and the Walnut River. While much of the built area of the community near the rivers is protected by levees, they are still at risk in the event of a levee failure. In Arkansas City, the

length of levee is eleven miles, the longest of any city in the state on a per capita basis.

A map showing the floodplain in and around Arkansas City is included at Appendix I. The map illustrates the potential risk of flood surrounding the community, except to the north and northwest.

The flood of early November 1998 was the most significant flood in recent history with 430 structures damaged by floodwater and 88 destroyed, along with approximately 3000 people evacuated in and around the City. There was eight million dollars in property damage. While the local rainfall was 5.5 inches, the basin received six to ten inches of rain north of the City, worsened by higher than normal precipitation in the month prior. Peak gauge reading was 28.89 feet for the Arkansas River and 32.45 feet for the Walnut. The primary reasons the east side of the community experienced significant flooding were the new levee south of Madison Street was not completed due to some archeological discoveries that delayed levee construction, and a failure of the old levee east of the City's F Street burn pit.

One significant improvement in recent years is the levee/bypass project for U.S. Highway 77, which offers additional protection for the eastern portion of the community from flooding of the Walnut River. This work was completed in 2000. Continuing to enforce stormwater regulations, discouraging development in certain areas, and maintaining the levee system are essential to protecting the City.

The Public Works Department is responsible for stormwater system maintenance and improvements. There are two canal areas that drain water to the Walnut River. These are maintained by the City, "C" Street and the city's "historic" district canal.

***Transportation***

***Existing Road and Highway Network***

Arkansas City has excellent access to major transportation systems in Kansas through its connections to U.S. Highway 77 (north-south) and U.S. Highway 166 (east-west). These connections allow for both export and import of goods via truck as well as transporting people for work, tourism, or shopping.



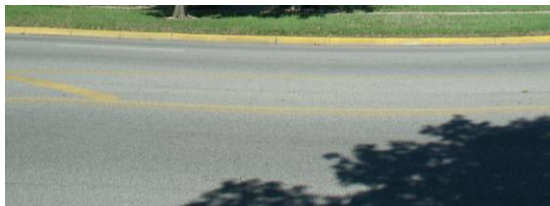
Northbound U.S. Highway 77 carries an average of over 11,200 vehicles per day, with the southbound count lower at just over 9,200. The bypass count ranges from 4,430 to 5,170 according to the Kansas Department of Transportation map published for July 2012. The eastbound traffic on U.S. Highway 166 is just over 4,000 vehicles daily just outside the city limit and westbound is nearly 3,500



vehicles. Highway connections feed the interior road networks to facilitate transportation needs within the community. Primary growth is expected along U.S. Highway 77, north of the community, in keeping with recent trends and because other areas will be difficult to develop due to floodplains.

**Standard Street Classification**

Due to the need to transport both people and goods within the community as well as to and from the community, transportation systems are intricately woven with economic development and land development. Streets are classified based on a hierarchical system considering vehicular movement from one area to another, or from home to work, home to shop, goods from one location to another. This system is generally designed with three basic categories of roads: arterial, collector and local.



The arterial are major roadways, designed to carry greater traffic volumes, fed by collector streets, and ideally with only connections from other streets to allow for fewer intersecting points. Collector streets connect local streets, the lowest classification, to arterial streets, the highest classification.

Residents leaving home typically drive from their driveway onto a local street, which is then connected to a collector street serving other residents from a particular area, and then enter an arterial road for through traffic to their destination area, then back to a collector/local to work, shop, and to access services.

It is desirable to protect arterials by controlling street access. Private driveways are discouraged on major arterials and should be limited where possible, to promote safe and efficient traffic flow. Access control guidelines may need to be developed as a goal of the comprehensive plan, if they are not provided elsewhere, particularly for arterials and possibly for collectors. In addition, street widths for all classifications of roadways should be determined as an aid to developers and decisionmakers. As the community grows, considerations for rural roads should also be made for their transition from roadways with ditches to curb and gutter systems.

It is recommended the City forecast which streets are anticipated to become arterials and collectors. Currently, Arkansas City classifies its streets using Kansas Department of Transportation classifications. Map 6-2 identifies these classifications. Ongoing review should occur each year or two to be sure that additional roads are included as development warrants. All other roadways would be classified as local roads.

**Air Transportation**

Arkansas City has Strother Field for its local air service, located along U.S. Highway 77, approximately five miles north of the City. The field was built in 1942 for the Army Air Force. Deactivation of the field occurred in 1945 and the field was returned to Winfield and Arkansas City. The airport has two lighted, hard-surfaced, pilot controlled runways, one 5500 feet, the other 3150, enabling the accommodation of various aircraft. The terminal building was constructed in 1970 along with a conventional hangar to accommodate the pilots' needs, the needs of the FBO, weather updates, charters, aircraft rental and repair, fuel and flight instruction. The master plan for the airport was completed in 1996 and within the next few years it is anticipated a new plan will be needed. Goals at the airport include rehabilitation to both runways and taxiway B, with reconstruction of the terminal apron and construction of a taxi lane as longer-term goals.

**Rail Transportation**

Rail service for freight is provided by Burlington Northern Santa Fe, and there are railroad spurs serving businesses in Strother Field that connect to the main lines.

**Other Transportation**

The City has only limited public or private operated general public transportation. While the 2013 community survey did not pose questions regarding the need for additional transportation services it is believed there may be demand for more bus or van service to Winfield, Wichita and other nearby communities as well as in-city transportation. It is likely that the demand is greatest among elderly citizens who often have limited transportation options and important travel needs, e.g., specialized medical care.

**Pedestrian and Bicycle Paths**

The City has several recreational opportunities for walking, hiking, and biking, and continues to receive citizen support for more. As stated in Chapter 5 of this Plan, providing a connected series of sidewalks and paths is seen as a positive for the community, and is an alternative means of transportation that merits discussion in this chapter. Consideration should be given to utilizing the canal area, levee areas or former railroad corridors as the backbone for a pedestrian network. Connections with major public facilities such as parks and schools enhance transportation opportunities for youth in the community as well. Furthermore, careful attention to developing sidewalk programs that serve not only adjacent properties but also the community at-large can enhance the community through better health and well-being and also be a point of community pride.

**6.5 GOALS AND ACTIONS**

Goals represent overall vision and desired outcomes. They describe the community we hope to develop together in the future. The following goals

implement the overall vision for infrastructure and transportation. Their purpose is to focus resources for the improvement of these central components which are critical to the sustainability and growth of Arkansas City. These goals are derived, in large part, from survey responses and other input from private individuals and public officials.

<b>Goal</b>	<b>Establish a General Public Transportation Service, if Community Needs and Support Exists for that Service.</b>
<b>Goal</b>	<b>Maintain and Improve the City's Streets and Sidewalks According to an Adopted Capital Improvements Schedule and Dedicated Funding.</b>
<b>Goal</b>	<b>Identify the Best, Most Cost-Effective Methods of Addressing the Current Shortcomings in the Street Network.</b>
<b>Goal</b>	<b>Preserve Downtown Brick Streets Where Feasible and Brick Streets Outside the Downtown When Neighborhood Support, and Funding, Exist.</b>
<b>Goal</b>	<b>Make Necessary Improvements to the Water Treatment and Distribution Infrastructure.</b>
<b>Goal</b>	<b>Develop a Stewardship Program Emphasizing Water Conservation and Reuse.</b>
<b>Goal</b>	<b>Make the Necessary Improvements to the Wastewater Plant a Matter of High Priority.</b>
<b>Goal</b>	<b>Complete the Inspection of Sanitary Sewer Lines and Replace Lines as Needed.</b>
<b>Goal</b>	<b>Improve the Stormwater Management Capabilities of the City.</b>

**GOAL ESTABLISH A GENERAL PUBLIC TRANSPORTATION SERVICE, IF COMMUNITY NEEDS AND SUPPORT EXISTS FOR THAT SERVICE**

**Action:** The City should create a study committee, comprised of City Commissioners, Planning Commissioners, members of the business community, health care providers, representatives of Cowley College, and members of the public, to measure the level of community interests in and need for a general public transportation carrier to provide both in-city and out-of-city services. If needs and demands sufficient to support such a carrier are identified, the study committee should present to the City Commission the means by which service can best be provided; whether by private business, as a municipal service, or as a public-private partnership.

**GOAL MAINTAIN AND IMPROVE THE CITY'S STREETS AND SIDEWALKS ACCORDING TO AN ADOPTED CAPITAL IMPROVEMENTS SCHEDULE AND DEDICATED FUNDING**

**Action:** The City Commission should annually adopt a rolling 10-year schedule for the maintenance of streets and sidewalks; for the extension of streets and sidewalks into newly developing areas; and for areas of the City lacking the desired level of streets and sidewalks. The adopted schedule should be incorporated into the City's capital improvement plan.

**Action:** The City Commission should consider a dedicated source of funding for street and sidewalk maintenance, to help ensure reliable, steady revenues with which to better stay on track with the five-year schedule of work.

**GOAL IDENTIFY THE BEST, MOST COST-EFFECTIVE METHODS OF ADDRESSING THE CURRENT SHORTCOMINGS IN THE STREET NETWORK**

**GOAL PRESERVE BRICK STREETS WHERE ECONOMICALLY FEASIBLE**

**Action:**

1. Achieve a proper balance between recognition that brick streets in the downtown help to define the character of the community and the fact that their maintenance creates a significant public cost.

**GOAL MAKE NECESSARY IMPROVEMENTS TO THE WATER TREATMENT AND DISTRIBUTION INFRASTRUCTURE**

**Action:**

1. Include within the capital improvement plan the replacement of all water meters as a matter of the highest priority.
2. Include within the capital improvement plan a schedule for the replacement of water distribution lines so that by the year 2030 no such lines have been in use exceeding 75 years.
3. Proceed with the construction and financing for a new water treatment plant.

**GOAL DEVELOP A STEWARDSHIP PROGRAM EMPHASIZING WATER CONSERVATION AND RE-USE**

**Action:** Encourage water conservation and re-use/recycling at schools, businesses and residences by distribution of educational materials, and provision of rain barrels and other devices to the extent funding is available.

**GOAL MAKE THE NECESSARY IMPROVEMENTS TO THE WASTEWATER PLANT A MATTER OF HIGH PRIORITY**

**Action:**

1. Identify as a priority need in the capital improvement plan the deficiencies in the wastewater treatment plan identified in the report prepared in 2013.
2. Request City staff to prepare a report on steps that can be taken to make wastewater treatment as effective and cost-efficient as possible.
3. Address problems with inflow and infiltration as a high priority item in the City's capital improvement program.

**GOAL COMPLETE THE INSPECTION OF SANITARY SEWER LINES AND REPLACE LINES AS NEEDED**

**Action:**

1. Include within the capital improvement plan a schedule for the video inspection of all sanitary sewer lines by January 1, 2015.
2. Prioritize the replacement of defective lines identified in the video inspection.

**GOAL IMPROVE THE STORMWATER MANAGEMENT CAPABILITIES OF THE CITY**

**Action:**

1. Have City staff report to the City Commission whether changes to the requirements for detention/retention structures adequately cover all development impacting stormwater runoff.
2. Study the possibility of using stormwater fees to subsidize the cost of retention/detention structures which exceed the minimum requirements of city codes and regulations.
3. Consider adoption of soil erosion standards to be applied to new development.
4. Increase stormwater fee revenue by applying it to all property, taxable or tax-exempt, and make fees based upon a property's impervious surface area.

## **Chapter Eight: Land Use/Growth Management**

- 8.1 Introduction**
- 8.2 Vision**
- 8.3 2003 Comprehensive Plan: Land Use Analysis**
- 8.4 Land Uses Under the City's Present Zoning Regulations**
- 8.5 Proposed 2014 Land Use Regulations**
- 8.6 2007 and 2013 Community Survey Responses and Comments**
- 8.7 Future Land Use Map**
- 8.8 Fringe Area Development: The "Growth Area"**
- 8.9 Future Land Use Map for the Growth Area**
- 8.10 Goals and Actions**

### **8.1 INTRODUCTION**

A request often heard over the course of the preparation of a city's comprehensive plan is that development should occur in a way that will preserve the city's "character". A critical aspect of any city's character is its pattern of land use – the types, location, mix and density of uses. While past and present day development patterns put a face on "character", future development patterns will either maintain or change that character. Although not entirely within the power of citizens or their city government, development patterns are influenced by a community's policies on land use, housing, economic development and other policies such as those contained within this Plan, as well as the community's land use laws.

The pattern of land use, most notably the location of development, also significantly impacts the quality and cost of public facilities and services. Level of demand, costs of infrastructure and cost-effectiveness of providing municipal services are all a function of patterns of land use – with great cost differences (often borne by the public) resulting from sprawl development as compared to development at higher-density, urban levels.

This chapter attempts to summarize the goals necessary to achieve the development pattern desired by the City. Those policies attempt to not only advance land use objectives, but also complement, integrate and promote the goals for Housing, Economic Development and Infrastructure as set out in other chapters of this Plan.

This chapter also sets out the goals and policies the City should use as it reviews applications for development and rezonings, as it considers annexations and/or extraterritorial land use regulation, and as it adopts capital improvement plans and budgets.

## 8.2 VISION

Arkansas City will experience growth and stability in part due to careful thought given to regulation of the location of different uses of land. Those regulations will minimize conflicting uses and maximize efficiencies in public infrastructure serving those uses.

The City's land use regulations will recognize and respect private property rights, provide landowners and developers with flexibility, and will avoid development requirements and costs that do not serve a valid interest of the community.

The City will continue to plan not only for the future growth and development of land within its corporate limits, but also continue planning for its extraterritorial "growth area". The growth area is generally that unincorporated area lying north and south from the City's limits along the US-77 corridor and west along and north of US-166, as detailed in this Chapter, where the nature, timing and intensity of land development have consequences for Arkansas City.

The City will encourage new development to occur in proximity to existing or planned streets, water, electricity, sewer and other public infrastructure. Its regulations will attempt to promote growth while simultaneously preserving the existing character of Arkansas City.

## 8.3 2003 COMPREHENSIVE PLAN: LAND USE ANALYSIS

The 2003 Comprehensive Plan devoted significant thought and space to a survey of then-existing land uses within the City and the three-mile study area covered by the plan. Trends in land use change were noted and presented in sections labeled for four planning areas within the City and five in the three-mile study area.

As noted elsewhere in this Plan, it is an objective to reiterate, or at least reference, those key findings and recommendations set forth in earlier comprehensive plans which hold relevance for the 2013 Comprehensive Plan. This has been the past practice of the City, and it is a commendable one for numerous reasons.

Just as the 2003 Comprehensive Plan reached back and utilized information from as far back as the City's 1964 plan, the 2013 Comprehensive Plan carries forward the following excerpts of the "Key Findings" and "Recommendations", relating to land use, taken from the 2003 Comprehensive Plan:



### **Key Findings [Chapter Six, Land Use Analysis]**

- The historic area of Downtown remains the focal point of the physical fabric of the community.
- Development along Highways 77 and 166 have led to a lineal ribbon of commercial land use corridors bisecting the community.
- There is a lack of visual continuity and cohesion within the retail corridors, particularly on South Summit and along Madison Avenue.
- The residential neighborhoods situated in the floodplains of the Arkansas and Walnut Rivers are expected to experience serious decline over the next 20 years without thoughtful intervention.
- There are several industrial uses located south of Madison Avenue that are incompatible with surrounding residential uses. The expansion of these industrial uses should be restricted.
- At various locations in the community there are individual mobile homes situated in site-built residential neighborhoods. The placement of non-residential designed mobile homes should be encouraged to locate in mobile home parks.
- There are numerous older industrial sites located near the railroad right-of-way. These older industrial sites will present the City with long-term readaptive challenges.
- The residential development east of the Walnut River provides a unique opportunity to keep rural housing in close proximity to the City.
- The entranceways leading into Arkansas City need to present a better “first impression” of the community.

### **Recommendations [Chapter Eight, Future Land Use & Transportation]**

- Arkansas City should focus on preserving the livability and historic character of the community. It will be important to maintain the physical characteristics that make Arkansas City unique and desirable.
- Development of commercial or industrial uses adjacent to Highway 166 east of the Walnut River should be discouraged.
- The following future road improvements are recommended as part of the major street plan:
  - ✓ Extend Eighth Street north of Skyline Road to Cowley 10.

- ✓ Widen and add center turning lane on Summit St. from Kansas Ave. to Radio Lane.
- ✓ Improve the Kansas Ave and Summit St. intersection controls.
- The City should discourage further commercial rezonings on West Kansas Avenue.
- The future land use plan for the area north of Linden Avenue seeks to preserve the existing residential character. This area has not experienced the number of commercial conversions and the area should be preserved as residential.
- Commercial buildings, whether conversion of existing residential structures or new commercial buildings, should be evaluated for potential problems created from lighting, noise, building setbacks, etc. Requirements for landscape screening or fencing should also be included in the zoning regulations.
- New medium or high density housing should be located in selected areas along major streets or adjacent to major activity areas to provide a transition of land uses to low-density housing.
- The City should be careful to not encourage additional retail development outside the existing retail corridors. Land within the existing retail pattern is available to accommodate new retail development. In general, the City should encourage redevelopment of existing commercial sites and not add to the inventory of commercial land.

#### **Planning Framework [Chapter Eight, Future Land Use & Transportation]**

- **Plan the Urban Fringe of Arkansas City.**  
Understanding how urban fringe development influences and impacts the regional community is important. The housing developments in the townships rely on Arkansas City for employment, services, shopping, recreation and other activities. Local leadership should coordinate goals and action plans between Arkansas City, Cowley County, and the Townships to ensure public safety and wise use of fiscal and natural resources.
- **Preserve and Maintain the Character, Infrastructure and Services of the Community.**  
Arkansas City should focus on the livability of the community. A small town sense of place is what people leaving metropolitan areas desire. It will be important to preserve and maintain the character that makes Arkansas City unique and desirable. The physical characteristics that create a sense of place include:
  - ✓ Neighborhoods with good housing, tree-lined streets, nearby parks and schools.

- ✓ Pedestrian-friendly Downtown shopping district with easy access.
- ✓ Good road circulation, community parks, and cultural resources.
- ✓ Preservation of buildings, places and environments that connect the present with the history of a community.

Preserving the town character by maintaining and improving the physical characteristics, infrastructure and services should be a top priority.

Implementing measures necessary to promote reinvestment into and improvement of what is already in place will not only enhance the quality of life for existing residents, but can lead to attracting new business and homeowners.

#### **8.4 LAND USES UNDER THE CITY'S PRESENT ZONING REGULATIONS**

The City's current set of zoning regulations were adopted in 1964 with frequent amendments since then in response to changing needs and circumstances. The most recent significant updating of the regulations was in 2008.

The Zoning Regulations have 14 different land use districts, which are summarized below by categories of principal use, *i.e.*, residential, commercial and industrial.

##### **Residential Districts**

Residential land use districts identify areas where a principal planned land use is residential. Arkansas City has nine such districts, including two districts for agricultural uses:

- (1),(2) **A** and **A-L**. These zoning classifications, Agricultural and Agricultural-Light, allow agricultural, certain ag-related commercial uses, and low-density residential uses. Urban scale development is not anticipated for land so zoned, unless and until infrastructure is extended by the City.
- (3) **R-1**. The Single-Family Residential District provides for low-density (.5 acre minimum lot area) single family residential development. Certain public uses, such as schools, churches, libraries and some agricultural uses are permitted.
- (4) **R-2**. This Single-Family Residential District has the same permitted uses as the R-1 District, but development of residences can occur at higher density (6,000 sq. ft. minimum lot area).

- (5) **R-2Z**. The Single-Family Zero Lot Line Residential District is intended to accommodate single-family residences with interior side yards without minimum setback requirements. Permitted uses are the same as for the R-1 District.
- (6) **R-3**. The Two-Family Residential District allows both single-family and duplex development along with the nonresidential uses allowed in the R-1 District.
- (7) **R-4**. This Multiple-Family Residential District allows any R-1 use, plus duplexes, multi-family dwellings, boarding, rooming and lodging houses, apartment hotels, and fraternities and sororities. Minimum lot areas range from 6,000 sq. ft. for a single-family residence or duplex up to 1,500 sq. ft. per dwelling unit for four-or-greater family units and 500 sq. ft. per dwelling unit in an apartment hotel.
- (8) **MP**. The Mobile Home Park District provides for low-density mobile home parks. Parks must be at least two acres in area, with pads for the mobile homes rented or leased, but not sold, to the occupants. Some infrastructure requirements, e.g., recreational areas, laundry facilities, are set out. This District also allows for mobile home subdivisions, where lots are owned by mobile home owners.
- (9) **R-O**. The Residence-Office District is essentially a residential-commercial mixed use district, allowing any of the R-1:R-4 district uses along with broad categories of offices including medical, accounting, law, real estate, insurance and government.

### **Commercial Districts**

The City's current regulations have three zoning districts where the principal land uses are commercial. An interesting feature of the commercial districts is that each allows for any of the residential uses allowed in the R-4 Residential District.

- (1) **B-1**. The Neighborhood Business District is, as its name states, intended for commercial uses serving neighborhood residents. It allows a range of retail and other commercial uses, but at a relatively low-density of development.
- (2) **B-2**. The main commercial areas outside the downtown district, intended for basic retail sales and office uses, comprise the General Business District. This classification allows large floor areas, with screening and off-street parking requirements. Some noncommercial uses are allowed as special uses.

- (3) **B-3.** The Central Business District has as its purpose the grouping of retail businesses and offices into the downtown area of Arkansas City. Development is permitted here at high density.

### Industrial Districts

The current regulations provide three zoning districts for industrial uses:

- (1) **I-1.** The Restricted Industrial District is intended for those uses which emit virtually no adverse impacts and are housed within structures.
- (2) **I-2.** The Light Industrial District permits a large number of industrial and related uses which do not require intensive land coverage or create obnoxious odor, noise or dust.
- (3) **I-3.** By comparison the Heavy Industrial District is intended for high intensity uses which may create obnoxious odor, noise or dust, the effects of which may be experienced off-site.

## **8.5 PROPOSED 2014 LAND USE REGULATIONS**

### GENERAL OBJECTIVES

Set out below are the general objectives which the Planning Commission believes are promoted by the zoning regulations it expects to recommend for adoption by the City Commission following adoption of this Plan.

#### **Residential:**

- 1. Adopt regulations which promote residential infill development, carefully accommodate manufactured housing, and protect historic neighborhoods and houses.
- 2. Adopt regulations which allow residential uses, with appropriate restrictions, in the central business district, but avoid the approach of the current zoning regulations which allow residential uses in virtually all zoning districts, including industrial.
- 3. Ensure that zoning regulations do not unnecessarily drive up the cost of housing.
- 4. Adopt proper design standards and aesthetic standards for manufactured housing, but avoid any unnecessary regulations which might discourage utilization of this important source of new housing stock.

5. Create a zoning classification designed for housing for senior citizens.
6. Create a zoning classification designed to encourage construction of affordable housing.

**Industrial:**

1. Identify the appropriate amount of property which should be classified as industrial, and take proper steps to see it is located at the most appropriate areas.

**Commercial:**

1. Adopt regulations that adequately accommodate large-scale commercial developments.
2. Adopt regulations which help maintain the downtown as the principal retail and office center, and promote commercial redevelopment downtown, while also protecting the historic features and character of structures in the downtown area.
3. Create a mixed-use zoning classification where commercial development can occur alongside residential.

**DRAFT 2014 ZONING REGULATIONS**

**GENERAL OBSERVATIONS**  
**COMPARING CURRENT TO PROPOSED ZONING REGULATIONS AS**  
**RECOMMENDED BY THE PLANNING COMMISSION FOR ADOPTION BY**  
**THE ARKANSAS CITY CITY COMMISSION:**

1. The current zoning districts should be reshaped, redefined and simplified wherever possible.
2. The nine current residential districts (including the two agricultural districts) should be revamped to a simplified system of low-, medium- and high-density housing (**R-1, R-2 and R-3**). Complementing those three districts will be districts designed specifically for manufactured homes and housing for seniors.
3. The proposed 2014 regulations call for the addition of **four new zoning districts: Mixed Use District, Manufactured Home Subdivision District, Countryside District, and Public District. Five new overlay districts are also proposed: College District, Planned Unit Development District, Historic Conservation District, Elderly Housing District and Housing Opportunity District.**

4. The new regulations would limit the Board of Zoning Appeals' authority to only those powers recognized under state law, *i.e.*, to grant variances and exceptions, and to hear appeals from decisions of the Zoning Administrator. The Planning Commission should make recommendations on applications for conditional use permits, which will replace the current system of special uses and special use permits.

### **SPECIFIC ZONING PROPOSALS**

Following is a brief description of some of the more significant features of the zoning regulations, as expected to be recommended by the Planning Commission for adoption by the City Commission:

#### **Intent of Districts.**

An Article should be included of brief statements explaining the purpose or intent for each of the proposed zoning districts and overlay districts. This Article will provide the public, and property owners, with an overview to the regulatory approach the City is taking.

#### **Agricultural District.**

A single Agricultural (A) District is proposed to take the place of the current A and A-L districts. Permitted and conditional uses are fairly restricted, with only a few non-agricultural uses allowed. The only residential use is single-family residential development, subject to a minimum acreage requirement.

#### **Residential Districts.**

This Article sets out most of the regulations pertaining to the proposed three residential districts: Low Density (R-1) Residential, Medium Density (R-2) Residential and High Density (R-3) Residential. The permitted residential use in Low-Density is single-family housing, but duplexes are also allowed as conditional uses. Likewise in the Medium-Density District one- and two-family housing is permitted, with three-plus family housing allowed as a conditional use. High Density District regulations permit all types of housing, from single-family to apartment houses. The proposed residential district regulations are intended to allow optional development opportunities for property owners in hopes of encouraging new development and redevelopment that will increase and improve the City's housing stock, consistent with Plan goals.

#### **Countryside District (Residential).**

The proposed Countryside District is intended for use in largely undeveloped areas that would support "cluster development" that accommodates preservation

of environmentally significant or sensitive lands and setting aside of open space. This District is similar in purpose to the current A-L Light Agricultural District.

**Elderly Housing Overlay District (Residential).**

This proposed new overlay district, the Elderly Housing Overlay District, is intended to provide incentives to developers to construct detached single-family housing for senior citizens, thereby addressing a housing need identified in this Plan.

**Manufactured Home Park District.**

This District will replace current Chapter 18.68 and is intended to accommodate manufactured housing placed on rented spaces.

**Commercial Districts.**

The proposed commercial zoning districts are Office and Service Business District (C-1), Restricted Commercial District (C-2), General Commercial District (C-3) and Central Business District (C-4).

The proposed C-1 Office and Service Business District would replace the R-O District, placing similar focus on commercial uses which are compatible to adjoining residential uses.

The current B-1 Neighborhood Business, which allows specified categories of retail sales uses, at neighborhood service intensities, is replaced by the C-2 Restricted Commercial District.

Current B-2 General Business is similar to the proposed C-3 General Commercial. Both are designed for retail sales and services located outside the central business district and of intensity greater than that suited for neighborhood shopping areas.

The current B-3 is replaced by the C-4 Central Business District. The uses, and development standards, would remain basically the same as they are currently.

**Manufactured Home Subdivision District.**

This Article provides for subdivisions designed for manufactured homes. The Article also allows for site-built housing within the same district. This district replaces the mobile home subdivision provisions currently in Chapter 18.68.



**Public Use District.**

The City’s current regulations do not provide a zoning classification for public use land and buildings. This Public (P) District would be applied to uses such as city hall, schools and fairgrounds. This classification becomes an alternative to public uses being either permitted or conditional uses in residential, commercial and industrial districts.

**College Overlay District.**

The College Overlay District is a new overlay district for property within the R-3 district. Its purpose is to encourage and accommodate master development plans for the campus and any related properties comprising Cowley College.

**Planned Unit Development District.**

The Planned Unit Development (PUD) regulations are new for the City. This overlay district is intended to give considerable flexibility to property owners, to encourage innovation with respect to type, design and layout of buildings.

**Housing Opportunity Overlay District.**

This proposed overlay district, Housing Opportunity (HO-O), can be applied to any R-1, R-2 or R-3 zoned property. It allows for higher density development, intended to achieve lower development costs, and in turn lower-cost housing for homebuyers. Other development incentives are provided to encourage construction of affordable housing, again responding to housing goals and objectives set out in this Plan.

**Mixed Use District.**

This proposed new district, Mixed Use (MU), will allow for a number of potential residential-commercial mixes, all subject to approved design standards. This district is most suitable for current R-O zoning as well as other areas which have had both residential and low-intensity commercial uses side-by-side, for example properties now zoned B-1, even if uses are presently nonconforming. In a nutshell, property zoned MU can be used for any land use permitted in the proposed R-1, R-2, C-1 or C-2 districts. Conditional uses in those same four districts would also be conditional uses allowed in the MU district.

**Historic Conservation Overlay District.**

The objective of the Historic Conservation Overlay District (HC-O) is to encourage property owners of historic commercial buildings and homes in historic neighborhoods to request this special zoning designation and thereby

trigger certain development and design standards to guide new construction and redevelopment within the district.

**Board of Zoning Appeals.**

This Article sets out the powers and duties of the Board of Zoning Appeals. The proposed provisions limit the BZA’s powers to those set out specifically under Kansas law – namely to hear appeals of administrative determinations and orders, and to consider granting variances and exceptions. It replaces current Chapter 18.84.

**8.6 COMMUNITY SURVEY RESPONSES**

In early 2013 citizens of Arkansas City were surveyed on a number of issues relevant to the preparation of this Plan, and its goals. One question directly related to the proposed Growth Area -- asking citizens whether the use and development of land nearby but outside the City was a matter of such interest to Arkansas City that it should be regulated by the City. The response to that question, as well as a follow-up question, follows. These responses reflect modest citizen support for City efforts to provide some degree, greater or lesser, of regulation over the use and development of land which lies outside the city limits.

**Property Outside the City Limits**

- a. Should the City be concerned with land development, outside and adjacent to existing city limits?

**Yes - 46%** No - 34% No Response - 20% Total Responses - 694

- b. *If you answered yes to the question above, indicate the step(s) the City should take to regulate the use and development of land adjoining the City's present limits:*

	<b>Yes</b>	<b>No</b>
Annexation	<b>55%</b>	45%
Make the property subject to city zoning without annexing it	<b>60%</b>	40%
Encourage Cowley County to adopt zoning	<b>81%</b>	19%
Make the property subject to City-adopted building codes	<b>77%</b>	23%

The 2013 survey also asked for agreement or disagreement with the following statements:

	<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Neutral</b>	<b>Agree</b>	<b>Strongly Agree</b>	<b>Total Responses</b>
The City needs to increase its planning efforts to encourage quality development.	2%	7%	38%	<b>41%</b>	12%	685
I support future expansion of the city limits if developers share in the cost of infrastructure improvements.	8%	10%	28%	<b>40%</b>	13%	685

The 2013 survey listed 12 examples of how new land development can affect the community, and asked which of those were the most important. The following are the three most selected choices:

	<b>Total Responses</b>
Whether the existing public water and sewer service is adequate for the development.	279
Compliance with reasonable and well-drafted zoning and subdivision regulations.	244
Compliance with reasonable and well-drafted building codes.	210

A number of survey respondents wrote comments reflecting their views on land use and development outside the City. Some of those comments are found at Appendix B.

## **8.7 FUTURE LAND USE MAP FOR ARKANSAS CITY**

The City’s Future Land Use Map (FLUM) is not a zoning map, nor is it a map of existing land uses. Rather it reflects the best judgment of the Planning Commission and City Commission of the most appropriate use of land throughout the City. The map is intended to show consistency with the goals and objectives of the Comprehensive Plan and is an important component of this Plan. A separate future land use map appears later in this chapter for land in the fringe area ("Growth Area") surrounding the City.

The Future Land Use Map’s official purpose is to guide the City in the consideration of zoning and rezoning applications. Beyond that it serves as a visual representation of the future of the community.

Following is an overview of the dominant land uses within the City as envisioned by the Future Land Use Map, broken down on a quarter basis, plus the

downtown. This FLUM does not vary significantly from the FLUM in the 2002 Comprehensive Plan:

**Northwest:** The City anticipates additional commercial development west of Summit and north of West Radio Lane. As the commercial development is expected to occur alongside existing and new residential uses, Mixed-Use is appropriate here. This development is expected due to new multi-family housing projects nearby, as well as continued single family home construction, and the location of the high school.

There is a need for a wastewater facility, possibly a package plant, at some location east of North 8th Street and north of West Radio Lane. This will help supply the infrastructure needed to support continued development in this area, which will remain predominantly residential.

**Northeast:** Residential uses will continue to dominate this area. A major public use is the golf course which is anticipated to continue. New commercial development may fill in east of Summit, both north and south of East Radio Lane. The FLUM shows several areas well-suited for commercial-residential Mixed Use zoning -- north of Kansas Avenue and east of the railroad tracks. The office and other commercial uses now present are expected to continue.

**Southwest:** Changes in land use in this quadrant of the City may occur if the second stage to the US-77 Bypass is constructed, linking US-166 to US-77. In that case the areas south of that Bypass could experience some Mixed Use development. For the balance of the quadrant, the FLUM shows little change from the 2002 Plan's FLUM, with the exception of the reduction of industrial areas.

**Southeast:** Land uses, present and future, in this part of the City are influenced greatly by the floodplain and floodway fringe areas, which effectively limit usage to agriculture and open space. The existing residential areas extending eastwards toward Parkerfield are expected to continue at a modest rate of growth.

## **8.8 FRINGE AREA DEVELOPMENT: THE "GROWTH AREA"**

The planning area for this Comprehensive Plan is not only the land within Arkansas City's corporate limits, but also the extraterritorial area of unincorporated Cowley County noted on the attached Future Land Use Map as the "Growth Area". The need for the City's planning for the growth and development of this land area outside its limits is clear and immediate. As will be explained in the following paragraphs, how and when the Growth Area develops will directly affect how and when land within Arkansas City will develop and redevelop. Should development in the Growth Area not be planned for, the

quality of life for citizens of Arkansas City will be impacted, as will the ability of the community to achieve many of the goals set out in this Plan.

Why should what happens outside the City's limits be any business of the City? A fair argument can be made that if land area is important to the City, then the City ought to avoid any possible controversy of extraterritorial regulation by annexing that land – once it is made part of the corporate entity of Arkansas City any questions about legal authority to regulate land use and development become moot. However there are reasons, practical and political, why annexation is not always the preferred course of action for a city. Sometimes the less consequential action of planning – but not making such property subject to other city laws or to city-levied taxes – is the better way to proceed for all parties.

Often when people think of sprawl development they think of low-density residential development on the fringe of a city's limits. Such development often has lower up-front costs due to land values, differences between city and county land use regulations and development requirements.

The low-density development which already typifies the Arkansas City Growth Area – and which can only be expected to continue along present lines – affects the entire community. It increases infrastructure costs, stretches municipal services to or past their limits, increases transportation costs, removes open space and can remove valuable agricultural land from production prematurely. A pattern of leapfrog development is costly and can diminish the quality of life of citizens on both sides of the city limits. Further, the more development occurs in the Growth Area, and the further out that development is, the more likely it will diminish the character and identity of Arkansas City. Such development may take away public resources much needed to restore and develop areas within the City, and create more public costs for county taxpayers – both within and outside Arkansas City – than it will generate in tax revenues or other economic value.

There are other problems which can arise in areas next to a city's limits, in cases where a city does not exercise authority over land use and development, or where a city and county are not fully cooperating in their land use planning and regulation. For example:

- Desired development does not occur because developers are leery of what the land development "rules" are, and are concerned about undesirable uses locating near their property.
- Development occurs, but at an intensity not efficient for urban-scale growth. The city gets hemmed in by sprawl development that makes extension of municipal services and infrastructure inefficient or economically impossible.
- Development occurs without proper thought as to future extension of city's infrastructure. Streets, sewers, water lines etc., do not line up or are

otherwise incompatible. Parks and open spaces are not provided for, neither are schools or other public uses.

- Development occurs, but too much, too fast. This may take the form of relocation of homes and businesses from locations within the “more regulated” city to the “less regulated” urban fringe area.
- Development occurs, but is the wrong type of development at the wrong location (cement plant, salvage yard, landfills, shopping malls).
- Loss of natural resources, environmentally-sensitive land, prime agricultural land, open space, etc., consumed by unplanned, sprawl development.

In short:

- Growth that is wanted does not materialize, or
- Growth occurs, but it is of a character that creates adverse consequences for the community.

Notwithstanding the possible consequences for a city from having adjacent unzoned land, it is not uncommon for disagreement and controversy to arise from action proposed by a city to exercise its state law grant of extraterritorial zoning authority -- authority which is discussed under the following heading.

Such disagreement and controversy has accompanied the preparation of the 2013 Plan. The initial recommendations of the Planning Commission was for the City to exercise its planning, zoning and subdivision authority over an area running one mile either side of U.S. 77 for a distance of three miles north and south of the City's limits, and an area running two miles north along U.S. 166, three miles west of the City. A few other areas to the east and northwest of the City were also proposed to be included. While this recommendation did propose to extend zoning authority over an approximately 19 square mile area, it would also reduce the planning and subdivision authority the City has had since at least 1996 by approximately 74% or 53 square miles.

The City Commission requested the Planning Commission's reconsideration of the recommendations to extend City zoning authority and retract City planning and subdivision authority.

The Planning Commission did so reconsider and recommended that the language set out in the 1996 Plan, recommending extraterritorial zoning, not be carried forward as part of this Plan, but instead that the City should:

- (1) Reduce its planning jurisdiction to the US-77 and US-166 corridors as described above; and

- (2) Reduce its extraterritorial subdivision regulation to the boundaries of the Growth Area.

### EXTRA-TERRITORIAL JURISDICTION UNDER KANSAS LAW

**Comprehensive Planning** - A city planning commission is authorized by state law to make a comprehensive plan for the development of not only that city but also any unincorporated territory lying outside of the city but within the same county in which that city is located. K.S.A. 12-747(a). The planning commission of any city that plans, zones or administers subdivision regulations extraterritorially must have at least two members who reside outside the city limits and within three miles of the city. K.S.A. 12-744(a).

**Zoning Regulations.** In Kansas, a city may apply its zoning regulations to land located outside the city which is not currently subject to county zoning regulations and is within three miles of the city limits, and not more than one-half the distance to the nearest city. To use this power a city must have a planning commission and its adopted comprehensive plan must "include" the extraterritorial area. K.S.A. 12-715b; K.S.A. 12-754(a). County zoning "displaces" city zoning -- the city's regulations terminate upon county zoning regulations taking effect in the extraterritorial area. K.S.A. 12-715d. Extraterritorial zoning can also occur pursuant to an interlocal agreement between a county and city.

**Subdivision Regulations.** In situations, such as with Cowley County presently, where no county subdivision regulations are in effect outside a city's limits, a city may exercise its power under K.S.A. 12-749(a) to regulate the subdivision of land within three miles of its corporate limits, but not more than one-half the distance to another city having subdivision regulations. A city and county could also provide for such extraterritorial regulation by the city by means of interlocal agreement.

**Building Codes.** While any county may adopt and enforce building codes for the unincorporated areas regardless of whether the county also engages in planning, zoning or subdivision regulation, a city may only enforce building codes outside its limits under the authority of K.S.A. 12-751 or pursuant to an interlocal agreement. K.S.A. 12-751 allows such extraterritorial actions by cities "in conjunction with subdivision or zoning regulations."

K.S.A. 12-751a adds a protest petition provision to the law allowing cities to enforce building codes extraterritorially. K.S.A. 12-751a establishes a protest petition and election procedure to be conducted in the area outside and within three miles of the corporate limits of a city which adopts an ordinance providing for the enforcement of building codes in this unincorporated area. A sufficient protest petition (20 percent of the qualified electors residing within the

extraterritorial area) must be filed within 90 days of the effective date of the ordinance. If a majority vote in favor of rejecting the building code regulation, the city must modify its ordinance to exclude the area and the city may not adopt any ordinance extending building codes in this area for at least four years.

**INTERLOCAL AGREEMENTS**

The Kansas Interlocal Cooperation Act (K.S.A. 12-2901, *et seq.*) is a broad, liberal grant of authority that cities and counties can use to craft regulatory arrangements best-suited for local needs and conditions. The Act has been used many times and in many places to provide for more effective, efficient regulation of development at the urban fringe.

**ARKANSAS CITY GROWTH AREA**

The "Growth Area" described in this chapter, and on the maps accompanying this chapter, is that land area outside the present limits of the City where development potential is greatest and such development is reasonably expected to impact Arkansas City -- either positively or negatively.

The planning area of the 2003 (as well as earlier) Comprehensive Plan extended in all directions three miles from the city limits. The fact that the 2003 Plan identified future land uses only for five areas within that three-mile radius indicates the City believed only a fraction of the three-mile area was likely to experience development. The 2013 Plan recommends reducing the City's planning area to its north and west corridors. This land area is the City's "Growth Area".

The land area of the Growth Area is best shown by the accompanying map, but generally is a corridor one mile east and west of US-77 and extending three miles north of the City; a corridor one-half mile east and west of US-77 and extending three miles south of the City; and a corridor bordering US-166, two miles north of the highway and extending three miles west of the City.

**8.9 FUTURE LAND USE MAP FOR THE GROWTH AREA**

The City has determined the Arkansas City Growth Area to be that land area designated on the Future Land Use Map – Growth Area. In general the City envisions the existing land uses to continue at their present sites – meaning non-agricultural residential development will, and should, stay in close proximity to its present locations. For the existing commercial and industrial uses, the map reflects where such uses are proposed to continue.

The great majority of the land area comprising the Growth Area is envisioned to remain in agricultural use. That preference reflects the determination by the City



that non-agricultural development is not to be encouraged in the absence of adequate public infrastructure. Further, any investment of public funds by the City to accommodate development in the Growth Area should be approved only following a determination that such will not adversely affect development and redevelopment inside the City, or otherwise obstruct or detract from any of the Goals of this Plan.

The following summarizes the Future Land Use Map (FLUM) for the Growth Area, by compass direction from Arkansas City:

**North:** The Growth Area FLUM is consistent with the future land uses designated in the City-adopted US-77 Corridor Management Plan, with minor revisions to reflect changes in and use since adoption of the US-77 Plan. This north corridor of the Growth Area takes in a larger area than the US-77 Plan did, in part because the US-77 Plan had a more limited mission than does this Plan -- a mission that did not consider uses of land more than one-half mile from US-77.

As shown on the FLUM, most of the land area distant from US-77 is projected to remain in agricultural use, with some limited low-density residential development as well.

**South:** The FLUM shows commercial uses extending south from the City along the west side of US-77. Commercial uses are also expected to occur at the intersection of US-77 and 322nd Road, with some Mixed Uses (MU) to the east of that intersection, reflecting a continuation of the mixture of uses now in that area. Otherwise the City envisions this south corridor to continue in agricultural use with some scattered and low-density residential use.

**West:** The principal interest in having this corridor, which extends to the west with US-166 as its southern border, is to protect the community's investment in, and need for, municipal water wells. As the greatest portion of this corridor is in the floodplain the future uses for the entire area are projected as agricultural and scattered, low-density residential.

**8.10 GOALS AND ACTIONS**

<b>Goal</b>	<b>Approve a "Growth Area" Which Will Serve as the City's Extraterritorial Planning Area.</b>
<b>Goal</b>	<b>Continue to Apply the City's Subdivision Regulations Within the Growth Area.</b>
<b>Goal</b>	<b>Preserve the Character of Arkansas City While Providing Opportunities for Growth and Development that Benefit the Community.</b>
<b>Goal</b>	<b>Provide Adequate and Appropriate Area for Current and Future Residents for Opportunities for Quality Housing Consistent With the Housing Goals of this Comprehensive Plan</b>
<b>Goal</b>	<b>Provide Adequate Area for Convenient, Safe and Appropriately-Scaled Commercial Development.</b>
<b>Goal</b>	<b>Provide Adequate and Appropriate Areas for Industrial Land Uses.</b>
<b>Goal</b>	<b>Use Land Use Regulations and Other Means to Promote Preservation of the City's Historical and Cultural Heritage.</b>
<b>Goal</b>	<b>Keep the Plan and Land Use Regulations Up-to-Date in Order to Serve the Needs of Property Owners and the Community At-Large.</b>

**GOAL APPROVE A "GROWTH AREA" WHICH WILL SERVE AS THE CITY'S EXTRATERRITORIAL PLANNING AREA.**

**Action:**

- The City will continue to plan for its "Growth Area", as designated on the Growth Area Future Land Use Map which is part of this Plan.

**GOAL CONTINUE TO APPLY THE CITY'S SUBDIVISION REGULATIONS WITHIN THE GROWTH AREA.**

**Action:**

- The City will continue to apply its subdivision regulations within the Growth Area, as it has done since at least 1996 in its Planning Area.

**GOAL PRESERVE THE CHARACTER OF ARKANSAS CITY WHILE PROVIDING OPPORTUNITIES FOR GROWTH AND DEVELOPMENT THAT BENEFIT THE COMMUNITY.**

**Action:**

- As applications and proposals for new development are reviewed, the Planning Commission and City Commission should consider issues of community character, compatibility of use and the efficiencies and economics of the provision of municipal services.
- Ensure that development adjacent to parks and other public open space is designed so as to facilitate public access to, and use of, such property while at the same time minimizing potential conflicts between park users and residents.
- Encourage future patterns of land use and development which will result in infill development, which will have the positive effects of minimizing the need for extension of public infrastructure and making more efficient use of existing and planned public infrastructure.
- Give priority to development of vacant or underutilized land within the City limits and lesser priority to development of land within the unincorporated fringe area. Capital improvement plans and budgeting decisions are a principal aspect of such prioritization.

**GOAL PROVIDE ADEQUATE AND APPROPRIATE AREA FOR CURRENT AND FUTURE RESIDENTS FOR OPPORTUNITIES FOR QUALITY HOUSING CONSISTENT WITH THE HOUSING GOALS OF THIS COMPREHENSIVE PLAN.**

Consistent with the housing-specific goals and actions of this Plan, the City's Land Use goals and actions should promote good quality housing that meets the needs of current and future residents, with respect to cost, size and type. Also, those citizens who invest in housing should be protected as much as possible from impacts from nearby development that reduces the value of their property.

**Action:**

- Incentives should be provided for the maintenance and preservation of existing housing stock.
- Preserve historic neighborhood features and characteristics.

- Support the development of new, affordable housing, with an emphasis upon such housing constructed as infill development within the City. Specifically, adopt regulations which enable manufactured housing, including single-wide units, of sound quality to be placed on the narrow lots found in many older neighborhoods in the community. Such manufactured housing should be accommodated as replacement housing for site-built homes as well as for manufactured housing which has exceeded its useful life or suffered damage.
- Residential development should be planned and designed to protect natural features such as wetlands, streams and woods.
- Residential development should be encouraged to locate adjacent to existing public infrastructure in order to achieve cost-efficiencies.

**GOAL        PROVIDE ADEQUATE AREA FOR CONVENIENT, SAFE AND APPROPRIATELY-SCALED COMMERCIAL DEVELOPMENT.**

Generally, commercial uses should be integrated with surrounding residential development in ways that buffer and serve those residential areas. Commercial development should occur within or adjacent to existing commercial development or within areas zoned for mixed uses.

**Action:**

- Commercial development in the Downtown area should not be of such a design or scale as to harm the existing character of the Downtown.
- Any commercial development parallel to US 77 should occur only when in compliance with KDOT requirements for access to US 77.
- Reasonable landscaping requirements should be made applicable to commercial development.
- The City should discourage commercial development at locations where there is no contiguous urban development.
- Encourage commercial development to locate in the Downtown district and in the existing commercial area at the northern end of the City.
- All reviews of requests for rezonings for commercial development should take into account potential adverse impacts upon the Downtown area and/or the northern commercial area.

- Commercial sign regulations should be sensitive to the objective of preserving the City's character.

**GOAL PROVIDE ADEQUATE AND APPROPRIATE AREAS FOR INDUSTRIAL LAND USES.**

The City needs sufficient land area for expansion of existing industries and location of new industries. The current zoning map provides substantial acreage of industrial-zoned property, and a review and analysis of undeveloped industrial-zoned land should be undertaken to identify land where rezoning should be encouraged. Adequate infrastructure and utilities to support industrial uses are as critical as the land area itself. Placement of industrial zoning classification must be sensitive to the external impacts of industrial uses.

**Action:**

- Ensure that industrial parks and other areas are designed to minimize the adverse impacts of industrial uses upon neighboring properties.
- Industrial areas should have convenient access to highways and railroad facilities.

**GOAL USE LAND USE REGULATIONS AND OTHER MEANS TO PROMOTE PRESERVATION OF THE CITY'S HISTORICAL AND CULTURAL HERITAGE.**

By acting to preserve Arkansas City's cultural and historical heritage and resources, the community's "character" is preserved. Efforts for preservation should be done in ways which simultaneously enhance the economy of the community.

**Action:**

- Work with public and private entities to identify and preserve historic buildings and sites of historical, cultural and aesthetic value.
- Encourage preparation and dissemination of informational materials to educate both citizens and visitors of the City's historic and cultural resources.
- Identify and promote ways to partner with state, federal and private entities for funding and technical assistance in revitalizing historic buildings, neighborhoods and areas.

- Adopt land use regulations which encourage development and redevelopment within designated historic areas to maintain or enhance the historic character of those areas. The City should continue its use of overlay zoning for historic areas of the community.
- Encourage efforts by property owners to preserve and renovate buildings and facades of architectural and historic significance.

**GOAL            KEEP THE PLAN AND LAND USE REGULATIONS UP-TO-DATE  
IN ORDER TO SERVE THE NEEDS OF PROPERTY OWNERS  
AND THE COMMUNITY AT-LARGE.**

**Action:**

- The Planning Commission and City Commission should schedule annual reviews of the Comprehensive Plan, future land use maps, land use regulations and the zoning map to identify the need for amendments and revisions that take into account changing conditions and needs of the community, new approaches that may successfully address those needs and conditions, and changes to state and federal law that require amendment to the City's Plan and/or laws.

**Andrew Lawson**

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**From:** Andrew Lawson  
**Sent:** Wednesday, June 23, 2021 11:52 AM  
**To:** Larry Schwartz; Randy Frazer  
**Cc:** Mike Bellis; Josh White; Tammy Lanman-Henderson  
**Subject:** EOAAB stuff  
**Attachments:** Kansas Tenants Handbook.pdf  
  
**Importance:** High

Larry, please find linked/attached the following resources pursuant to your research into the Equal Opportunity and Accessibility Advisory Board (EOAAB):

1. The EOAAB’s purpose and duties are set out in **Municipal Code Secs. 2-136**. This is STILL not updated in our code bank (Randy, we really need Lesley to check on the progress of that), but here is the link to the most recent ordinance amending that section:  
[https://library.municode.com/ks/arkansas\\_city/ordinances/code\\_of\\_ordinances?nodeid=1045909](https://library.municode.com/ks/arkansas_city/ordinances/code_of_ordinances?nodeid=1045909)
2. The **Kansas Tenants Handbook** is attached. On **Page 29**, it talks about Local Governments and Human Relations Commissions. Some of what this document states does not seem to match our ordinance and that is why I am wondering what is in state statute. Ark City is specifically referenced on **Page 30** as an HRC city. This passage in particular gives me concern: **“POWERS: (1) Voluntary conciliation agreements which can include cash awards, agreements to rent, not evict, change management practices, etc. (2) Public hearings before volunteer boards, legal counsel often available. Ability to order injunctions and limits on awards will vary. Enforcement assistance from and appeals to District Court should be applicable, but may vary based on specific local ordinance.”**
3. The **Kansas Act Against Discrimination** appears to be the key state statute of interest. Here is a link I got from the Kansas Human Rights Commission website: <http://www.khrc.net/KHRCStatuteBookUpdatedEffective07-2009.pdf> (I am sure it is also in the statute online through the Kansas Legislature website, of course.)

Anything you can do to reconcile these issues and provide guidance to the EOAAB on how to handle discrimination complaints/public hearings will be extremely helpful and appreciated!

**Andrew Lawson**  
Public Information Officer  
Special Projects Coordinator

City of Arkansas City  
[alawson@arkansascityks.gov](mailto:alawson@arkansascityks.gov)  
(620) 441-4415



**ORDINANCE NO. 2020-08-4515**

**AN ORDINANCE MODIFYING ARKANSAS CITY MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 3, TO REMOVE THE RETIRED CITIZENS ADVISORY COUNCIL FROM MUNICIPAL CODE, AND DIVISION 4, TO AMEND THE EQUAL OPPORTUNITY AND ACCESSIBILITY ADVISORY BOARD’S PURPOSE AND DUTIES.**

**WHEREAS**, the Governing Body of the City of Arkansas City, Kansas, on June 6, 2016, approved Ordinance No. 2016-06-4409, combining the Human Relations Commission and the Accessibility Advisory Board into the Equal Opportunity and Accessibility Advisory Board, and amending Municipal Code to so reflect; and

**WHEREAS**, the Governing Body of the City of Arkansas City, Kansas, on December 19, 2017, approved Ordinance No. 2017-12-4449, amending the Equal Opportunity and Accessibility Advisory Board’s purpose and duties; and

**WHEREAS**, City staff have established that the Retired Citizens Advisory Council no longer serves the purpose or executes the duties laid out for it in Municipal Code Part II, Chapter 2, Article III, Division 3, and thus recommends that the Council be eliminated from Municipal Code, allowing it to continue as an informal citizen advisory committee for the Arkansas City Senior Citizens Center without the undue and unnecessary burdens of recording minutes, reporting attendance, enforcing terms, and complying with the Kansas Open Meetings Act, which will free up City staff time; and

**WHEREAS**, the Equal Opportunity and Accessibility Advisory Board has, over the past three years, continued to review its purpose and duties regularly as set forth in Arkansas City Municipal Code Part II, Chapter 2, Article III, Division 4, and now desires to recommend further amendments to said purpose and duties after diligent and thorough discussion; and

**WHEREAS**, the Equal Opportunity and Accessibility Advisory Board held a special meeting on July 30, 2020, and voted unanimously to take over the duties of the Retired Citizens Advisory Council, many of which are duplicative in code; and

**WHEREAS**, the Governing Body of the City of Arkansas City, Kansas, wishes to continue eliminating duplicative provisions of Municipal Code and thus desires to amend Municipal Code to reflect all of the changes as stated above.

**NOW, THEREFORE, IN CONSIDERATION OF THE AFORESTATED PREMISES, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:**

**SECTION ONE: DELETION OF MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 3.**

The Governing Body of the City of Arkansas City, Kansas, hereby amends Part II, Chapter 2, Article III, Division 3 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

**~~DIVISION 3. - RETIRED CITIZENS ADVISORY COUNCIL-RESERVED~~**

**~~Sec. 2-109. - Creation and membership.~~**

~~The retired citizens advisory council shall consist of seven members. Members shall be drawn from diverse segments of the community, and selected for their objectivity, ability, and broad community interest regarding the retired and senior citizens of the city.~~



The citizens retirement advisory council shall meet as often as required, in the chairperson’s discretion, to perform the following duties:

- (1) Serve as liaison between the retired and senior citizens of the city and the board of city commissioners;
- (2) Act as an agency with the responsibility of analyzing the nature and scope of community problems in the general area of economic, recreational, educational, nutritional, transportation, and housing needs of the retired and senior citizens of the community;
- (3) Present the needs of the retired and senior citizens to the appropriate elected or appointed officials, or to the appropriate civic or business groups and to ask that these needs be examined and corrective action taken;
- (4) Enlist and encourage the resources of government, individuals and groups toward the improvement of the living standards of the retired and senior citizens; and
- (5) Encourage community support and understanding by the general public of the council’s concerns for the community’s retired and senior citizens, and, where appropriate, encourage local, state or federal legislation to improve the general welfare of the retired and senior citizens.

**Secs. 2-10911—2-133. - Reserved.**

**SECTION TWO: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 4.**

The Governing Body of the City of Arkansas City, Kansas, hereby amends Part II, Chapter 2, Article III, Division 4 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

**DIVISION 4. - EQUAL OPPORTUNITY AND ACCESSIBILITY ADVISORY BOARD**

**Sec. 2-134. - Creation and membership.**

- (a) The equal opportunity and accessibility advisory board shall consist of no less than five and no more than seven voting members. Members shall serve terms of three years.
- (b) The members of the equal opportunity and accessibility advisory board shall be drawn from diverse segments of the public *community*, and selected for their objectivity, ability and broad community interest. ~~Membership shall at all times include no less than two members with a disability, or who are relatives or primary caretakers of persons with disabilities. Those with experience in working with the disabled or with expertise in accessibility issues will be given preference for appointment.~~
- (c) *Membership shall at all times include no fewer than two members with a disability, or who are relatives or primary caretakers of persons with disabilities. Those with experience in working with the disabled or with expertise in accessibility issues shall be given preference for appointment.*

- (d) *Membership shall at all times include no fewer than two members who are at least 60 years of age. Those with experience in working with the retired or senior citizens of the city shall be given preference for appointment.*

**Sec. 2-135. - Duties of chairperson.**

*In addition to general duties, the chairperson, or the vice chairperson in the absence of the chairperson, is responsible for the appointment of appropriate committees, and the preparation of an annual report to be presented to the board of city commissioners regarding the activities and concerns of the board. The board of city commissioners may elect to accept the monthly minutes of the board as a substitute for such an annual report.*

**Sec. 2-136. - Purpose and duties.**

The equal opportunity and accessibility advisory board shall ensure the benefits of the Americans with Disabilities Act and Title VI of the Civil Rights Act to citizens of the city. *It also shall serve as a liaison between the retired or senior citizens of the city and the board of city commissioners.* The board shall act in an advisory capacity as a clearinghouse for community concerns as outlined in this division and its duties shall be to:

- (a) *To help to preserve and further the good name of the city by fostering and promoting amicable relations among individual citizens and various groups of citizens in the city and its environs;*
- (b) *To help to ensure that each citizen, regardless of race, religion, color, age, sex, disability, language proficiency, or national origin or any other protected class, has an opportunity to develop according to his or her abilities without limitations;*
- (c) *To act as an agency with the responsibility of analyzing the depth and scope of community problems or needs in the general areas of community involvement and communications, accessibility, education, economic opportunity, recreation, racial inequality, transportation, housing needs, and concerns of the youth and retired or senior citizens of the community;*
- (d) *To present such community problems or needs to the appropriate elected or appointed officials, or the Kansas Human Rights Commission, or another appropriate local or state agency, civic group or business group, and ask that such problems or needs be examined and that the board be advised of any corrective actions taken;*
- (e) *To enlist the resources of government, individuals, and groups toward the improvement of intergroup relations and living standards, and encourage community support and understanding by the general public of the board's concerns;*
- (f) *To support local, state or federal legislation, where appropriate, that is designed to reduce or eliminate discriminatory practices and group or individual prejudices or improve the general welfare;*
- (g) *To advise and make recommendations to the board of city commissioners on such matters related to accessibility as, from time to time, may be referred to the board;*
- (h) *To evaluate public projects and activities, review plans for city construction projects with potential accessibility issues prior to implementation, and advise city staff on matters related to accessibility;*

- (i) To provide technical assistance to the city on matters related to the population and serve as an advocate for citizens with disabilities;
- (j) To serve as a resource on policy and/or procedure for members of the board of city commissioners and for city staff;
- (k) To review federal and state regulations and guidelines on accessibility, and to report its findings to the appropriate city department, division or board; and
- (l) To *regularly* review and revise the city’s American with Disabilities Act Transition Plan as needed, and make recommendations for its implementation.

**Secs. 2-137—2-155. - Reserved.**

**SECTION THREE:** The Governing Body of the City of Arkansas City, Kansas, hereby authorizes the Mayor and/or staff of the City of Arkansas City to take such further and other necessary actions that are required to effectuate the intent and purposes of this Legislative Enactment.

**SECTION FOUR: PUBLICATION; EFFECTIVE DATE.** This ordinance, or a summary thereof, shall be published one time in the official City newspaper, and shall take effect and be in force from and after said publication.

**PASSED AND ORDAINED** by the Governing Body of the City of Arkansas City, Kansas, on this 18<sup>th</sup> day of August, 2020.

(Seal)

\_\_\_\_\_  
Karen Welch, Mayor

ATTEST:

\_\_\_\_\_  
Lesley Shook, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry R. Schwartz, City Attorney

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Ordinance No. 2020-08-4515 of the City of Arkansas City, Kansas, adopted by the Governing Body thereof on August 18, 2020, as the same appears of record in my office.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
Lesley Shook, City Clerk



# DISCRIMINATION

Basically, all prospective and current tenants must be respected and treated equally.

Current federal fair housing laws extend protection from discrimination on the basis of race, sex, religion, national origin, ancestry, color, familial status and disability. This protection applies to all sections of the United States.

Enforcement procedures in discrimination cases include the use of administrative law judges, the power to get injunctions, and the power to secure awards of up to \$100,000 for fair housing complaints handled through administrative or federal court procedures.

Although Kansas state discrimination laws are in compliance with federal laws, not all local governments have included families with children and persons with disabilities. Some local laws protect additional groups such as marital status and sexual orientation.

Fair housing laws cover not only the specific decision on whether to sell or rent to certain persons or classes of people, but also issues such as charging higher rent or establishing different requirements, conditions, or services. They cover the individuals involved, and situations involving families or guests may apply as well.

Landlords can not legally threaten you, intimidate you, or otherwise retaliate against you if you stand up for your rights.

If you think you have been discriminated against, you should definitely check out your rights and pursue a complaint either directly with your landlord or through the appropriate authority. If it's too late to make the situation better for yourself, at least you can maybe make it better for the next person. The following listing details the powers and procedures for the various ways to provide fair housing complaints.

## LOCAL GOVERNMENT

(See box for which cities have fair housing ordinances - next page)

**GROUPS COVERED:** Varies. Generally include race, sex, religion, national origin, color, ancestry. Some include handicap, marital status, families with children, sexual orientation and welfare income.

**WHO INVESTIGATES:** Volunteer board members or paid staff.

**LIMIT TO FILE:** Varies. Generally 180 days.

**POWERS:** (1) Voluntary conciliation agreements which can include cash awards, agreements to rent, not evict, change management practices, etc. (2) Public hearings before volunteer boards, legal counsel often available. Ability to order injunctions and limits on awards will vary. Enforcement assistance from and appeals to District Court should be applicable, but may vary based on specific local ordinance.

**HOW TO CONTACT:** Call City Hall and inquire about "Human Relations", "Human Resources" or "Civil Rights" board or staff.

## STATE GOVERNMENT

**GROUPS COVERED:** Race, sex, religion, national origin, ancestry, color, disability and families with children.

**WHO INVESTIGATES:** Paid staff, based in Topeka and Wichita, who travel the entire state.

**LIMIT TO FILE:** 1 year.

**HOW SOON INVESTIGATION MUST START:** Respondent (the landlord) must be contacted within 10 days.

**POWERS:** (1) Voluntary conciliation agreements. (See Local page 29.) (2) Hearings generally held in the city where the complaint was filed. Administrative hearings, option of using staff attorney or private counsel. Staff hearing examiner can award actual damages, no limit, and "pain and suffering" damages up to \$2,000.00. Decisions are enforced by or appealed to Kansas District Court.

**HOW TO CONTACT:** The Kansas Human Rights Commission is in Topeka at 900 SW Jackson, Suite 568, South, 66612; phone 1-888-793-6874. Education specialists are available to answer questions. You can also obtain a copy of the Kansas Act Against Discrimination upon request or at [www.khrc.net](http://www.khrc.net)

### FEDERAL GOVERNMENT

**GROUPS COVERED:** Race, sex, religion, national origin, color, ancestry, disability, and families with children.

Disability is the same as "handicap" and is broadly defined to include anyone who has or

is regarded as having a physical or mental disability (protects people with illnesses such as AIDS, specifically does not protect people with substance abuse problems). Landlords must allow physically disabled tenants, at their own expense, to make "reasonable" modifications to a rental unit to make it accessible. (The landlord does have the right to insist on certain standards of workmanship and, in some cases, on restoration of the property to its original condition at move-out.)

Renting to families with children can still be limited by occupancy limits in local housing codes in terms of how many people a landlord can rent to, but buildings or complexes which meet certain guidelines for operating exclusively for senior citizens are the only ones which can exclude families.

All new rental construction with 4 or more units must be "accessible" or "adaptable" for disabled persons. Copies of the law are available from HUD, your library, your congressperson and on the Internet.

## Civil Rights Commissions

A 1988 state list indicates that 24 Kansas cities have fair housing ordinances. Copies of these ordinances should be available through the City Clerk. The City Manager or someone in a Community Development or Human Resources department is usually responsible for investigation. Most cities have a Human Relations Commission, a board of local citizens appointed to settle disputes.

Arkansas City  
Atchison  
Chanute  
Coffeyville  
Dodge City  
Emporia

Fort Scott  
Garden City  
Hutchinson  
Independence  
Junction City  
Kansas City

Lawrence  
Leavenworth  
Liberal  
Manhattan  
Olathe  
Ottawa

Parsons  
Pittsburg  
Salina  
Topeka  
Wichita  
Winfield

**WHO INVESTIGATES:** Paid staff of Department of Housing and Urban Development (HUD), based in area or regional offices, who will travel as needed.

**COST:** None for investigation, might be some for witness fees or court costs. Can be waived if complainant cannot afford.

**LIMIT TO FILE:** 1 year.

**HOW SOON INVESTIGATION MUST**

**START:** Respondent must be contacted within 10 days, investigation completed within 100 days, if possible.

**POWERS:** (1) Voluntary conciliation agreements. (See Local and State above). (2) Administrative hearings. Complainant assisted by HUD investigator and HUD legal counsel, before HUD administrative law judge. Power of injunction, right to award actual damages and attorneys fees, fines up to \$50,000. Hearings are to be held "in the vicinity" of where the complaint occurred. (3) Federal District Court, by request. Justice Department would represent complainants before federal judge and/or jury. Power of injunction, right to award actual damages and attorneys fees, fines up to \$100,000. Federal courts in Kansas are in Kansas City, Topeka, and Wichita.

**HOW TO CONTACT:** Call 1-800-669-9777 for national information or 1-800-743-5323 for the Great Plains Regional HUD office, 400 State Avenue, Kansas City, Kansas 66101

**PRIVATE ATTORNEY**

**GROUPS COVERED:** Any covered by local, state or federal law, or other policy or regulation.

**WHO INVESTIGATES:** Varies.

**COST:** Negotiable, can be high, can be low or "contingency fee."

**LIMIT TO FILE:** Federal law allows up to 2 years for private lawsuit; Kansas and local law

may vary up to 5 years depending on nature of lawsuit.

**HOW SOON INVESTIGATION MUST**

**START:** Varies. Can take some time to prepare case and get through various court systems. In the past, however, there have been times when this was faster and more effective than using government procedures.

**POWERS:** No limit on settlements, all administrative procedures, no limit on penalties requested or awarded.

**HOW TO CONTACT:** Check with local, state and federal courts for names of attorneys who have been involved in discrimination cases; check with local and state bar association "lawyer referral" programs; contact libraries or human relations boards for names of attorneys nationally that have been successful in fair housing lawsuits.

**THE RULE OF THUMB:** If you have a complaint check with local, state, and federal levels of government or private attorneys to see

- (1) whether your particular complaint is covered
- (2) how quickly they are required to act on and settle complaints
- (3) how close the administrative or court hearing would be to where you live, and
- (4) what powers and authority they have to get money or other judgments.

Another **wise move** can be to file your complaint with all levels of government. Generally, government agencies will defer down to the most local agency that has authority in your area. However, by filing in a timely manner with everyone, if you are not satisfied with the investigation at one level, you can ask the next to assist you. Because all government levels have time limits that you must meet for filing, if you waited for one investigation to finish and were dissatisfied, it might be too late to file with the next.

AD ASTRA PER ASPERA  
**Kansas**  
Human Rights Commission



**Kansas Act Against Discrimination  
(KAAD)**

and

**Kansas Age Discrimination in Employment Act  
(KADEA)**

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**Updated Effective July 1, 2012**

**Kansas Human Rights Commission**  
**Updated Effective July 1, 2012**

**Disclaimer**

*These statutes were compiled by the staff of the Kansas Human Rights Commission. The text was taken from the Kansas Statutes Annotated and Session Laws and represents the agency's best effort to accurately reflect the laws listed herein. The official Kansas Statutes and Session Laws are, however, the best source for statutes. This booklet is merely prepared as a convenience to the public. The Kansas Secretary of State's office can be contacted at (785) 296-4564 or [www.sos.ks.gov](http://www.sos.ks.gov) to purchase copies of the Kansas Statutes and Session Laws. Kansas Statutes are also available on-line through the Kansas Legislature's website at [www.kslegislature.org](http://www.kslegislature.org).*

*Nothing contained herein should be construed as legal advice by the Kansas Human Rights Commission. If you are not an attorney, you should secure competent counsel to interpret the statutes and advise you.*

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**STATUTORY HISTORY**

The Kansas Act Against Discrimination was passed in 1953 making Kansas the twelfth state in the United States to have a law against discrimination. The act was limited to employment practices and had no enforcement provisions. The act was amended in 1961 to become an enforceable law prohibiting discriminatory employment practices because of race, religion, color, national origin or ancestry.

The act was amended in 1963 to prohibit discrimination by hotels, motels, cabin camps and restaurants. In 1965 the legislature broadened the act's coverage of employment practices and places of public accommodations. In 1967 the Commission was given the power to investigate complaints of discrimination and the power of subpoena.

Housing discrimination was prohibited by the act of the 1970 Kansas Legislature, which also increased the size of the Commission to its present seven members and gave it power to conduct investigations without the filing of a formal complaint.

The 1972 Kansas Legislature further amended the act in three ways. The Commission was given authority to investigate complaints of sex discrimination, have a contract compliance program, and to use hearing examiners for public hearings.

In 1974 the Legislature prohibited discrimination in employment and public accommodations because of physical handicap but limited remedies for such discrimination. The law has been changed since that time to include persons with physical and mental disabilities.

In 1975 amendments eliminated some sex biased pronouns, required employment of a full-time hearing examiner, required that complaints be served on the respondent within seven days of filing and made a number of other changes.

The 1977 Legislature amended only the contract compliance sections (K.S.A. 44-1030 and K.S.A. 44-1031), removing most of the burden of paperwork from contractors, contracting agencies and the Commission, and setting a lower limit of \$5,000.00 cumulatively in a fiscal year on contracts to be included in the coverage of the law.

In 1978 the legislature amended K.S.A. 44-1003 to permit the use of a pro tem hearing examiner, and to subject the Commission to possible abolishment under the provisions of the Sunset Law. K.S.A. 44-1035 was amended to allow the State equal employment opportunity office access to racial identification maintained on State payroll tapes.

In 1983 age discrimination in employment (applicable only to those persons within the 40-70 age bracket) was enacted in the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, et seq.) The Kansas Age Discrimination in Employment Act was again amended in 1988 to include those persons within ages 18 and over. Later, in 2008, the definition of age was changed to 40 or more years.

In 1984 compensation for pain, suffering, and humiliation (with a maximum award of \$2,000.00) was amended to the Act.

In 1986, K.S.A. 44-1011 was amended to place appeals and enforcement of final public hearing orders of the Kansas Commission on Civil Rights under the Act for Judicial Review and Civil Enforcement of Agency Actions (K.S.A. 77-601 et seq.). However, K.S.A. 1988 Supp. 77-618(b) indicates that review of disputed issues of fact shall be confined to the agency record for judicial

review, as supplemented by possible additional evidence, and that review of KCCR orders will be in accordance with K.S.A. 44-1011 and K.S.A. 44-1021. In 1985, K.S.A. 44-1044 was added to provide that Commission findings of “no probable cause” were exempt for the act for Judicial Review and Civil Enforcement of Agency Actions.

In 1988 and 1989 the Legislature amended K.S.A. 44-1005, 44-1011, 44-1019, and 44-1115 so that Commission public hearings are conducted in accordance with the Kansas Administrative Procedure Act (K.S.A. 77-501 et seq.). These amendments also established, in K.S.A. 44-1005, that such hearings are governed by the rules of evidence.

In 1989 K.S.A. 44-1121 was added to give the Commission the authority to adopt suitable rules and regulations to carry out the provisions of the Kansas Age Discrimination in Employment Act.

In 1991, the act was amended so as to prohibit discrimination in employment, public accommodations and housing on the basis of disability, and to also prohibit housing discrimination on the basis of familial status. In 1991 the act was further amended to change the name of the Kansas Commission on Civil Rights to the Kansas Human Rights Commission.

In 1992 K.S.A. 44-1003 was amended to remove the Commission from the provisions of the so-called “Sunset Law”, so that the Commission was no longer subject to abolition under that law.

In 1992 several amendments to the housing discrimination provisions of the act were made which expanded the remedies and options available in housing discrimination situations.

In 1995 K.S.A. 44-1003 were amended by two separate legislative bills, resulting in both a section K.S.A. 44-1003 and 44-1003a appearing in the statute book. The changes removed the statutory requirement that the Commission employ at least one full-time hearing examiner, authorized the Commission to employ or contract for the services of hearing examiners or pro tem hearing examiners to preside over public hearings, and amended the provisions of the statute regarding the terms, appointment and confirmation of the Commissioners. The changes also established a requirement that no more than four of the Commissioners may be from the same political party. Also in 1995, K.S.A. 44-1005 and K.S.A. 44-1115 were amended to provide that a complaint may be dismissed under certain circumstances after pending before the Commission for at least 300 days without a finding or disposition by the Commission, with that dismissal constituting exhaustion of the administrative remedies sufficient to allow a complainant to thereafter file the matter in court.

In 1996 K.S.A. 44-1003 was amended to reconcile the inconsistencies between K.S.A. 44-1003 and K.S.A. 44-1003a. The language in K.S.A. 44-1003a providing that no more than four members of the Commission shall be from the same political party, that a Commissioner may not act until confirmed by the Senate, and the Commissioners’ terms end on January 15, was incorporated into K.S.A. 44-1003. K.S.A. 44-1003a was repealed.

Beginning in 1999, the Kansas Act Against Discrimination prohibited discrimination on the basis of genetic screening or testing, which also allowed the KHRC to investigate such complaints.

The 2001 Legislature amended K.S.A. 44-1015 subsection (i)(4) to be in accordance with the provisions of K.S.A. 75-4215, which regulates payments to the state treasurer when a civil penalty is awarded in a case of housing discrimination. This amendment is effective as of July 1, 2001.

K.S.A. 44-1005 was amended effective July 1, 2004 to require that on and after July 1, 2007, the Commission shall utilize hearing officers from the Office of Administrative Hearings within the Department of Administration to conduct its public hearings. The amendment eliminated the Commission’s options of employing a hearing examiner or having its own public hearings presided over by contract pro tem hearing officers. The Commission retains the option under the statute of conducting public hearings presided over by a panel of Commissioners. K.S.A. 44-1005 was further amended to remove references to dismissal of cases filed before July 1, 1996 pending before the

Commission for over 300 days without a determination. No such cases were in existence, and thus the provisions were considered archaic and no longer needed.

Substitute for Senate Bill 77 of the 2005 Legislative Session enacted K.S.A. 22-4606 et seq. effective July 1, 2005, which prohibited law enforcement officers or agencies from relying, as the sole factor, on race, ethnicity, national origin, gender or religious dress in selecting which individuals to subject to routine traffic stops, or in deciding upon the scope and substance of law enforcement activity following the initial routine traffic stop. The law mandated that the Commission shall receive, review, and investigate, if necessary, complaints of racial and other profiling. Subsequently, SB 93 of the 2011 Legislative Session transferred the filing and investigation, if necessary, of profiling complaints from the Kansas Human Rights Commission to the Office of the Attorney General. The law became effective upon its publication in the Kansas Register on May 26, 2011.

House Bill 2582 of the 2006 Legislative Session amended the Kansas Act Against Discrimination to prohibit discrimination in homeowners associations' restrictive covenants based on race, religion, color, sex, disability, familial status, national origin, and ancestry. If the homeowners association fails to delete prohibited language, the Commission may bring action against the homeowners association for injunctive relief. These provisions are detailed in K.S.A. 44-1017a.

House Bill 2771 of the 2008 Legislative Session amended the definition of age in the Kansas Age Discrimination in Employment Act from 18 and over to 40 and over.

The 2012 Legislature adopted House Bill 2335 to amend the "disability" provisions in the Kansas Act Against Discrimination (KAAD) and bring them into alignment with the federal Americans with Disabilities Act Amendments Act of 2008. It expands the definition of "regarded as having such an impairment" and clarifies that reasonable accommodation or a reasonable modification of policies, practices, or procedures need not be provided to a person regarded as having a physical or mental impairment. Further, the bill defines "major life activities" and states that the KAAD definition of "disability" should be construed in favor of broad coverage of individuals to the extent permitted by the KAAD.

Additionally, the bill provides that an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability, and that an impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active. Finally, it provides that the determination of whether an impairment substantially limits a major life activity be made without regard to the ameliorative effects of mitigating measures such as medication, equipment, or technology. Ordinary eyeglasses and contact lenses, however, will be considered.

**KANSAS ACT AGAINST DISCRIMINATION**

**44-1001. Title of act; declaration of state policy and purpose.** This act shall be known as the Kansas act against discrimination. It shall be deemed an exercise of the police power of the state for the protection of the public welfare, safety, health and peace of the people of this state. The practice or policy of discrimination against individuals in employment relations, in relation to free and public accommodations, in housing by reason of race, religion, color, sex, disability, national origin or ancestry or in housing by reason of familial status is a matter of concern to the state, since such discrimination threatens not only the rights and privileges of the inhabitants of the state of Kansas but menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the state of Kansas to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation, or separation in all places of public accommodations covered by this act, and to eliminate and prevent discrimination, segregation or separation in housing.

It is also declared to be the policy of this state to assure equal opportunities and encouragement to every citizen regardless of race, religion, color, sex, disability, 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 opportunities to all persons within this state to full and equal public accommodations, and to assure equal opportunities in housing without distinction on account of race, religion, color, sex, disability, familial status, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this act and the opportunity for full and equal housing are civil rights of every citizen.

To protect these rights, it is hereby declared to be the purpose of this act to establish and to provide a state commission having power to eliminate and prevent segregation and discrimination, or separation in employment, in all places of public accommodations covered by this act, in housing because of race, religion, color, sex, disability, national origin or ancestry and in housing because of familial status, either by employers, labor organizations, employment agencies, realtors, financial institutions or other persons as hereinafter provided.

**History:** L. 1953, ch. 249, § 1; L. 1961, ch. 248, § 1; L. 1963, ch. 279, § 1; L. 1965, ch. 323, § 1; L. 1972, ch. 194, § 1; L. 1974, ch. 209, § 1; L. 1991, ch. 147, § 1; July 1.

**44-1002. Definitions.** When used in this act:

- (a) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.
- (b) "Employer" includes any person in this state employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, nonsectarian corporations, organizations engaged in social service work and the state of Kansas and all political and municipal subdivisions thereof, but shall not include a nonprofit fraternal or social association or corporation.
- (c) "Employee" does not include any individual employed by such individual's parents, spouse or child or in the domestic service of any person.
- (d) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.
- (e) "Employment agency" includes any person or governmental agency undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employees.
- (f) "Commission" means the Kansas human rights commission created by this act.
- (g) "Unlawful employment practice" includes only those unlawful practices and acts specified in K.S.A. 44-1009 and amendments thereto and includes segregate or separate.
- (h) "Public accommodations" means any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any

lodging establishment or food service establishment, as defined by K.S.A 36-501 and amendments thereto; any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility. Public accommodations do not include a religious or nonprofit fraternal or social association or corporation.

- (i) "Unlawful discriminatory practice" means:
  - (1) Any discrimination against persons, by reason of their race, religion, color, sex, disability, national origin or ancestry:
    - (A) In any place of public accommodations; or
    - (B) in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof; and
  - (2) any discrimination against persons in regard to membership in a nonprofit recreational or social association or corporation by reason of race, religion, sex, color, disability, national origin or ancestry if such association or corporation has 100 or more members and:
    - (A) Provides regular meal service; and
    - (B) receives payment for dues, fees, use of space, use of facility, services, meals or beverages, directly or indirectly, from or on behalf of nonmembers. This term shall not apply to a religious or private fraternal and benevolent association or corporation.
- (j) "Disability" means, with respect to an individual:
  - (1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
  - (2) a record of such an impairment; or
  - (3) being regarded as having such an impairment.

Disability does not include current, illegal use of a controlled substance as defined in section 102 of the federal controlled substance act (21 U.S.C. 802), in housing discrimination. In employment and public accommodation discrimination, "disability" does not include an individual who is currently engaging in the illegal use of drugs where possession or distribution of such drugs is unlawful under the controlled substance act (21 U.S.C. 812), when the covered entity acts on the basis of such use.
- (k) (1) "Reasonable accommodation" means:
  - (A) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
  - (B) job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.
  - (2) A reasonable accommodation or a reasonable modification to policies, practices, or procedures need not be provided to an individual who meets the definition of disability in K.S.A. 44-1002(j)(3), and amendments thereto.
- (l) "Regarded as having such an impairment" means the absence of a physical or mental impairment but regarding or treating an individual as though such an impairment exists. An individual meets the requirements of "being regarded as having such an impairment" if the individual establishes that such individual has been subjected to an action prohibited under this act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. Subsection (j)(3) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.
- (m) "Major life activities" means:
  - (1) Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
  - (2) It also includes the operating of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(n) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects or deficiencies, and not an indirect manifestation of genetic disorders.

**History:** L. 1953, ch. 249, § 2; L. 1961, ch. 248, § 2; L. 1963, ch. 279, § 2; L. 1965, ch. 323, § 2; L. 1970, ch. 192, § 1; L. 1972, ch. 194, § 2; L. 1974, ch. 209, § 2; L. 1975, ch. 264, § 1; L. 1991, ch. 147, § 2; L. 1992, ch. 91, § 1; L. 1999, ch. 32, § 1; L. 2012, ch. 48, § 1; July 1.

**44-1002a. History:** L. 1953, ch. 249, § 2; L. 1961, ch. 248, § 2; L. 1963, ch. 279, § 2; L. 1965, ch. 323, § 2; L. 1970, ch. 192, § 1; L. 1972, ch. 194, § 2; L. 1974, ch. 209, § 2; L. 1975, ch. 264, § 1; L. 1991, ch. 148, § 2; Repealed, L. 1992, ch. 91, § 4; April 23.

**44-1003. Human rights commission; membership; organization compensation and expenses staff.**

- (a) There is hereby created the Kansas human rights commission. The commission shall consist of seven members, two of whom shall be representative of industry, two of whom shall be representative of labor, one of whom shall be a person authorized to practice law in this state, one of whom shall be a representative of the real estate industry, and one of whom shall be appointed at large, to be known as commissioners. No more than four members of the commission shall be from the same political party. Members of the commission shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601 and amendments thereto, no person appointed to the commission shall exercise any power, duty or function as a member of the commission until confirmed by the senate. One member shall be designated by the governor as chairperson and shall preside at all meetings of the commission and perform all the duties and functions of chairperson.
- (b) The commission may designate one member to act as chairperson during the absence or incapacity of the chairperson, and, when so acting, the member designated shall have and perform all the duties and functions of the chairperson of the commission.
- (c) Except as provided by subsection (d), the term of office of each member of the commission shall be four years and until a successor is confirmed. Any member chosen to fill a vacancy occurring other than by expiration of term shall be appointed for the unexpired term of the member's predecessor.
- (d) The terms of members who are serving on the commission on the effective date of this act shall expire on January 15, of the year on which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.
- (e) A majority of the current members of the commission shall constitute a quorum for the purpose of conducting the business of the commission, except as otherwise provided in this section. Vacancies on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.
- (f) Members of the Kansas human rights commission attending meetings of the commission, or attending a subcommittee meeting thereof authorized by the commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.
- (g) The commission shall employ a full-time executive director who shall be in the unclassified service under the Kansas civil service act and who shall receive an annual salary fixed by the commission, with the approval of the governor. The commission shall employ such professional staff and full or part-time legal, stenographic and clerical assistants as necessary to carry out the provisions of this act and shall fix the amount of their compensation. The commission also may employ or may contract for the services of qualified hearing examiners to conduct hearings. In addition, the commission may employ or may contract for the services of qualified hearing examiners pro tem when necessitated by the incapacity or disqualification of the other hearing examiners. All hearing examiners shall be admitted to practice law before the supreme court of Kansas. The appointment and compensation of legal counsel, except those members of the legal staff serving as hearing examiners, shall be approved by the attorney general.



(h) On July 1, 1991, the commission on civil rights shall become the Kansas human rights commission. The Kansas human rights commission shall be a continuation of the commission on civil rights and members and employees of the commission on civil rights shall continue as members and employees of the Kansas human rights commission. All rules and regulations and orders of the commission on civil rights shall be deemed rules and regulations and orders of the Kansas human rights commission. All properties, moneys, appropriations, rights and authorities vested in the commission on civil rights shall be vested in the Kansas human rights commission. Whenever the commission on civil rights, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas human rights commission.

**History:** L. 1953, ch. 249, § 3; L. 1961, ch. 248, § 3; L. 1965, ch. 323, § 3; L. 1967, ch. 284, § 1; L. 1970, ch. 192, § 8; L. 1972, ch. 194, § 3; L. 1974, ch. 348, § 18; L. 1975, ch. 264, § 2; L. 1978, ch. 198, § 1; L. 1978, ch. 308, § 49; L. 1982, ch. 347, § 20; L. 1991, ch. 148, § 3; L. 1992, ch. 116, § 28; L. 1995, ch. 247, § 1; L. 1996, ch. 250, § 1; July 1.

**44-1003a. History:** L. 1953, ch. 249, § 3; L. 1961, ch. 248, § 3; L. 1965, ch. 323, § 3; L. 1967, ch. 284, § 1; L. 1970, ch. 192, § 8; L. 1972, ch. 194, § 3; L. 1974, ch. 348, § 18; L. 1975, ch. 264, § 2; L. 1978, ch. 198, § 1; L. 1978, ch. 308, § 49; L. 1982, ch. 347, § 20; L. 1991, ch. 148, § 3; L. 1992, ch. 116, § 28; L. 1995, ch. 241, § 6; Repealed, L. 1996, ch. 250, § 2; July 1.

**44-1004. Powers and duties of commission.** The commission shall have the following functions, powers and duties:

- (1) To establish and maintain its principal office in the city of Topeka, and such other offices elsewhere within the state as it may deem necessary.
- (2) To meet and function at any place within the state.
- (3) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this act, and the policies and practices of the commission in connection therewith.
- (4) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion, color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.
- (5) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine, record and copy such materials and take and record the testimony or statements of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction provided that the commission first complies with the provisions of article 15 of the Kansas bill of rights and the fourth amendment to the United States constitution relating to unreasonable searches and seizures. The commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, or to testify to any matter regarding which such person may be lawfully questioned, the district court of any county may, upon application of the commission, order such person to comply with such subpoena or interrogatory and to testify. Failure to obey the court's order may be punished by the court as contempt. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person testifies or produces evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons.
- (6) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this act, by including any term in a conciliation agreement as could be included in a final order under this act.

- (7) To apply to the district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.
- (8) To issue such final orders after a public hearing as may remedy any existing situation found to violate this act and prevent its recurrence.
- (9) To endeavor to eliminate prejudice among the various ethnic groups and people with disabilities in this state and to further good will among such groups. The commission in cooperation with the state department of education shall prepare a comprehensive educational program designed for the students of the public schools of this state and for all other residents thereof, calculated to emphasize the origin of prejudice against such groups, its harmful effects and its incompatibility with American principles of equality and fair play.
- (10) To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purposes of this act; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, sex, disability, national origin or ancestry; to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of this state; and to make recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this paragraph. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster good will and cooperation among all elements of the population of the state.
- (11) To accept contributions from any person to assist in the effectuation of this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this section.
- (12) To issue such publications and such results of investigation and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, disability, national origin or ancestry.
- (13) To render each year to the governor and to the state legislature a full written report of all of its activities and of its recommendations.
- (14) To adopt an official seal.
- (15) To receive and accept federal funds to effectuate the purposes of the act and to enter into agreements with any federal agency for such purpose.

**History:** L. 1953, ch. 249, § 4; L. 1961, ch. 248, § 4; L. 1963, ch. 279, § 3; L. 1965, ch. 323, § 4; L. 1967, ch. 285, § 1; L. 1970, ch. 192, § 2; L. 1972, ch. 194, § 4; L. 1974, ch. 209, § 3; L. 1975, ch. 264, § 3; L. 1991, ch. 147, § 3; July 1.

**44-1005. Complaints; investigation; proceedings; remedial orders; dismissal of certain complaints, when, procedure and effect**

- (a) Any person claiming to be aggrieved by an alleged unlawful employment practice or by an alleged unlawful discriminatory practice, and who can articulate a prima facie case pursuant to a recognized legal theory of discrimination, may, personally or by an attorney-at-law, make, sign and file with the commission a verified complaint in writing, articulating the prima facie case, which shall also state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of or the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.
- (b) The commission upon its own initiative or the attorney general may, in like manner, make, sign and file such complaint. Whenever the attorney general has sufficient reason to believe that any person as herein defined is engaged in a practice of discrimination, segregation or separation in violation of this act, the attorney general may make, sign and file a complaint. Any employer whose employees or some of whom, refuse or threaten to refuse to cooperate with the provisions of this act, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

- (c) Whenever any problem of discrimination because of race, religion, color, sex, disability, national origin or ancestry arises, or whenever the commission has, in its own judgment, reason to believe that any person has engaged in an unlawful employment practice or an unlawful discriminatory practice in violation of this act, or has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for the investigation of complaints. The person to be investigated shall be advised of the nature and scope of such investigation prior to its commencement. The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of the Kansas act against discrimination has occurred. The information gathered in the course of the first investigation may be used in processing the complaint.
- (d) After the filing of any complaint by an aggrieved individual, by the commission, or by the attorney general, the commission shall, within seven days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this act, and shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation of the alleged act of discrimination. If the commissioner shall determine after such investigation that no probable cause exists for crediting the allegations of the complaint, such commissioner, within 10 business days from such determination, shall cause to be issued and served upon the complainant and respondent written notice of such determination.
- (e) If such commissioner after such investigation, shall determine that probable cause exists for crediting the allegations for the complaint, the commissioner or such other commissioner as the commission may designate, shall immediately endeavor to eliminate the unlawful employment practice or the unlawful discriminatory practice complained of by conference and conciliation. The complainant, respondent and commission shall have 45 days from the date respondent is notified in writing of a finding of probable cause to enter into a conciliation agreement signed by all parties in interest. The parties may amend a conciliation agreement at any time prior to the date of entering into such agreement. Upon agreement by the parties the time for entering into such agreement may be extended. The members of the commission and its staff shall not disclose what has transpired in the course of such endeavors.
- (f) In case of failure to eliminate such practices by conference and conciliation, or in advance thereof, if in the judgment of the commissioner or the commission circumstances so warrant, the commissioner or the commission shall commence a hearing in accordance with the provisions of the Kansas administrative procedure act naming as parties the complainant and the person, employer, labor organization, employment agency, realtor or financial institution named in such complaint, hereinafter referred to as respondent. A copy of the complaint shall be served on the respondent. At least four commissioners or a presiding officer from the office of administrative hearings shall be designated as the presiding officer. The place of such hearing shall be in the county where respondent is doing business and the acts complained of occurred.
- (g) The complainant or respondent may apply to the presiding officer for the issuance of a subpoena for the attendance of any person or the production or examination of any books, records or documents pertinent to the proceeding at the hearing. Upon such application the presiding officer shall issue such subpoena.
- (h) The case in support of the complaint shall be presented before the presiding officer by one of the commission's attorneys or agents, or by private counsel, if any, of the complainant, and the commissioner who shall have previously made the investigation shall not participate in the hearing except as a witness. Any endeavors at conciliation shall not be received in evidence.
- (i) Any complaint filed pursuant to this act must be so filed within six months after the alleged act of discrimination, unless the act complained of constitutes a continuing pattern or practice of discrimination in which event it will be from the last act of discrimination. Complaints filed with the commission may be dismissed by the commission on its own initiative, and shall be dismissed by the commission upon the written request of the complainant, if the commission has not issued a finding of probable cause or no probable cause or taken other administrative action dismissing the complaint within 300 days of the filing of the complaint. The commission shall mail written notice to all parties of dismissal of a complaint within five days of dismissal. Any such dismissal of a complaint in accordance with this section shall constitute final action by

the commission which shall be deemed to exhaust all administrative remedies under the Kansas act against discrimination for the purpose of allowing subsequent filing of the matter in court by the complainant, without the requirement of filing a petition for reconsideration pursuant to K.S.A. 44-1010 and amendments thereto. Dismissal of a complaint in accordance with this section shall not be subject to appeal or judicial review by any court under the provisions of K.S.A. 44-1011 and amendments thereto. The provisions of this section shall not apply to complaints alleging discriminatory housing practices filed with the commission pursuant to K.S.A. 44-1015 et seq. and amendments thereto.

- (j) The respondent may file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The complainant shall appear at such hearing in person, with or without counsel, and submit testimony. The presiding officer or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend such respondent's answer. The presiding officer shall be bound by the rules of evidence prevailing in courts of law or equity, and only relevant evidence of reasonable probative value shall be received.
- (k) If the presiding officer finds a respondent has engaged in or is engaging in any unlawful employment practice or unlawful discriminatory practice as defined in this act, the presiding officer shall render an order requiring such respondent to cease and desist from such unlawful employment practice or such unlawful discriminatory practice and to take such affirmative action, including but not limited to the hiring, reinstatement, or upgrading of employees, with or without back pay, and the admission or restoration to membership in any respondent labor organizations; the admission to and full and equal enjoyment of the goods, services, facilities, and accommodations offered by any respondent place of public accommodation denied in violation of this act, as, in the judgment of the presiding officer, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance. Such order may also include an award of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of \$2,000.
- (l) Any state, county or municipal agency may pay a complainant back pay if it has entered into a conciliation agreement for such purposes with the commission, and may pay such back pay if it is ordered to do so by the commission.
- (m) If the presiding officer finds that a respondent has not engaged in any such unlawful employment practice, or any such unlawful discriminatory practice, the presiding officer shall render an order dismissing the complaint as to such respondent.
- (n) The commission shall review an initial order rendered under subsection (k) or (m). In addition to the parties, a copy of any final order shall be served on the attorney general and such other public officers as the commission may deem proper.
- (o) The commission shall, except as otherwise provided, establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. The rules of practice shall be available, upon written request, within 30 days after the date of adoption.

**History:** L. 1953, ch. 249, § 5; L. 1961, ch. 248, § 6; L. 1963, ch. 279, § 4; L. 1965, ch. 323, § 5; L. 1967, ch. 285, § 2; L. 1970, ch. 192, § 3; L. 1972, ch. 194, § 5; L. 1974, ch. 209, § 4; L. 1975, ch. 264, § 4; L. 1984, ch. 186, § 1; L. 1988, ch. 356 § 149; L. 1989, ch. 283, § 9; L. 1991, ch. 147, § 4; L. 1995, ch. 247, § 2; L. 2004, ch. 145, § 15; July 1, 2007.

**44-1006. Construction of act.**

- (a) The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this act shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, religion, color, sex, disability, national origin or ancestry, unless the same is specifically repealed by this act.
- (b) Nothing in this act shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel.
- (c) The definition of "disability" in K.S.A.44-1002(j), and amendments thereto, shall be construed in accordance with the following:
  - (1) The definition of disability in this act shall be construed in favor of broad coverage of individuals under this act, to the maximum extent permitted by the terms of this act;

- (2) an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability;
- (3) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and
- (4) (A) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as the following:
  - (i) Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eye glasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
  - (ii) use of assistive technology;
  - (iii) reasonable accommodations or auxiliary aides or services; or
  - (iv) learned behavioral or adaptive neurological modifications.
- (B) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
- (C) As used in this subparagraph:
  - (i) "Ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
  - (ii) "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

**History:** L. 1953, ch. 249, § 6; L. 1963, ch. 279, § 5; L. 1970, ch. 192, § 4; L. 1972, ch. 194, § 6; L. 1974, ch. 209, § 5; L. 1991, ch. 147, § 5; L. 2012, ch. 48, § 2; July 1.

**44-1007. Invalidity of part.** If any clause, sentence, paragraph or part of this act 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 act 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 act would have been adopted had such provisions not been included.

**History:** L. 1953, ch. 249, § 7; June 30.

**44-1008. History:** L. 1953, ch. 249, § 8; Repealed, L. 1961, ch. 248, § 12; June 30.

**44-1009. Unlawful employment practices; unlawful discriminatory practices.**

- (a) It shall be an unlawful employment practice:
  - (1) For an employer, because of the race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business necessity.
  - (2) For a labor organization, because of the race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.
  - (3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

- (4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this act or because such person has filed a complaint, testified or assisted in any proceeding under this act.
- (5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's race, religion, color, sex, disability, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry.
- (6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.
- (7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.
- (8) For an employer, labor organization, employment agency or joint labor-management committee to:
  - (A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;
  - (B) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this act;
  - (C) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control;
  - (D) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;
  - (E) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;
  - (F) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;
  - (G) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or
  - (H) fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).
- (9) For any employer to:

- (A) Seek to obtain, to obtain or to use genetic screening or testing information of an employee or a prospective employee to distinguish between or discriminate against or restrict any right or benefit otherwise due or available to an employee or a prospective employee; or
  - (B) subject, directly or indirectly, any employee or prospective employee to any genetic screening or test.
- (b) It shall not be an unlawful employment practice to fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, color, sex, disability, national origin or ancestry.
- (c) It shall be an unlawful discriminatory practice:
- (1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this act because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.
  - (2) For any person, whether or not specifically enjoined from discriminating under any provisions of this act, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.
  - (3) For any person, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof.

**History:** L. 1961, ch. 248, § 5; L. 1965, ch. 323, § 6; L. 1970, ch. 192, § 5; L. 1972, ch. 194, § 7; L. 1974, ch. 209, § 6; L. 1991, ch. 147, § 6; L. 1999, ch. 32, § 2; July 1.

**44-1010. Petition for reconsideration of orders of commission.** Any party being dissatisfied with any order or decision of the commission may petition for reconsideration in accordance with the provisions of K.S.A. 77-529 and amendments thereto. No cause of action arising out of any order or decision of the commission shall accrue in any court to any party unless such party shall petition for reconsideration as herein provided. No party shall, in any court, urge or rely upon any ground not set forth in the petition for reconsideration.

**History:** L. 1961, ch. 248, § 7; L. 1988, ch. 356, § 150; July 1, 1989.

**44-1011. Enforcement of commission orders; judicial review; procedure.**

- (a) The commission, attorney general or county or district attorney, at the request of the commission, may secure enforcement of any final order of the commission in accordance with the act for judicial review and civil enforcement of agency actions. The evidence presented to the commission, together with its findings and the order issued thereon, shall be certified by the commission to the district court as its return. No order of the commission shall be superseded or stayed during the proceeding on review unless the district court shall so direct.
- (b) Any action of the commission pursuant to the Kansas act against discrimination is subject to review in accordance with the act for judicial review and civil enforcement of agency actions except:
  - (1) As provided by K.S.A. 44-1044 and amendments thereto;
  - (2) the attorney general or county or district attorney, in addition to those persons specified by K.S.A. 77-611 and amendments thereto, shall have standing to bring an action for review; and
  - (3) on review, the court shall hear the action by trial *de novo* with or without a jury in accordance with the provisions of K.S.A. 60-238 and amendments thereto, and the court, in its discretion, may permit any party or the commission to submit additional evidence on any issue. The review shall be heard and determined by the court as expeditiously as possible. After hearing, the court may affirm the adjudication. If the adjudication by the commission is not affirmed, the court may set aside or modify it, in whole or in part, or may remand the proceedings to the commission for further disposition in accordance with the order of the court.

The commission's copy of the testimony shall be available at all reasonable times to all parties for examination without cost, and for the purpose of judicial review of the order. The review shall be heard on the record without requirement of printing. The commission shall be deemed a party to the review of any order by the court.

**History:** L. 1961, ch. 248, § 8; L. 1963, ch. 279, § 6; L. 1965, ch. 323, § 7; L. 1967, ch. 285, § 3; L. 1970, ch. 192, § 6; L. 1979, ch. 161, § 3; L. 1986, ch. 318, § 64; July 1.

**44-1012. Posting of law and information.** Every person, as defined herein, employer, employment agency and labor union subject to this act, shall keep posted in a conspicuous place or places on his premises a notice or notices to be prepared or approved by the commission, which shall set forth excerpts of this act and such other relevant information which the commission shall deem necessary to explain the act.

**History:** L. 1961, ch. 248, § 9; L. 1963, ch. 279, § 7; L. 1965, ch. 323, § 8; June 30.

**44-1013. Unlawful acts; penalties.** Any person, as defined herein, employer, labor organization or employment agency, who or which shall willfully resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under this act, or shall willfully violate an order of the commission, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than one (1) year, or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment; but procedure for the review of the order shall not be deemed to be such willful conduct.

**History:** L. 1961, ch. 248, § 10; L. 1965, ch. 323, § 9; L. 1970, ch. 192, § 7; July 1.

**44-1014. History:** L. 1961, ch. 248, § 11; Repealed, L. 1972, ch. 194, § 23; July 1.



**SUPPLEMENTAL ACTS**

**44-1015. Discrimination in housing; definitions.** As used in this act, unless the context otherwise requires:

- (a) "Commission" means the Kansas human rights commission.
- (b) "Real property" means and includes:
  - (1) All vacant or unimproved land; and
  - (2) any building or structure which is occupied or designed or intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.
- (c) "Family" includes a single individual.
- (d) "Person" means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.
- (e) "To rent" means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (f) "Discriminatory housing practice" means any act that is unlawful under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto.
- (g) "Person aggrieved" means any person who claims to have been injured by a discriminatory housing practice or believes that such person will be injured by a discriminatory housing practice that is about to occur.
- (h) "Disability" has the meaning provided by K.S.A. 44-1002 and amendments thereto.
- (i) "Familial status" means having one or more individuals less than 18 years of age domiciled with:
  - (1) A parent or another person having legal custody of such individual or individuals; or
  - (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

**History:** L. 1970, ch. 193, § 1; L. 1991, ch. 147, § 7; L. 1992, ch. 91, § 2; April 23.

**44-1015a. History:** L. 1970, ch. 193, § 1; L. 1991, ch. 148, § 4; Repealed, L. 1992, ch. 91, § 4; April 23.

**44-1016. Same; unlawful acts in connection with sale or rental of real property.** Subject to the provisions of K.S.A. 44-1018 and amendments thereto, it shall be unlawful for any person:

- (a) To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry.
- (b) To discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin or ancestry.
- (c) To make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
- (d) To represent to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.
- (e) For profit, to induce or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or

persons of a particular race, religion, color, sex, disability, familial status, national origin or ancestry.

- (f) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against such person in the terms or conditions of such access, membership or participation, because of race, religion, color, sex, disability, familial status, national origin or ancestry.
- (g) To discriminate against any person in such person's use or occupancy of real property because of the race, religion, color, sex, disability, familial status, national origin or ancestry of the people with whom such person associates.
- (h)
  - (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, residential real property 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 such real property after it is sold, rented or made available; or
    - (C) any person associated with that buyer or renter.
  - (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of residential real property or in the provision of services or facilities in connection with such real property because of a disability of:
    - (A) That person;
    - (B) a person residing in or intending to reside in that real property after it is so sold, rented or made available; or
    - (C) any person associated with that person.
  - (3) For purposes of this subsection (h), discrimination includes:
    - (A) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;
    - (B) 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 residential real property; or
    - (C) in connection with the design and construction of covered multifamily residential real property for first occupancy on and after January 1, 1992, a failure to design and construct such residential real property in such a manner that:
      - (i) The public use and common use portions of such residential real property are readily accessible to and usable by persons with disabilities;
      - (ii) all the doors designed to allow passage into and within all premises within such residential real property are sufficiently wide to allow passage by persons with disabilities who are in wheelchairs; and
      - (iii) all premises within such residential real property contain the following features of adaptive design: An accessible route into and through the residential real property; light switches, electrical outlets, thermostats and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
  - (4) Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).
  - (5) As used in this subsection (h), "covered multifamily residential real property" means:
    - (A) Buildings consisting of four or more units if such buildings have one or more elevators; and
    - (B) ground floor units in other buildings consisting of four or more units.
  - (6) Nothing in this act shall be construed to invalidate or limit any state law or ordinance that requires residential real property to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this act.

- (7) Nothing in this subsection (h) requires that residential real property be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

**History:** L. 1970, ch. 193, § 2; L. 1972, ch. 194, § 8; L. 1991, ch. 147, § 8; L. 1992, ch. 142, § 1; July 1.

**44-1017. Same; unlawful acts as to real estate loans.**

- (a) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of the race, religion, color, sex, disability, familial status, national origin or ancestry of such person or of any person associated with such person in connection with any real estate related transaction.
- (b) As used in this section, "real estate related transaction" means any of the following:
  - (1) The making or purchasing of loans or providing other financial assistance:
    - (A) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
    - (B) secured by real property.
  - (2) The selling, brokering or appraising of real property.
- (c) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status, national origin or ancestry.

**History:** L. 1970, ch. 193, § 3; L. 1972, ch. 194, § 9; L. 1991, ch. 147, § 9; Jan. 1, 1992.

**44-1017a. Same; homeowners association; removal of certain restrictive covenants; penalties.**

- (a) No declaration or other governing document of an association shall include a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017 and amendments thereto.
- (b) Within 60 days of the effective date of this act, the board of directors of an association shall amend any declaration or other governing document that includes a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, by removing such restrictive covenant. Such amendment shall not require the approval of the members of the association. No other change shall be required to be made to the declaration or other governing document of the association pursuant to this section. Within 10 days of the adoption of the amendment, the amended declaration or other governing document shall be recorded in the same manner as the original declaration or other governing document. No fee shall be charged for such recording.
- (c) If the commission, a city or county in which the association is located provides written notice to an association requesting that the association delete a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the association shall delete the restrictive covenant within 30 days of receiving the notice. If the association fails to delete the restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the commission, a city or county in which the association is located, or any person adversely affected by such restrictive covenant may bring an action against the homeowners association for injunctive relief to enforce the provisions of subsections (a) and (b) of this section. The court may award attorney's fees to the prevailing party.
- (d) For the purposes of this section:
  - (1) "Association" means a non-profit homeowners association as defined in K.S.A. 60-3611 and amendments thereto.
  - (2) "Commission" means the Kansas human rights commission as defined in K.S.A. 44-1002 and amendments thereto.
- (e) This section shall be supplemental to and a part of the Kansas act against discrimination.

**History:** L. 2006, ch. 144, § 1; July 1.

**44-1018. Same; application of act.**

- (a) Nothing in this act shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of real property

which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or ancestry. Nor shall anything in this act prohibit a nonprofit private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

- (b) Nothing in this act, other than the prohibitions against discriminatory advertising as provided in subsection (c) of K.S.A. 44-1016 and amendments thereto, shall apply to:
  - (1) The sale or rental of any single family house by an owner, provided the following conditions are met:
    - (A) The owner does not own or have any interest in more than three single family houses at any one time; and
    - (B) the house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this subsection applies to only one such sale in any 24-month period; or
  - (2) rooms or units in buildings 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 and occupies one of such living quarters as the owner's residence.
- (c)
  - (1) Nothing in this act limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this act regarding familial status apply with respect to dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons.
  - (2) As used in this subsection (c), "housing for older persons" means housing communities:
    - (A) Intended for, and at least 80% occupied by, at least one person 55 years of age or older per unit and providing significant facilities and services specifically designed to meet the physical or social needs of such persons; or
    - (B) intended for and occupied solely by persons 62 years of age or older.
- (d) Nothing in this act prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the federal controlled substances act (21 U.S.C. 802).

**History:** L. 1970, ch. 193, § 4; L. 1991, ch. 147, § 10; L. 1992, ch. 142, § 2; July 1.

**44-1019. Same; complaints; referral to local authority, when; investigation; administrative proceedings; election to file action in court; administrative remedial orders.**

- (a) The authority and responsibility for administering this act shall be in the commission. Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one year after the alleged discriminatory housing practice occurred, but may be reasonably and fairly amended at any time. The commission upon its own initiative or the attorney general may, in like manner, make, sign and file such complaint. A respondent may file a verified answer to the complaint against the respondent and with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so, may amend the answer filed by the respondent at any time.
- (b) Upon receipt of any such complaint the commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this act; and the commission shall within 10 days thereof serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this act, together with a copy of the original complaint. Service of the notice shall be made in the manner prescribed by the code of civil procedure.

- (c) Whenever a local fair housing ordinance provides rights and remedies for alleged discriminatory housing practices which are, in the judgment of the commission, substantially equivalent to the rights and remedies provided in this act, the commission shall refer to the appropriate local agency any complaint filed under this act which appears to constitute a violation of such local fair housing ordinance. The commission shall take no further action with respect to such complaint until 30 days have elapsed since the complaint was referred to the local agency, or the local agency has completed its investigation, or the local agency requests the commission to assume jurisdiction or to assist it, whichever occurs first. The local agency shall inform the commission in writing of the status of the referred complaint at the end of the referral period or when the local agency has completed its investigation, whichever occurs first. The commission may take further action on the complaint if in its judgment the protection of the rights of the parties or the interests of justice require such action.
- (d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsections (a) and (b), to such person, from the commission.
- (e)
  - (1) If a complaint is not referred to a local agency as provided in subsection (b), or after the commission assumes jurisdiction of a complaint following such referral, the commission shall promptly commence an investigation thereof, in the manner provided in K.S.A. 44-1005, and amendments thereto, for investigating complaints of violations of the Kansas act against discrimination, and complete such investigation, including conciliation, within 100 days after the filing of the complaint or, when the commission takes further action under subsection (c), within 100 days after the commission assumes jurisdiction of a complaint, unless it is impracticable to do so.
  - (2) If the commission is unable to complete the investigation within 100 days, or when the commission takes further action under subsection (c), within 100 days after the commission assumes jurisdiction of a complaint, the commission shall inform the parties in writing of the reasons for not doing so.
  - (3) The commission shall make final administrative disposition within one year after the filing of the complaint or, when the commission takes further action under subsection (c), within one year after the commission assumes jurisdiction of a complaint, unless it is impracticable to do so.
  - (4) If the commission is unable to make final administrative disposition of the complaint within one year of the date of filing, or when the commission takes further action under subsection (c), within one year after the commission assumes jurisdiction of a complaint, the commission shall inform the parties in writing of the reasons for not doing so.
- (f)
  - (1) If it is determined that probable cause exists for crediting the allegations of the complaint, the commission shall serve written notice of such determination on the person aggrieved. The commission shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion which shall be held, insofar as possible, in the cities or other localities where the alleged discriminatory housing practices have occurred or are about to occur. The commission is hereby authorized to enter into formal conciliation agreement which shall include the person aggrieved and the respondent as signatories. Such agreements may include in the provisions thereof any term or condition which may be included in a final order of the commission. Each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this act.
  - (2) Any of the parties to a conciliation agreement may apply to the district court of the county where the alleged discriminatory housing practice occurred, or was about to occur, for specific performance of any such agreement.
- (g) If the commission is unable to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, a hearing may be held before the commission in the manner provided in K.S.A. 44-1005, and amendments thereto, for

holding hearings under the Kansas act against discrimination. In any such hearing, the burden of proof shall be on the complainant.

- (h) In lieu of a hearing under subsection (g), a complainant, a respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in the complaint decided in a civil action as provided in subsection (d) of K.S.A. 44-1021, and amendments thereto. The election must be made not later than 20 days after the receipt by the electing person of service in the manner provided in K.S.A. 44-1005, and amendments thereto, or, in the case of an election by the commission, not later than 20 days after such service. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the complaint relates. If a timely election is made under this subsection, the commission shall file, not later than 30 days after the election is made, a civil action as provided in subsection (d) of K.S.A. 44-1021, and amendments thereto.
- (i) If an election is not made under subsection (h) and the commission finds that a respondent has engaged in or is engaging in any discriminatory housing practice, the commission shall render an order requiring the respondent to cease and desist from such discriminatory housing practice, and such order may direct a respondent to take such affirmative action as the commission deems necessary to effectuate the intent and purposes of this act, including, but not limited to, the selling or renting of specified real property and the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of real property. Such order may also include an award of actual damages, including damages caused by pain, suffering and humiliation. Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:
  - (1) In an amount not exceeding \$10,000, if the respondent has not been adjudged to have committed any prior discriminatory housing practice;
  - (2) subject to the provisions of subsection (i)(4), in an amount not exceeding \$25,000, if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the complaint;
  - (3) subject to the provisions of subsection (i)(4), in an amount not exceeding \$50,000, if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint; and
  - (4) if the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice in the amounts provided by subsections (i)(2) and (i)(3) without regard to the period of time within which any subsequent discriminatory housing practice occurred.

Any such civil penalty shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

- (j) Within 15 days after an order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.
- (k) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a state agency, the commission shall, not later than 30 days after the respondent has complied with the order, or, if such order is judicially reviewed under K.S.A. 44-1021, and amendments thereto, 30 days after such order is in substance affirmed upon such review:
  - (1) Send copies of the findings of fact, conclusions of law, and the order, to that state agency; and
  - (2) recommend to the state agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent.

**History:** L. 1970, ch. 193, § 5; L. 1972, ch. 194, § 10; L. 1984, ch. 186, § 2; L. 1988, ch. 356, § 151; L. 1991, ch. 147, § 11; L. 1992, ch. 142, § 3; L. 2001, ch. 5, § 146; July 1.

**44-1020. Same; subpoenas; witness fees and mileage; interim judicial relief; criminal enforcement of subpoenas.**

- (a) Upon written application to the commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at respondent's request.
- (b) Witnesses summoned by subpoena of the commission shall be entitled to the same witness and mileage fees as are allowed witnesses in proceedings in district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.
- (c) If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this act, the commission may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred, for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. The commission shall promptly notify the attorney general of the filing of any action pursuant to this subsection. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this act.
- (d) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in such person's power to do so in obedience to the subpoena or lawful order of the commission, shall, upon conviction, be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment. Any person who, with intent thereby to mislead the commission, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document, submitted to the commission pursuant to subpoena or other order of the commission, or who shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall, upon conviction, be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment.

**History:** L. 1970, ch. 193, § 6; L. 1972, ch. 194, § 11; L. 1991, ch. 147, § 12; Jan. 1, 1992.

**44-1021. Same; judicial review of commission action; civil enforcement of act.**

- (a) Within 45 days after the entry of an order by the commission pursuant to K.S.A. 44-1019 and amendments thereto or within 30 days after the commission has received written notification of the manner in which a respondent has complied with the commission's order, the commission or a person aggrieved may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business, but upon application by the person aggrieved and the commission, the attorney general or the appropriate district or county attorney may provide the attorney necessary to bring the action authorized herein. Such action may be brought to enforce the order of the commission, or to enforce any of the rights granted or protected by K.S.A. 44-1016, 44-1017 and 44-1026, and amendments thereto, insofar as such rights relate to the subject of the complaint with respect to which the order was issued. All such actions shall be heard by the court in a trial *de novo*. Upon application of any party to such action, the commission shall make available to all parties the records and information gathered during any investigation or hearing conducted pursuant to the authority granted by this act, except that any records or information concerning the commission's efforts to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion shall not be admissible as evidence in such action. If the respondent shall request a copy of the transcript of the hearing, the respondent shall pay for the cost of its preparation.
- (b) If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may, in its discretion, grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order, but any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this act, and

involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this act, shall not be affected.

- (c) Whenever a complaint is filed, or a civil action commenced, under the provisions of this act, the commission may post notice thereof on any real property which is the subject of such complaint or action.
- (d)
  - (1) An aggrieved person may commence a civil action in a district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice. Except in the case of an action arising from a breach of a conciliation agreement, the computation of the two-year period shall not include any time during which an administrative proceeding under this act was pending with respect to a complaint under this act based on such discriminatory housing practice.
  - (2) If the United States department of housing and urban development, the commission or a local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
  - (3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a hearing under K.S.A. 44-1019 and amendments thereto.
  - (4) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection (d)(5), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court, in its discretion, may allow the prevailing party, other than the state of Kansas, reasonable attorney fees and costs. The state of Kansas shall be liable for such fees and costs to the same extent as a private person.
  - (5) Relief granted under this subsection shall not affect any contract, sale, encumbrance or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the filing of a complaint with the commission or civil action under this act.

**History:** L. 1970, ch. 193, § 7; L. 1972, ch. 194, § 12; L. 1991, ch. 147, § 13; L. 1992, ch. 142, § 4; July 1.

**44-1022. Same; civil action by attorney general, when.** Whenever the attorney general or any district or county attorney, within the appropriate county, has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this act, or that any group of persons has been denied any of the rights granted by this act and such denial raises an issue of general public importance, the attorney general or district or county attorney may bring a civil action, within one year after the alleged discriminatory housing practice occurred, in the district court where an action may be commenced pursuant to K.S.A. 44-1021 and amendments thereto, requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice or denial of rights, as the attorney general or district or county attorney deems necessary to insure the full enjoyment of the rights granted by this act.

**History:** L. 1970, ch. 193, § 8; L. 1991, ch. 147, § 14; Jan. 1, 1992.

**44-1023. Same; assignment of case; expedition.** Any court in which a proceeding is instituted under K.S.A. 44-1021 or 44-1022 shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

**History:** L. 1970, ch. 193, § 9; July 1.



**44-1024. Same; effect of city ordinances governing housing practices.** Nothing in this act shall be construed to invalidate or limit any ordinance of any city in this state that grants, guarantees or protects the same rights as are granted by this act; but any ordinance of a city that purports to require or permit any action that would be a discriminatory housing practice under this act shall, to that extent, be invalid.

**History:** L. 1970, ch. 193, § 10; July 1.

**44-1025. Same; cooperation of commission with local agencies; agreements.** The commission may cooperate with local agencies charged with the administration of local fair housing ordinances and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the commission in carrying out this act. In furtherance of such cooperative efforts, the commission may enter into written agreements with such local agencies. All such agreements and terminations thereof shall be made available to the public by the commission.

**History:** L. 1970, ch. 193, § 11; July 1.

**44-1026. Same; unlawful acts; enforcement of section.** It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by K.S.A. 44-1016 or 44-1017, and amendments thereto.

**History:** L. 1970, ch. 193, § 12; L. 1991, ch. 147, § 15; Jan. 1, 1992.

**44-1027. Same; unlawful act; penalties.**

- (a) No person, whether or not acting under color of law, shall by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with:
  - (1) Any person because of such person's race, religion, color, sex, disability, familial status, national origin or ancestry and because such person is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any real property, or applying for or participating in any service, organization or facility relating to the business of selling or renting real property;
  - (2) any person because such person is or has been, or in order to intimidate such person or any other person or any class of persons from:
    - (A) Participating, without discrimination on account of race, religion, color, sex, disability, familial status, national origin or ancestry, in any of the activities, services, organizations or facilities described in subsection (a)(1); or
    - (B) affording another person or class of persons opportunity or protection so to participate; or
  - (3) any citizen because such citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, religion, color, sex, disability, familial status, national origin or ancestry, in any of the activities, services, organizations or facilities described in subsection (a)(1), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.
- (b) Violation of this section is punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment, except that:
  - (1) If bodily injury results, such violation shall be punishable by a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both such fine and imprisonment; and
  - (2) if death results, such violation shall be punishable by imprisonment for any term of years or for life.

**History:** L. 1970, ch. 193, § 13; L. 1972, ch. 194, § 13; L. 1991, ch. 147, § 16; Jan. 1, 1992.

**44-1028. Same; severability.** If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**History:** L. 1970, ch. 193, § 14; July 1.

**44-1029. Same; act supplemental.** This act shall be supplemental to and a part of the Kansas act against discrimination.

**History:** L. 1970, ch. 193, § 15; July 1.

**44-1030. State and local government contracts; mandatory provisions.**

(a) Except as provided by subsection (c), every contract for or on behalf of the state or any county or municipality or other political subdivision of the state, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees that:

- (1) The contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;
- (2) in all solicitations or advertisements for employees, the contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;
- (3) if the contractor fails to comply with the manner in which the contractor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;
- (4) if the contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
- (5) the contractor shall include the provisions of subsections (a)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

(b) The Kansas human rights commission shall not be prevented hereby from requiring reports of contractors found to be not in compliance with the Kansas act against discrimination.

(c) The provisions of this section shall not apply to a contract entered into by a contractor:

- (1) Who employs fewer than four employees during the term of such contract; or
- (2) whose contracts with the governmental entity letting such contract cumulatively total \$5,000 or less during the fiscal year of such governmental entity.

**History:** L. 1972, ch. 194, § 14; L. 1977, ch. 183, § 1; L. 1991, ch. 147, § 17; L. 1992, ch. 91, § 3; April 23.

**44-1030a. History:** L. 1972, ch. 194, § 14; L. 1977, ch. 183, § 1; L. 1991, ch. 148, § 5; Repealed, L. 1992, ch. 91, § 4; April 23.

**44-1031. Same; personnel to be used in performing contracts; reports; nonapplication to certain contractors.** Every person, as defined in subsection (a) of K.S.A. 44-1002, who wishes to enter into a contract which is covered by the provisions of K.S.A. 44-1030 shall, upon request of the commission, inform the commission in writing of the manner in which such person shall recruit and screen personnel to be used in performing the contract. The report shall be made on forms to be supplied by the commission. The provisions of K.S.A. 44-1030 and of this section shall not apply to any contractor who has already complied with the provisions of such sections by reason of holding a contract with the federal government or a contract involving federal funds.

**History:** L. 1972, ch. 194, § 15; L. 1975, ch. 264, § 8; L. 1977, ch. 183, § 2; July 1.

**44-1032. Responsibility for and review of compliance with act; subpoenas; access to premises; oaths and depositions; failure to obey court order, effect; immunity of witnesses from prosecution; perjury.** The contracting agency shall be responsible for assuring compliance with the provisions of K.S.A. 44-1030. The commission, on its own motion or at the request of the contracting agency, may review compliance with the provisions of this act. In conducting such reviews, the commission may subpoena witnesses, compel their appearance, require the production for examination of records, documents and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such

persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction: *Provided, however,* That the commission first complies with the provisions of article 15 of the Kansas bill of rights and the fourth amendment to the United States constitution relating to unreasonable searches and seizures. The commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, or to testify to any matter regarding which he may be lawfully questioned, the district court of any county may, upon application of the commission, order such person to comply with such subpoena or interrogatory and to testify; and failure to obey the court's order may be punished by the court as contempt. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he testifies or produces evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons.

**History:** L. 1972, ch. 194, § 16; July 1.

**44-1033. Initiation and processing complaints; use of information.** If the compliance review conducted by the commission reveals any violation of the Kansas act against discrimination, the commission may initiate a complaint and process such complaint in the manner provided for processing complaints of unlawful employment practices. The information gathered in the course of the compliance review may be used in processing the complaint.

**History:** L. 1972, ch. 194, § 17; July 1.

**44-1034. Rules and regulations.** The commission may adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this supplemental act.

**History:** L. 1972, ch. 194, § 18; July 1

**44-1035 Information on racial identification maintained solely on payroll tapes; retrieval restricted.** Information concerning the racial identification of state employees shall be permanently maintained solely on the payroll tapes in custody of the state department of administration. Such information shall be retrieved from the payroll tapes only upon the written authorization of the commission or the equal employment opportunity office of the department of administration. The department of administration may provide such information to the director of personnel services in statistical form without the identification of specific individuals if the director of personnel services shall make such request.

**History:** L. 1972, ch. 194, § 19; L. 1978, ch. 345, § 7; July 1.

**44-1036. Severability.** If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**History:** L. 1972, ch. 194, § 20; July 1.

**44-1037. Liberal construction.** The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof.

**History:** L. 1972, ch. 194, § 21; July 1.

**44-1038. Provisions of 44-1031 to 44-1037 supplemental to act against discrimination.** The provisions of K.S.A. 44-1031 to 44-1037, inclusive, shall be supplemental to and a part of the Kansas act against discrimination.

**History:** L. 1972, ch. 194, § 22; July 1.

**44-1039. Unlawful act; perjury.** Any person willfully, knowingly, and falsely swearing, testifying, affirming, declaring or subscribing to any material fact upon any oath or affirmation required by the

Kansas act against discrimination shall be deemed guilty of perjury as defined by K.S.A. 21-3805 and any amendments thereto.

**History:** L. 1975, ch. 264, § 5; July 1.

**44-1040. History:** L. 1975, ch. 264, § 6; Repealed, L. 1988, ch. 356, § 361; July 1, 1989.

**44-1041. Unlawful acts; penalty.** Any person (a) destroying any employment records required to be kept under the laws of the state of Kansas for the purpose of hindering any proceeding commenced pursuant to the provisions of the Kansas act against discrimination or (b) destroying any records or other information involved in any proceeding brought pursuant to the provisions of the Kansas act against discrimination for the purpose of hindering such proceedings, shall be guilty of a class B misdemeanor.

**History:** L. 1975, ch. 264, § 7; July 1.

**44-1042. Award of compensatory damages; reduction.** If the commission includes an award of compensatory damages in any final order entered against a respondent after a hearing or if an award of compensatory damages against a respondent is included in a conciliation agreement, the total amount of such damages awarded shall be reduced by the amount of any compensation received by the complainant as a direct result of the alleged act of discrimination from the time the alleged act of discrimination occurred until the time such order is entered or agreement is entered into.

**History:** L. 1975, ch. 264, § 9; July 1.

**44-1043. Provisions of 44-1039 to 44-1042 supplemental to act against discrimination.** The provisions of K.S.A. 44-1039 to 44-1042, inclusive, shall be supplemental to and a part of the Kansas act against discrimination.

**History:** L. 1975, ch. 264, § 10; July 1.

**44-1044 Probable cause determinations under 44-1005 or 44-1019; exempt from judicial review and civil enforcement of agency actions act.** Determinations under K.S.A. 44-1005 or 44-1019, and amendments thereto, by the Kansas human rights commission that no probable cause exists for crediting the allegations of a complaint under the Kansas act against discrimination or the Kansas age discrimination in employment act are hereby specifically exempted from the act for judicial review and civil enforcement of agency actions (K.S.A. 77-601 through 77-627, and amendments thereto).

**History:** L. 1985, ch. 308, § 1; L. 1991, ch. 148, § 6; July 1.

**44-1101 to 44-1109. History:** L. 1970, ch. 194, §§ 1 to 9; Repealed, L. 1972, ch. 194, § 23; July 1.

**KANSAS AGE DISCRIMINATION IN EMPLOYMENT ACT**

**44-1111. Kansas age discrimination in employment act.** This act shall be known as and may be cited as the Kansas age discrimination in employment act.

**History:** L. 1983, ch. 164, § 1; July 1.

**44-1112. Definitions.** As used in this act:

- (a) "Age" means an age of 40 or more years.
- (b) "Commission" means the Kansas human rights commission created pursuant to K.S.A. 44-1003 and amendments thereto.
- (c) "Employee" does not include any individual employed by the individual's parents, spouse or child.
- (d) "Employer" means any person in this state who employs four or more persons and any person acting directly or indirectly for such a person, and includes the state and all political subdivisions of the state.
- (e) "Employment agency" includes any person or governmental agency undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.
- (f) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.
- (g) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.
- (h) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal laws of Kansas or of offenses against any ordinance or resolution which imposes criminal sanctions and is adopted by a city, county or other political subdivision of Kansas, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.
- (i) "Person" means individual, partnership, association, organization, corporation, legal representative, trustee, trustee in bankruptcy or receiver.

**History:** L. 1983, ch. 164, § 2; L. 1988, ch. 174, § 1; L. 1991, ch. 148, § 7; July 1; L. 2008, ch. 105, § 4; July 1.

**44-1113. Unlawful employment practices based on age.**

- (a) It is an unlawful employment practice based on age to engage in any of the following acts in any manner which would limit, deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee or applicant for employment:
  - (1) For an employer, because of the age of a person, to refuse to hire or employ the person, to bar or discharge the person from employment or to otherwise discriminate against the person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regard to employees because of age without a valid business motive.
  - (2) For an employer to reduce the wage rate of any employee in order to comply with the Kansas age discrimination in employment act.
  - (3) For a labor organization, because of the age of a person, to exclude or to expel the person from its membership or to discriminate in any way against any of its members or against any employer or any person employed by an employer because of age.
  - (4) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of

application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, or any intent to make any such limitation, specification or discrimination.

- (5) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because the person has opposed any practices or acts forbidden under this act or has filed a complaint, testified or assisted in any proceeding under this act.
- (6) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of age to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age.
- (7) For an employer, labor organization, employment agency or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.
- (8) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.
- (9) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:
  - (A) In the case of a benefit plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or
  - (B) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

Nothing in this subsection (a)(9) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

- (b) It shall not be an unlawful employment practice to:
  - (1) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;
  - (2) observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of article 10 of chapter 44 of Kansas Statutes Annotated, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;
  - (3) observe the provisions of a retirement, pension or other benefit plan permitted by state or federal law or by ordinance or resolution; or
  - (4) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:
    - (A) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and
    - (B) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this act.

**History:** L. 1983, ch. 164, § 3; L. 1988, ch. 174, § 2; April 28.

**44-1114. Posting of act.** Every person subject to this act shall keep posted in a conspicuous place or places on the person's premises notices to be prepared or approved by the commission, which shall set forth excerpts of this act and such other relevant information which the commission considers necessary to explain the act.

**History:** L. 1983, ch. 164, § 4; July 1.

**44-1115. Complaint procedure; hearings; orders; rehearing; court review; dismissal of certain complaints, when, procedure and effect.** Any person aggrieved by any alleged unlawful employment practice based on age may file a complaint in the manner provided for processing complaints of unlawful employment practices under the Kansas act against discrimination. Reconsideration and judicial review of the commission's decision in the case shall be conducted in the manner provided by K.S.A. 44-1010 and 44-1011, and amendments thereto. Complaints filed with the commission on or after July 1, 1996, may be dismissed by the commission on its own initiative, and shall be dismissed by the commission upon the written request of the complainant, if the commission has not issued a finding of probable cause or no probable cause or taken other administrative action dismissing the complaint within 300 days of the filing of the complaint. Complaints filed with the commission before July 1, 1996, shall be dismissed by the commission upon the written request of the complainant, if the commission has not issued a finding of probable cause or no probable cause or taken other administrative action dismissing the complaint within 300 days of the filing of the complaint. The commission shall mail written notice to all parties of dismissal of a complaint within five days of dismissal. Dismissal of a complaint in accordance with this section shall constitute final action by the commission which shall be deemed to exhaust all administrative remedies under the Kansas age discrimination in employment act for the purpose of allowing subsequent filing of the matter in court by the complainant, without the requirement of filing of a petition for reconsideration pursuant to K.S.A. 44-1010 and amendments thereto. Dismissal of a complaint in accordance with this section shall not be subject to appeal or judicial review by any court under the provisions of K.S.A. 44-1011 and amendments thereto.

**History:** L. 1983, ch. 164, § 5; L. 1988, ch. 356, § 152; L. 1995, ch. 247, § 3; July 1.

**44-1116. Contractors; requirements.**

- (a) Contractors subject to the provisions of K.S.A. 44-1030, 44-1031 and 44-1032, and amendments thereto, shall be required to agree to the same contract provisions with respect to age discrimination and compliance with this act as provided by those sections with respect to other types of discrimination and compliance with the Kansas act against discrimination.
- (b) The commission shall have the powers provided by K.S.A. 44-1030, 44-1031 and 44-1032, and amendments thereto, to enforce the provisions of this section.

**History:** L. 1983, ch. 164, § 6; July 1.

**44-1117. Unlawful acts; penalties.**

- (a) No person shall willfully resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under this act or shall willfully violate any order of the commission.
- (b) Violation of this section is a misdemeanor punishable by imprisonment for not more than one year or by a fine of not more than \$500, or both.
- (c) Lawful use of procedures for review of a commission order shall not be considered a violation of this section.

**History:** L. 1983, ch. 164, § 7; July 1.

**44-1118. Construction of act; applicability of act, exclusions.**

- (a) The provisions of this act shall be construed liberally for the accomplishment of its purposes.
- (b) Nothing in this act shall be construed to be inconsistent with the nondiscrimination provisions under another provision of state or federal law.
- (c) Nothing in this act shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel.
- (d) Nothing in this act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the two-year period immediately before retirement, is

employed in a bona fide executive or a high policymaking position, if such employee 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 of such employee, which equals, in the aggregate, at least \$44,000.

- (e) Nothing in this act shall be construed to prohibit, before January 1, 1994, compulsory retirement of any employee who has attained 70 years of age and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education.

**History:** L. 1983, ch. 164, § 8; L. 1988, ch. 174, § 3; April 28; L. 2008, ch. 105, § 5; July 1.

**44-1119. Severability of provisions.** If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**History:** L. 1983, ch. 164, § 9; July 1.

**44-1120. Applicability, construction and effective date of 1988 act.**

- (a) This act and the amendments made by this act shall take effect on the effective date of this act, except that, with respect to any employee who is subject to a collective bargaining agreement, such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first, if such collective bargaining agreement:

- (1) Is in effect prior to the effective date of this act;
- (2) terminates on or after the effective date of this act;
- (3) has any provision which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and
- (4) contains any provision that would be superseded by such amendments, but for the operation of this section.

- (b) This section shall be a part of and supplemental to the Kansas age discrimination in employment act.

**History:** L. 1988, ch. 174, § 4; April 28.

**44-1121. Rules and regulations.** The Kansas human rights commission may adopt suitable rules and regulations to carry out the provisions of the Kansas age discrimination in employment act.

**History:** L. 1989, ch. 148, § 1; L. 1991, ch. 148, § 8; July 1.



**Nondiscrimination Agreement**  
**Population Under 100,000**

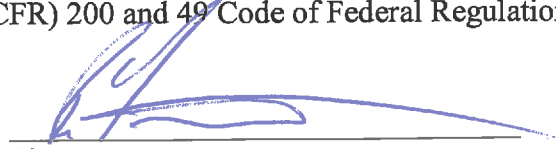
**Kansas Department of Transportation**  
**And Recipient Policy Statement**

The City of Arkansas City, hereinafter referred to as the "Recipient" assures that no person shall on the grounds of race, color, national origin, sex, disability, age or low income status as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The Recipient further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms "programs and activities" to include all programs or activities of federal aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988).

In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Recipient's Human Resource Division, is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 Code of Federal Regulation 21.



Signature

City Manager

Title

9-1-21

Date

**Title VI Program  
Organization and Staffing**

Pursuant to 23 CFR 200, the City of Arkansas City has designated a Title VI Coordinator who is responsible for Attachment I, which describes the hierarchy for the City of Arkansas City’s Title VI Program, including an organizational chart illustrating the level and placement of Title VI responsibilities.

**Assurances  
49 CFR Part 21.7**

The City of Arkansas City hereby gives assurances:

1. That no person shall on the grounds of race, color, national origin, sex, disability, age or low income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally funded or not. Activities and programs which the recipient hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:
  - a. Please see Attachment II.
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each program, activity, and facility (i.e., lands change to roadways, park and ride lots, etc.) as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
4. That these assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the recipient by the Kansas Department of Transportation (KDOT) under the federally-funded program is binding on it, other recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
5. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all federally-funded programs and, in all proposals for negotiated agreements.

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this

invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

6. That the Recipient shall insert the clauses of Appendix 1 of this Agreement in every contract subject to the Act and the Regulations.
7. That the Recipient shall insert the clauses of Appendix 2 of this Agreement, as a covenant running with the land, in any deed from the United States effect a transfer of real property, structures, or improvements thereon, or interest therein.
8. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of the Agreement, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under a federal aid program; and (b) for the construction or use of or access to space on, over and under property acquired, or improved under a federal aid program.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this agreement.

### **Implementation Procedures**

This agreement shall serve as the recipient's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this agreement, "Federal Assistance" shall include:

1. Grants and loans of federal funds.
2. The grant or donation of federal property and interest in property.
3. The detail of federal personnel.
4. The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient.
5. Any federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

### **The recipient shall:**

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by KDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement.

The head of the recipient shall be held responsible for implementing Title VI requirements.

3. Designate a civil rights coordinator who has a responsible position in the organization and easy access to the head of the recipient. The civil rights coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. The civil rights coordinator shall adequately implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date of the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to KDOT's Office Contract Compliance (OCC) within 10 days of the date the complaint was received by the recipient.
6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the Transportation programs and activities conducted by the recipient.
7. Conduct Title VI reviews of the recipient and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Attend training programs on Title VI and related statutes conducted by KDOT Office of Contract Compliance.

### **Discrimination Complaint Procedure**

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Coordinator for review and action.
2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
  - a. The date of alleged act of discrimination; or
  - b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a

verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the recipient's investigative procedures.

- 4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as KDOT or USDOT.
- 5. The recipient will advise KDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to KDOT:
  - a. Name, address, and phone number of the complainant.
  - b. Name(s) and address(es) of alleged discriminating official(s).
  - c. Basis of complaint (i.e., race, color, national origin, or sex)
  - d. Date of alleged discriminatory act(s).
  - e. Date of complaint received by the recipient.
  - f. A statement of the complaint.

**Sanctions**

In the event the recipient fails or refuses to comply with the terms of this agreement, KDOT may take any or all of the following actions:

- 1. Cancel, terminate, or suspend this agreement in whole or in part;
- 2. Refrain from extending any further assistance to the recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
- 3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.
- 4. Refer the case to the Department of Justice for appropriate legal proceedings.

**KANSAS DEPARTMENT  
OF TRANSPORTATION:**

\_\_\_\_\_  
Signature

**Civil Rights Administrator**  
Title

\_\_\_\_\_  
Date

**Name of Recipient:**



\_\_\_\_\_  
Signature

*City Manager*  
\_\_\_\_\_  
Title

*9-1-21*  
\_\_\_\_\_  
Date

## Appendix 1

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance With Regulations** – The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination** – The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment** – In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports** – The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to KDOT or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance** – In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or;
  - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions** – The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request KDOT enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.

**Appendix 2**

The following clauses shall be included in any deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

**GRANTING CLAUSE**

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Kansas will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation KDOT (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d – 4) does hereby remise, release, quitclaim, and convey unto the state of Kansas all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

**HABENDUM CLAUSE**

TO HAVE AND TO HOLD said lands and interests therein unto the state of Kansas, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Kansas, its successors, and assigns.

The state of Kansas, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,)(and)\* (2) that the state of Kansas, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination of Federally-Assisted Programs of the Department of Transportation – Effectuation of Title



VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

### Appendix 3

The following clauses shall be included in all transportation related deeds, licenses, leases, permits, or similar instruments entered into by The City of Arkansas City pursuant to the provisions of Assurance 8.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on said property described in this lease, for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21,

Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Kansas Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, and national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21,

Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

# Sidewalk Survey

