

CHAPTER 12
HUMAN RESOURCES*

ARTICLE I. IN GENERAL

Secs. 12-1--12-15. Reserved.

ARTICLE II. AFFIRMATIVE ACTION PROGRAM

Sec. 12-16. Definitions.

"Affirmative action program" is a positive program designed to insure that a good faith effort with realistic goals will be made to employ applicants and to treat employees during employment equally without regard to their race, sex, age, physical handicaps, color, creed or religion or national origin. Such program shall include, where applicable, but not be limited to the following: Recruitment and recruitment advertising, employment, upgrading promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship; and shall include goals, methodology and timetable for implementation of the program. The words "applicants" and "employees" as used herein shall include subcontractors as well as individuals. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-17. Declaration of affirmative action policy.

The practice or policy of discrimination against individuals by reason of race, sex, physical handicaps, religion, color, national origin, ancestry or age is a matter of concern to the City of Merriam, since such discrimination threatens not only the rights and privileges of inhabitants of the city, but menaces the institutions and foundations of a free land with democratic processes. It is hereby declared to be the policy of the City of Merriam, Kansas, in exercise of its police power for the protection of the public safety, public health and general welfare, for the maintenance of business and good government, and for the promotion of the city's trade and commerce, to eliminate and prevent discrimination, segregation, or separation because of race, sex, age, physical handicaps, religion, color, national origin or ancestry. It is further declared to be the policy of the City of Merriam to assure equal opportunities and encouragement of every person regardless of race, sex, age, physical handicaps, religion, color, national origin

***State law reference--**Kansas Act Against Discrimination, K.S.A. 44-1001 et seq.

or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which he or she is properly qualified; to assure equal opportunities to all persons

within this city to full and equal public accommodations; and to assure equal opportunities in housing without distinction on account of race, sex, age, religion, color, national origin or ancestry. With the foregoing goals in mind, the City of Merriam, Kansas, embraces the following civil rights acts and orders:

The Kansas Act Against Discrimination, K.S.A. 44-1030.

Civil Rights Act of 1964--providing that no person in the United States shall be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance, including Federal Code of Regulations, Title 43, Part 17, Public Law 88352, Section 601 and 602.

Section 109, Housing and Community Development Act of 1974--providing that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Title VIII, Civil Rights Act of 1968--providing for fair housing throughout the United States. Kinds of discrimination prohibited: Refusal to sell, rent or negotiate, or otherwise to make available; discrimination in terms, conditions and privileges; discriminatory advertising; false representation; blockbusting; discrimination in financing and discrimination in membership in multiple-listing services and real estate brokers' organizations.

Executive Order 11063--requiring equal opportunity in housing and related facilities provided by Federal assistance.

Executive Order 11246 as amended by Executive Order 11375--requiring nondiscrimination in employment under federally-assisted contracts.

U.S. Department of the Interior, Bureau of Outdoor Recreation, and the Interior Office of Equal Opportunity, and Public Law 88-578--provides no discrimination in the use of public facilities when federal financial assistance is used. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-18. Affirmative action program for city personnel.

It is the policy of the City of Merriam, Kansas, to take affirmative action to achieve equal employment for all minorities and women in all personnel actions and procedures including, but not limited to, recruitment, hiring, training, transfer and promotion, compensation and other benefits. The general objectives are:

- (a) To intensify efforts to recruit minorities and women applicants for every level of responsibility;

- (b) To develop special training programs to qualify persons for beginning-level positions and for advancements;
- (C) To develop procedures for monitoring the application flow, final hiring and disposition of minorities and women. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-19. Establishment and review of goals and timetables.

The mayor shall require all department heads to report to him or her by the first day of July 1975 as to the number of minority and female employees then employed, by pay grade and position of responsibility. He or she shall then, with the assistance and advice of his or her staff, including the equal employment officer, hereinafter designated, determine the deficiencies of minority and female employment, placement and promotion. He or she shall in like manner then establish official goals to correct those deficiencies and the timetables in which those goals will be attempted to be achieved. The goals and timetables will be a matter of public record and shall be kept on file with the city clerk. The mayor, or his designated officer, will provide for an annual updating of the written goals and timetables. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-20. Equal employment opportunity officer.

The equal employment officer of the City of Merriam shall be the city administrator. Said officer shall coordinate the city's efforts in the implementation of its affirmative action programs and advise and assist department heads in said implementation. All administrative personnel and department heads will be responsible for carrying out all aspects of the affirmative action program within their division or department. The equal employment officer shall be responsible for development of recruitment and training programs to include hiring goals for each city department. The duties of the equal employment officer are:

- (a) To conduct department reviews, as necessary or indicated by reports, to determine compliance with the city's affirmative action program;
- (b) To report to the mayor results obtained with the affirmative action program, problems encountered, resistance or failure to implement the policy of the city, and recommend remedies;
- (c) To serve as a consultant and resource person to the mayor and/or department heads in the development of recruitment programs, selection procedures, training programs or other personnel functions to implement the city's affirmative action program;
- (d) To play a leadership role in establishing liaison between the city and minority communications;

- (e) To serve as a liaison between contractors and employment agencies, including the Kansas Commission on Civil Rights, Federal Equal Employment Opportunity Commission and minority organizations. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-21. Dissemination of policy.

- (a) The city policy of affirmative action shall be communicated by the equal employment officer to all personnel in city government.
- (b) The affirmative action policy shall be posted on all bulletin boards in areas where employed personnel will be aware of such policy.
- (c) The policy shall be sent to all appropriate recruitment sources. The intent of the policy shall be communicated with all letters or invitations for persons to submit resumes for consideration for employment.
- (d) During orientation of new personnel, the city's affirmative action program shall be emphasized. A printed brochure explaining all aspects of the policy will be provided to all new employees.
- (e) The policy of the city shall be forwarded to minority and women group leaders and organizations and churches and particularly those composed of minority populations, schools, contractors, subcontractors, suppliers, and other agencies.
- (f) The city will advertise in newspapers that the City of Merriam, Kansas is an equal opportunity employer, and advertise vacancies of City of Merriam, Kansas employee positions in the news media. All applicants will be screened on a competitive basis extending to all applicants consideration for employment without regard to race, creed, color, sex, physical handicaps, age, or national origin. The City of Merriam, Kansas will post, in conspicuous places, notices and other information identifying that the City of Merriam, Kansas, is an equal opportunity employer. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-22. Recruitment and selection.

All departments shall:

- (a) Recruit Personnel in such a manner that clearly demonstrates the city's interest in the employment of minorities and women;
- (b) Establish communication with educational institutions, organizations, leaders or spokesmen which encourage referral of qualified minorities and women applicants for positions which may become available in the city government;

- (c) Identify, with the assistance of the equal employment officer, minority referral sources in Merriam and/or within the scope of the recruitment area;
- (d) Consider applicants on the basis of those able to be qualified to perform the job. If minorities and women applicants have qualifications to perform the job, they should be given equal consideration for employment with any other applicant. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-23. Audit procedures.

- (a) The equal employment officer shall prepare an annual affirmative action report including all personnel within each department. This report will indicate numbers of persons employed, positions of employment, race and sex.
- (b) A position interview record shall be completed by any hiring authority or those interviewing applicants for position of employment, indicating race, sex, source of recruitment and, if not hired, reason for failure to employ. These records are to be maintained in the equal employment officer's office.
- (c) Each department shall prepare a monthly report of new employees, transfers and promotions, and terminations indicating the personnel who have resigned, retired, were fired or released by reduction of work force, noting in each case the race, sex and position of employment or position change. The report shall include all personnel of the city and should include a statistical summary of all employees, transfers, promotions and terminations by race and sex. The report shall be filed with the mayor and the equal employment officer. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-24. Grievance procedures.

All employees who have a complaint of discrimination based on race, color, religion, physical handicaps, age, national origin or sex, covered by this article or state or federal civil rights law, shall be authorized to contact the equal employment officer who shall attempt to conciliate the matter. If conciliation cannot be reached, the equal employment officer shall immediately inform the mayor so that further action may be taken. In all other complaints not covered by this article or state or federal civil rights law, the employee will first take up the matter with his immediate supervisor before making a complaint to the department head or equal employment officer.

All job applicants who have a complaint of discrimination based on race, color, religion, physical handicaps, age, national origin, ancestry or sex are requested to make their complaints in writing to the equal employment officer. Upon receipt of such complaint the equal employment officer shall investigate the matter and attempt to conciliate. The mayor shall be informed immediately of the complaint; and if the complaint is not satisfactorily resolved by conciliation attempts by the equal employment officer, then the mayor shall take such further action as he deems advisable.

The claimant has only six (6) months to file his or here grievance from the date of the alleged violation. The city will review and take action within thirty (30) working days of receipt of the complaint.

The affirmative action plan does not prohibit the rights of any City of Merriam, Kansas employee to carry his or her grievance(s) to either or both, the Kansas Commission on Civil Rights, 535 Kansas Avenue, Topeka, Kansas, or the Equal Employment Opportunity Commission (Federal), 911 Walnut, Kansas City, Missouri. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-25. Public facilities grievance procedure.

It is further declared to be the policy of the City of Merriam, Kansas, that all public facilities shall be accessible to the handicapped with provisions for use by the handicapped. In the case of existing facilities, modifications to bring said facilities into compliance with the provisions of Public Law 90-480, Architectural Barriers Act of 1968, shall be undertaken as soon as funds are available for such purpose.

It is the right of each and every individual who feels himself aggrieved through discrimination on the basis of race, color, religion, sex, age, physical handicaps, or national origin to file a grievance complaint with the City of Merriam, Kansas.

Within five (5) days after receipt of said complaint, the City of Merriam, Kansas shall file a copy of the complaint with the Equal Opportunity Office, Department of the Interior, Washington, D.C., and with Lynn Buriss, Jr., State Liaison Officer, P.O. Box 977, Topeka, Kansas 66601.

If the complaint is not resolved to the satisfaction of the complainant within thirty (30) days of said complaint, he or she may file an additional grievance complaint with the Kansas Commission on Civil Rights, 535 Kansas Avenue, Topeka, Kansas 66603. The complainant may, at any time within six (6) months from the date of the alleged act of discrimination, file a grievance complaint with the Equal Opportunity Office, Department of Interior, Washington, D.C. Further, the complainant shall have full recourse to all remedies of law in seeking satisfactory disposition of any alleged act of discrimination. The complainant may at any time during the course of settlement of the grievance, withdraw his or her complaint by notification of all parties involved. Such withdrawal shall not jeopardize the right of any person complained against from seeking legal relief for slander, libel, or false accusation, if such action is believed warranted.

Any act of discrimination by an employee or agent of the City of Merriam, Kansas, established and proven, shall be grounds for disciplinary action, including dismissal, in addition to any penalties imposed through due process of law. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-26. Affirmative action program for public contracts.

Prior to entering any contract with the City of Merriam Kansas, for goods, services, and construction, alteration and/or repair of public buildings or works, any of which is in the amount of two thousand five hundred (\$2,500.00) or more, all persons, firms or corporations seeking such contracts shall submit in writing to the equal employment officer an affirmative action program. Such affirmative action program shall be submitted concurrently with or prior to any contract bid or proposal. Said affirmative action program shall be submitted in the form of answers to a specific questionnaire which shall be provided by the equal employment officer; provided, that if said prospective contractor shall fail or refuse to submit an affirmative action program as required by this section, such person, firm or corporation shall be ineligible to enter into any city contract or to receive any contract from the city until such person, firm or corporation has so complied.

Provided, however, that all such contracts which are funded by federal funds shall be subject to review by the appropriate federal agency for necessary affirmative action prior to awarding of the contract. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-27. Review by the equal employment officer.

- (a) *Affirmative action programs.* The equal employment officer shall receive and review affirmative action programs submitted to him or her, make a written evaluation of the same and shall specify in writing any modification of the program needed to make it conform to the requirements of this section. Provided, that prior to rejection of any program, the equal employment officer shall advise and consult with the person submitting such program for the purpose of assisting him or her to develop an acceptable affirmative action program. In any event, the equal employment officer shall notify the mayor in writing of his or her determination within thirty (30) working days of the equal employment officer's receipt of the program.
- (b) *Option annual submissions.* Any person, firm or corporation contracting business with the city, who desires, may file annually an affirmative action program with the city which shall apply to all bids or proposals which such person, firm or corporation shall make during the calendar year next succeeding the date of such filing. Such annual submission shall be subject to review by the equal employment officer and shall be amended at such time and in such a manner as may be required to comply with this article; provided, however, that where the contract or project is federally funded or assisted, that the appropriate federal agency shall have final determination of acceptance or rejection of a proposed affirmative action program. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-28. Acceptance of program and contract conditions.

The final determination of acceptance or rejection of the affirmative action program shall be made by the city council. Provided, however, that where the contract or project is federally funded or assisted, that the appropriate federal agency shall have final determination of acceptance or rejection of a proposed affirmative action program. The following conditions

shall be contained in all contracts with the city, regardless of the dollar amount of the contracts:

- (a) Any person who has been awarded a contract shall not discriminate against any person in the performance of work under the contract because of race, sex, religion, age, color, national origin or ancestry, except by reason of demonstrably valid occupational disqualifications;
- (b) 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 equal employment officer;
- (c) If the contractor fails to comply with the provisions of this section, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated or suspended in whole or in part by the city council;
- (d) The contractor shall include the provisions of this section on every subcontract so that said provisions will be binding upon subcontractor. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-29. Federally funded or federally assisted projects.

In addition to the requirements set forth above, the following requirements and procedures will be followed in all public contracts with the city wherein the city is utilizing federal funds or assistance:

- (a) All bid documents and supporting information shall contain the language of Section 202 and Section 301 of Executive Order 11246 and as amended by Executive Order 11375 and be consistent with Title VI of the Civil Rights Act;
- (b) The equal employment officer will distribute and explain guidelines for an affirmative action program to the prospective contractors prior to bid letting at a meeting held for that purpose, at which time instructions will be given for complying with the Equal Opportunity Act and specifically Executive Order 11246 and as amended by Executive Order 11375;
- (c) Written notice will be sent to all minority contractors in the locality of the impending bid letting and the specifications for qualifying as a contractor for a specific job;
- (d) A concerted effort will be made to assist minority contractors in obtaining all information available to contractors that will be of assistance to them in securing bonds and making bids;

- (e) All city departments, funded agencies such as urban renewal agency and public housing, shall submit all contracts to the equal employment officer for concurrent approval of affirmative action program. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-30. Enforcement of sections regulating public contracts.

The equal employment officer is hereby charged with administration and enforcement of the affirmative action program and is hereby authorized and empowered:

- (a) *Affirmative action program review; eligibility certification.* To receive, review and recommend approval or rejection of affirmative action program submitted by persons seeking any city contract and to certify eligible persons to the city;
- (b) *Compliance investigation.* To initiate investigations into, to survey and review any and all affirmative action programs and contracts subject to this article and to take such action with respect thereto as shall insure compliance with the terms of this article; provided, however, such programs and contracts are subject to final approval by the city council;
- (c) *Conciliation.* To attempt to eliminate any violation practice or any alleged violation of the terms of this article by means of conference, conciliation, persuasion and negotiation. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-31. Job goals.

The availability of city jobs will be filled in accordance with the affirmative action plan in relation to turnover rates of City of Merriam, Kansas jobs.

If the contractor fails to comply with the provisions of this article, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated or suspended in whole or in part by the governing body. (Ord. No. 971, § 1, 10-15-84)

Sec. 12-32. Supplement to other city ordinances and regulations.

The requirements of this affirmative action program shall be supplemental to and additional to the requirements of any other ordinances or regulations of this city. (Ord. No. 971, § 2, 10-15-84)

Sec. 12-33. Construction.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this article shall be deemed to repeal any of the

provisions of any other law of the city relating to discrimination because of race, sex, religion, physical handicaps, age, color, national origin or ancestry, unless the same is specifically repealed by this article. Nothing in this article shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel or discharge qualified or competent personnel. (Ord. No. 971, § 2, 10-15-84)

Sec. 12-34. Invalidity in part.

If any clause, sentence, paragraph or part of this article, or any application thereof to any person or circumstance, 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 article 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 article would have been passed had such provision not been included. (Ord. No. 971, § 2, 10-15-84)

Secs. 12-35--12-40. Reserved.

ARTICLE III. FAIR HOUSING

Sec. 12-41. Policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing within the city limits. (Ord. No. 869, § 1, 2-2-81)

Sec. 12-42. Definitions.

As used in this article, unless the context requires otherwise :

Discriminatory housing practice means an act that is unlawful under Section 12-43 through 12-46 of this Code.

Dwelling means any building, structure, or portion thereof which is occupied as or designed or intended for occupancy, as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family includes a single individual.

Real estate broker means any person who, for a fee or other valuable consideration, sells, purchases or rents, or negotiates or offers or attempts to negotiate the sale, purchase or rental

of real property of another or holds himself out as engaged in the business of selling, purchasing or renting the real property of another, or collects rental for the use of the real property of another.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (Ord. No. 869, § 2, 2-2-81)

Handicap means, with respect to a person:

- (a) a physical or mental impairment which substantially limits one or more of such person's major life activities;
- (b) a record of having such an impairment; or
- (c) being regarded as having such an impairment,

but such term does not include current, illegal use of or addition to or controlled substance.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (a) a parent or another person having legal custody of such individual or individuals; or
- (b) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Sec. 12-43. Exemptions.

- (a) The prohibitions against discrimination in the sale or rental of housing set forth in section 12-44 shall apply to :
 - (1) Dwellings owned or operated by the federal government.
 - (2) Dwellings provided in whole or in part with the aid of loans, advances, grants or contributions made by the federal government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to February 2, 1981.

- (3) Dwellings provided in whole or in part by loans insured, guaranteed or otherwise secured by the credit of the federal government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to February 2, 1981.
- (4) Dwellings provided by the development or redevelopment of real property purchased, rented, or otherwise obtained from a state or local public agency receiving federal financial assistance for slum clearance or urban renewal with respect to such property under loan or grant contracts entered into after November 20, 1962.

Nothing in paragraphs (2) or (3) above shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution.

- (b) Nothing in this article 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, religion, sex, national origin or ancestry. Nothing in this article prohibits a nonprofit private club in fact not open to the public, which as incident to its primary purpose or purposes provides dwellings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such dwellings to its members or from giving preference to its members. Nothing in this article applies to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence. (Ord. No. 869, § 3, 2-2-81)

Sec. 12-44. Discrimination in the sale or rental of housing.

It shall be unlawful:

- (a) To refuse to sell or rent after the making of a bona fide offer, or to otherwise make unavailable or deny a dwelling to any person or race, color, religion, sex, national origin, ancestry, handicap or familial status.
- (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, ancestry, handicap or familial status.
- (c) To make, print, or publish, or cause to be made, printed, or published any notice, statements, or advertisement, with respect to the sale or rental of a dwelling that

- indicates any preference limitation, or discrimination based on race, color, religion, sex, national origin, ancestry, handicap or familial status, or an intention to make any such preference, limitation, or discrimination.
- (d) To represent to any person because of race, color, religion, sex, national origin, ancestry, handicap or familial status that any dwelling is not available for inspection, sale, or rental, when such dwelling is in fact so available.
 - (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin or ancestry. (Ord. No. 869, § 4, 2-2-81)

Sec. 12-45. Discrimination in the financing of housing.

It shall be unlawful for any bank, saving and loan association, insurance company, or other corporation, association, firm or enterprise, whose business consists in whole or in part in making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, ancestry, handicap or familial status of such person or any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given. (Ord. No. 869, § 5, 2-2-81; Ord. No. 1103, § 1, 11-5-90)

Sec. 12-46. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing services, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, national origin, ancestry, handicap or familial status. (Ord. No. 869, § 6, 2-2-81; Ord. No. 1103, § 1, 11-5-90)

Sec. 12-47. Fair housing committee.

- (a) There is hereby established a fair housing committee of five (5) members to be appointed by the mayor, by and with the consent of the governing body. Three (3) of the members first appointed shall serve for a term of two (2) years and two (2) of the members shall be appointed for a term of one year each. Thereafter, members shall be appointed for terms of two (2) years each. Vacancies shall be filled by appointment to the unexpired term. A quorum of three (3) members of the committee

may perform its duties and keep minutes and execute its report in the name of the committee.

- (b) The fair housing committee may delegate its functions, duties and powers with respect to investigating, conciliation and education to the director of community development. (Ord. No. 869, § 7, 2-2-81; Ord. No. 886, § 1, 4-20-81)

Sec. 12-48. Education and conciliation activities.

The director of community development shall conduct such educational and conciliatory activities as in his judgment will further the purposes of this article. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He shall consult with other interested parties to learn the extent, if any, to which housing discrimination exists in the city and whether local enforcement programs might be utilized to combat such discrimination in connection with or in place of the fair housing committee's enforcement of this article. The director shall issue reports on such conferences and consultations as he/she deems appropriate. (Ord. No. 869, § 8, 2-2-81)

Sec. 12-49. Administrative actions to enforce.

To secure within a reasonable time, bona fide accomplishment of this article in individual cases, the following procedure to facilitate discontinuance of violations without imposition of penal sanctions shall be employed.

- (a) Any person claiming to be aggrieved by violation, as defined herein, may on a standardized form, file with the director of community development, a written, verified complaint, identifying the person alleged to have committed the violation and setting forth the particulars thereof; the director is hereby directed to adopt and furnish, without charge, official complaint forms, and he shall cause the administration of oaths to complainants, and he may assist in the clerical preparation of such complaints. Such complaints shall be filed within one hundred eighty (180) days after the date on which the violation allegedly occurred.
- (b) Upon the filing of a complaint, as herewith provided, the director of community development shall furnish a copy of said complaint to the fair housing committee. A copy of said complaint shall be furnished to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice within ten (10) days after the receipt of the complaint. The director shall immediately initiate an investigation. In conducting an investigation the director shall have access at all reasonable times to premises, records, documents, individuals 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 as are necessary for the furtherance of the investigation.
- (c) After the investigation and within thirty (30) days of filing the complaint, if in the judgment of the director of community development there is probable cause, the director shall file an investigative report with the fair housing committee. Based on the report, if a majority of the committee believes that report sustains a probable cause, the committee shall then direct the director to proceed with conciliation through conference and persuasion. The director is authorized to enter into a formal conciliation agreement which shall include the person aggrieved and the persons who allegedly committed or are about to commit the alleged discriminatory housing practice as signatories. If the community development director finds no probable cause, he shall submit his findings together with all the evidence he has gathered to the committee which may adopt said findings as a final disposition of said complaint. The director shall notify the persons aggrieved and the persons who allegedly committed or are about to commit the alleged discriminatory housing practice of his determination not to resolve the complaint. The person aggrieved shall be advised of his right to file a housing discrimination complaint concurrently with both the Kansas Commission on Civil Rights and the department of housing and urban development. Upon the motion of two (2) members of the fair housing committee, the committee may act upon the findings of the director in a manner as if the director had found probable cause. The person aggrieved and persons who allegedly committed or are about to commit the alleged discriminatory housing practice shall be notified by the fair housing committee of such determination.
- (d) The director of community development, no later than thirty (30) days after the filing of the complaint, shall notify the aggrieved persons of their right to file civil action in district court against the persons who allegedly committed or are about to commit the alleged discriminatory housing practice.
- (e) If the director is unable to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, upon reference from the director, the fair housing committee shall promptly set a date for hearing of the matters alleged in such complaint and subsequent occurring related matters; such hearing shall occur in the city hall not more than thirty (30) days after the date on which the director shall have so referred such complaint, but only after giving at least five (5) days prior written notice to the aggrieved and to the person or persons alleged to have committed the violation ; for the purposes of the hearing the fair housing committee shall have the power to administer oaths and at the request of the aggrieved or the persons alleged to have committed the violation, or upon its own motion, issue subpoenas to compel their access to or the production of records, documents, individuals and other evidence or possible sources of evidence; it may examine, record and copy such materials and take and record the testimony or statements of such persons as are necessary for the furtherance of the investigation;

such process shall be executed by the police department and shall be enforced as in all cases of city ordinance violations; such hearings shall be conducted in a fair and impartial manner according to the rules adopted by the fair housing committee; the proof of the matters contained within the complaint may be presented by a member of the legal department at the hearing upon the request of the fair housing committee; the aggrieved and person or persons alleged to have committed the violation may appear with legal counsel and shall have the right to present proof and cross-examine witnesses in all matters relating to the complaint and subsequent related occurrences.

- (f) After such hearing, if a majority of the fair housing committee shall be convinced by the evidence that the complaint is well founded, the fair housing committee shall order the person or persons in violation of the fair housing ordinance to cease and desist within ten (10) days of the order being given. Failure to comply with this section will result in prosecution under section 12-52 of this Code. The fair housing committee may, in light of new evidence presented during the hearing, issue a no probable cause determination. The person aggrieved shall be notified in writing of the determination of the fair housing committee.
- (g) The fair housing committee will cause the completion of an official record of the hearing for the purpose of recording the proceedings of the hearing. Any persons wishing to receive a transcript of the hearing proceeding may do so at cost. (Ord. No. 869, § 9, 2-2-81)

Sec. 12-50. Certification of complaints to city attorney.

The fair housing committee, in the event of failure to secure voluntary compliance with the requirements of this article, may certify in writing to the city attorney that all reasonable efforts of the committee to secure compliance are concluded in the matter and the committee shall, with such certification, transmit the committee file, transcript of the hearing, and in all respects cooperate with the city attorney. (Ord. No. 869, § 10, 2-2-81)

Sec. 12-51. Failure to testify; subpoenas; giving evidence.

- (a) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or evidence, if in his power to do so, in obedience to the subpoena or the lawful order of the committee, shall be subject to prosecution under section 12-52 of this Code.
- (b) Any person who with intent to mislead the fair housing committee or shall make or cause to be made any false entry or statement of fact in any report, account, record or other documents submitted to the fair housing committee or shall willfully neglect or fail to make or cause to make full, true and correct entries into such reports, accounts, records or other documents, or shall willfully destroy, alter or by any other means falsify any documentary evidence shall be subjected to prosecution under section 12-52 of this Code. (Ord. No. 869, § 11, 2-2-81)

Sec. 12-52. Violations.

- (a) Upon certification by the fair housing committee the Legal Department shall initiate a charge in the municipal court against the alleged violator and prosecute the same to final conclusion. No prosecution shall be brought under sections 12-43, 12-44, 12-45 or 12-46 of this Code except upon certification to the city attorney as provided for herein. Any court in which such a proceeding is instituted shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.
- (b) Any person who shall violate any of the provisions of this article shall upon conviction be deemed guilty of a misdemeanor and shall be punished for such violation by a fine of five hundred dollars (\$500.00) or imprisonment for not less than three (3) months and not more than six (6) months for such violation, or by both such fine and imprisonment. Upon each subsequent conviction after such second conviction thereof such person shall be punished for each separate violation by a fine of five hundred dollars (\$500.00) and imprisonment of six (6) months or by both fine and such imprisonment. (Ord. No. 869, §§ 12-14, 2-2-81)