

## **Chapter 235**

### **DISCRIMINATION**

Cross Reference — As to equal opportunity employment policy, see ch. 125.

#### **ARTICLE I Handicapped Status**

##### **Section 235.010. Public Facilities Grievance Procedure. [CC 1985 §2-608]**

- A. It is declared to be the policy of the City of Mulvane that all public facilities shall be accessible to the handicapped with provisions for use by the handicapped. In the case of making existing facilities come into compliance with the provisions of Public Law 90-480, Architectural Barriers Act of 1968, it shall be undertaken as soon as funds are available for such purpose.
- B. It is the right of each and every individual who feels himself/herself aggrieved through discrimination on the basis of race, color, religion, sex, age, disability or national origin to file a grievance complaint with the City of Mulvane, Kansas.
- B. Within five (5) days after receipt of said complaint, the City Administrator shall file a copy of the complaint with the Equal Opportunity Office, Department of the Interior, Washington, D.C., and with the State Liaison Officer, P.O. Box 977, Topeka, Kansas 66601.
- B. If the complaint is not resolved to the satisfaction of the complainant, he/she may file an additional grievance complaint with the Kansas Human Rights Commission, 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 the 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/her complaint by notification of all parties involved. Such withdrawal shall not jeopardize the rights of any person complained against from seeking legal relief for slander, libel or false accusation, if such action is believed warranted.
- C. Any act of discrimination by an employee or agent of the City of Mulvane, established and proven, shall be grounds for disciplinary action, including dismissal. Such disciplinary action shall be in addition to any penalties imposed through due process of law.

#### **ARTICLE II Mulvane Fair Housing Policy and Anti-Discrimination and Equal Rights Board**

**Section 235.020. Declaration of Policy.** [CC 1985 §2-801; Ord. No. 650, 12-15-1980]

The practice or policy of discrimination against individuals by reason of race, sex, religion, color, disability, age, national origin or ancestry is a matter of concern to the City of Mulvane since such discrimination threatens not only the rights and privileges of the inhabitants of the City but menaces the institutions and the foundations of a free democratic state. It is hereby declared to be the policy of the City of Mulvane 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 and separation because of race, sex, religion, disability, age, color, national origin or ancestry. It is further declared to be the policy of the City of Mulvane to assure equal opportunities and encouragement to every person regardless of race, sex, religion, color, disability, age, national origin or ancestry and 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, color, disability, age, religion, national origin or ancestry.

**Section 235.030. Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board, Created, Appointed, Terms, Etc.** [CC 1985 §2-802; Ord. No. 650, 12-15-1980]

There is hereby created a board to be known as the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board to serve the citizens of Mulvane in the administration and furtherance of the policy established herein. Said Board shall consist of one (1) member of the City staff, one (1) member of the City Council and one (1) citizen at large of the City of Mulvane, all to be appointed by the Mayor and approved by the City Council. The Board shall elect one (1) of its members as Chairperson who shall preside at all meetings of the Board and perform all the duties and functions of the Chairperson thereof. The Mayor shall convene the first (1st) meeting of the Board and conduct the election of the Chairperson. The Board shall elect one (1) of its members as Vice-Chairperson who shall act as the Chairperson during the absence or incapacity of the Chairperson, and when so acting, the member so designated shall have and perform all the duties and functions of the Chairperson of the Board. Appointments of new members to fill vacancies shall be made on an annual basis. The term of office of the Chairperson and Vice-Chairperson shall be for one (1) year. The Chairperson or Vice-Chairperson may resign from his/her office at any time during his/her term and may do so without resigning from the Board. In such event, the Board shall elect another member to replace him/her, and such person shall serve the unexpired term of the person he/she replaces. A majority of the presently serving members of the Board shall constitute a quorum for the purpose of conducting the business thereof. The members of the Board shall serve without compensation.

**Section 235.040. Powers and Duties of the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board.** [CC 1985 §2-803; Ord. No. 650, 12-15-1980]

- A. The Board shall have the following functions, powers, duties and responsibilities:
  - 1. Propose by-laws for adoption by the City Council for the purpose of organization and performing its duties and further, may adopt such rules of procedure and regulations as are necessary and suitable for carrying out the purposes of the Board; provided such by-laws, rules and regulations, before they are effective, shall be approved by

the Governing Body of the City of Mulvane.

2. Endeavor to aid the City and its people in benefiting from the fullest realization of its human resources by development program proposals which can open the way for each individual, regardless of race, sex, disability, religion, color, national origin or ancestry and age to develop according to his/her abilities without limitation.
3. Make such studies and perform such acts as, in the Council's judgment, will aid in making effective the purposes of this Article including, but not limited to:
  - a. Fostering good will, cooperation and conciliation among groups and segments of the population of this City;
  - b. Studying the problems of discrimination or instances of discrimination because of race, sex, disability, religion, color, national origin or ancestry and age;
  - c. Establishing policies, procedures and programs of education for proposal to the Governing Body of the City.
4. Utilize volunteer citizen committees which, in its judgment, will aid in making effective the purpose of the ordinance to:
  - a. Foster through community effort or otherwise good will, cooperation and conciliation among the groups and elements of the population of this City;
  - b. Study problems of discrimination in all or specific fields or instances of discrimination because of sex, race, religion, disability, color, national origin or ancestry and age;
  - c. Recommend to the Council human relations policies and procedures and programs of formal and informal education which the Council may then recommend to the appropriate City agency to assure equal opportunity with affirmative action toward nondiscrimination recruiting and hiring of City employees, contract employees, employees of the contractors or administration used by the City. Such committees shall be composed of representative citizens serving without pay.
5. After obtaining the approval of the Governing Body as to the terms, covenants and conditions therein contained, the Board shall be authorized to enter into contracts, agreements or memorandums of agreement with the Kansas Human Rights Commission, the Federal Equal Opportunity Commission and the Department of Housing and Urban Development in order to carry out any and all assignments made through these agencies to the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board.
5. To assure the non-discrimination placement and promotion of all City employees under the guidelines and pertinent statutes of the State of Kansas pertaining to employment procedures, the Board, with the approval of the Governing Body, may make application to any person, organization, City, County, State or Federal governmental unit or agency for funds to make effective the purposes of this Article. All funds shall be received and disbursed in the name of the City of Mulvane, Kansas.

6. To assure the non-discrimination pay raises or layoffs as defined by the policies and guidelines of the Statutes of the State of Kansas and this Article.
7. To assure equal opportunities to all persons within the City to full and equal accommodations, both public and private.
8. To assure all of said activities as outlined in said Paragraphs (1) through (7) hereof without discrimination on account of race, sex, color, disability, age, religion, national origin or ancestry.
9. Regularly inform the members of the Governing Body through distribution of its agendas, minutes, memoranda, reports and other pertinent documents the items of business before the Board, the ongoing status of such items and the disposition of such items.
10. Render each year to the Governing Body of the City a full written report of all of its activities and of its recommendations.

**Section 235.050. Administrator.** [CC 1985 §2-804; Ord. No. 650, 12-15-1980]

A City staff member, appointed by and responsible to the City Administrator, shall act as Director and as an ex-officio member of said Board without voting powers and shall assist said Board in the performance of its assigned duties. The appointment shall be based on the qualifications, fitness and merit of the applicant for the position. The employment of such additional personnel, full or part-time, may be authorized by and their compensation fixed by the Governing Body.

**Section 235.060. Complaint Procedure.** [CC 1985 §2-805; Ord. No. 650, 12-15-1980]

- A. The following procedures will apply in complaints alleging discriminatory practices filed with the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board.
  1. Any person claiming to be aggrieved by an alleged unlawful act or practice as defined by K.S.A 44-1001, et seq., the Kansas Act Against Discrimination, Title VI, et. seq., the Civil Rights Act of 1964, as amended, or any other Federal act, law, rule, regulation or executive order pertaining to non-discrimination may file with the Board a verified complaint, in writing, which shall contain such information as may be required by the Board. All complaints shall be received by the Director. The Board, upon its own initiative may, in like manner, make, sign and file such complaint.
  2. Upon the filing of a complaint, the Director shall, within seven (7) days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this Article and initiate a prompt investigation of the alleged act of discrimination. During the investigation of a complaint, the Director shall have the same power of discovery in the name of the Board as provided in Section 235.040 (3) and (8) of this Article.
  3. If the Director shall determine, after such investigation, that no probable cause exists for crediting the allegations of the complaint, he/she shall, within ten (10) business

- days from such determination, cause to be issued and served, upon the complainant and respondent written notice of such determination. This shall close the case except that a complainant who has filed a complaint may appeal within, ten (10) business days from the date of the service of such decision a written request for hearing before the Board or referral of the case to the appropriate Federal or State agency. The request shall be granted by the Board within ten (10) business days from the date the same shall be filed. Upon hearing, the matter shall be determined by the Board within thirty (30) business days after the same shall be submitted.
4. If the Director shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, he/she shall, within ten (10) business days from such determination, cause to be issued and served upon the complainant and respondent written notice of such determination. Such written notice shall propose conciliation and establish a schedule therefore. The Director shall endeavor to eliminate the unlawful employment practice or the unlawful discriminatory practice complained thereof by conference and conciliation. The complainant, respondent and Director shall have forty-five (45) days from the date the respondent is notified, in writing, of a finding of probable cause to enter into a Conciliation Agreement signed by all parties in interest. The terms of such Conciliation Agreement may include any provisions and remedies for retroactive, present or future effect to eliminate the unlawful practice or act as set forth in Federal and State guidelines. 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 Board, Director and staff shall not disclose what has transpired in the course of such endeavors except as provided in Subsection (6) of this Section.
  5. If the complainant, respondent and Director are successful in endeavors under conference and conciliation, this shall close the case; except that a respondent who has had a probable cause determination by the Director may appeal the Director's determination by filing, within ten (10) business days from the date of service of such decision, a written request for hearing before the Board. The request shall be granted by the Board within ten (10) business days from the date the same shall be filed. Upon hearing, the matter shall be determined by the Board within thirty (30) business days after the same shall be submitted.
  6. In case of failure to eliminate alleged unlawful acts or practices through conference and conciliation, the Director shall notify the complainant and respondent, in writing, together with a copy of the complaint as the same may have been amended, that such efforts have been unsuccessful. Such notice shall also inform the parties thereto of the complainant's right to file with the appropriate State and/or Federal agency and that the Director will assist complainant in filing the same. The Director may provide the State or Federal agency with copies of the complaint and such other materials pertinent to the complaint.
  7. The Director shall report to the Board all complaints received, disposition of complaints and the on-going status of such complaints. Such report shall be presented by the Director to the Board at its regular monthly meeting or, at any other such times

as needed or required. The Director shall keep the City Attorney informed of the same.

**Section 235.070. Construction.** [CC 1985 §2-806; Ord. No. 650, 12-15-1980]

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 this City relating to discrimination because of race, sex, religion, disability, color, national origin or ancestry and age unless the same is specifically repealed by this Act. 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.

**Section 235.080. Definitions.** [CC 1985 §2-807; Ord. No. 650, 12-15-1980]

Definitions of terms used in this Article and not defined herein shall be deemed to be the same as defined in K.S.A. 44-1002 as applicable or K.S.A. 44-1015 as applicable.