

1 (Published in the Topeka Metro News October 25, 2006)

2
3 ORDINANCE NO. 18735

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5 AN ORDINANCE introduced by Councilmember John Nave concerning the Topeka
6 Human Relations Commission amending City of Topeka Code §§ 86-
7 1, 86-2, 86-51, 86-53, 86-68, 86-79 and 86-112 and specifically
8 repealing said original sections.
9

10 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

11 Section 1. City of Topeka Code § 86-1, Topeka Human Relations Commission
12 created, is hereby amended to read as follows:

13 **Topeka Human Relations Commission created.**

14
15 There is hereby created the Topeka Human Relations Commission. The executive
16 director of the commission shall be appointed by the city manager, serve at the will and
17 pleasure of the city manager, and be under the administrative direction of the city manager.
18 The professional, administrative and support staff employed to support the commission
19 shall be identified as the Topeka Human Relations Department, and the executive director
20 of the commission shall be the director of the department.

21 Section 2. City of Topeka Code § 86-2, Same—Specific duties and
22 responsibilities, is hereby amended to read as follows:

23 **Same--Specific duties and responsibilities.**

24 The commission's executive director shall have the following duties and
25 responsibilities:

- 26 (1) To be the administrative head of the Topeka Human Relations Commission;
- 27 (2) To endeavor to eliminate prejudice because of race, religion, creed, color,
28 sex, disability, national origin or ancestry, or age in the city and to further goodwill among
29 all people of the city;

- 30 (3) To administer and enforce the provisions of this chapter;
- 31 (4) To draft regulations as directed by the commission for consideration by the
32 commission;
- 33 (5) To receive, investigate, and attempt to conciliate or refer all complaints filed in
34 accordance with this chapter;
- 35 (6) To exercise any other duties and responsibilities specified as the director's in
36 any section of this chapter, or any other city ordinance;
- 37 (7) To manage any City of Topeka employees assigned to the Topeka Human
38 Relation Department ~~To~~ to delegate duties, functions and responsibilities to any staff
39 personnel employed as authorized;
- 40 (8) To appoint conciliation committees, as needed, from among the commission
41 members;
- 42 (9) To perform additional duties and responsibilities allocated by the city
43 manager, as the need may arise;
- 44 (10) To support the commission to endeavor to eliminate prejudice because of
45 race, religion, creed, color, sex, disability, national origin or ancestry, or age and further
46 goodwill among all people of the city; promote goodwill, cooperation and conciliation;
47 support the commission in seeking additional funding to effectuate the purposes of this
48 article; issue such publications, results of investigation not confidential in nature, and
49 research as, in the judgment of the city attorney's office and director, will tend to promote
50 goodwill and minimize or eliminate discrimination; and advise and support the commission
51 and staff and receive and accept reports; and

52 (11) By March 1 of each year, to prepare and submit to the city and the city council
53 a plan to address any problems or deficiencies identified by the commission in its annual
54 report required by City Code section 86-28(3).

55 Section 3. City of Topeka Code § 86-51, Definitions, is hereby amended to read
56 as follows:

57 **Definitions.**

58 The following words, terms and phrases, when used in this article, shall have the
59 meanings ascribed to them in this section, except where the context clearly indicates a
60 different meaning:

61 *Commission* means the Topeka Human Relations Commission.

62 *Complainant* means a person who filed a written verified complaint alleging unlawful
63 discrimination.

64 *Director* means the administrative head of the Topeka Human Relations
65 Commission.

66 ~~*Disability* means a physical, developmental, mental or emotional impairment which
67 substantially limits one or more major life activities such as learning, communication,
68 mobility, self-care, socialization, employment, housing or recreation. This includes any
69 individual who is so limited as a result of having a record of such an impairment or being
70 regarded as having such an impairment. Such impairments shall not limit a person's ability
71 to perform essential functions of a particular job for which that person is otherwise qualified,
72 nor limit such person's ability to occupy housing or to use public accommodations or other
73 services or facilities covered by this article; provided, that reasonable accommodation is~~

74 made for the impairment, if required. Active alcohol, drug and other substance abuse is
75 excluded from this definition.

76 ~~*Discrimination* means any direct or indirect exclusion, distinction, segregation,~~
77 ~~limitation, refusal, denial or any other differentiation or preference in the treatment of a~~
78 ~~person on account of race, religion, creed, color, sex, disability, national origin or ancestry~~
79 ~~or age, or any denial of any right, privilege or immunity secured or protected by the~~
80 ~~constitution or laws of the state or the United States. Discrimination shall include but not be~~
81 ~~limited to any practice which produces a demonstrable racial or ethnic effect without a valid~~
82 ~~business motive~~

83 ~~Governing body means the mayor and city council of the city~~

84 ~~*Respondent* means the person against whom a written verified complaint alleging~~
85 ~~unlawful discrimination has been filed with the director commission.~~

86 ~~*Written verified complaint* means a complaint, in writing, alleging unlawful~~
87 ~~discrimination, filed in accordance with division 2 of this article, which has been witnessed~~
88 ~~and signed by a notary public.~~

89 Section 4. City of Topeka Code § 86-53, Application of state law, is hereby
90 amended to read as follows:

91 **Application of state law.**

92 The provisions of the following statutes and any amendments thereto are hereby
93 incorporated by reference as if the same had been set out in full herein: K.S.A. 44-1001;
94 44-1002; 44-1006; 44-1007; 44-1009; 44-1011; 44-1013; 44-1015 through 44-1018; 44-
95 1021(a), (b), and (c); 44-1026; 44-1027; 44-1028; 44-1039; 44-1041; 44-1042; 44-1044; 44-
96 1111; 44-1112; 44-1113; 44-1117; 44-1118; 44-1119, 44-1121 except that wherever

97 reference therein is made to the state, such reference shall be construed as referring to the
98 city, unless the sense thereof would be incongruous. All reference therein to the Kansas
99 Human Rights Commission shall be construed to refer to the Topeka's Human Relations
100 Commission; and all reference therein to the attorney general or county attorney shall be
101 construed to refer to the city attorney. By no means shall the penalty for K.S.A. 44-1020;
102 44-1027; 44-1041 and 44-1117 exceed the limits established by section 1-7 of the Code of
103 the City of Topeka.

104 Section 5. City of Topeka Code § 86-68, Investigation; time limit, is hereby
105 amended to read as follows:

106 **Investigation; time limit.**

107 (a) Upon the filing of a complaint alleging that any person has engaged in an
108 unlawful act in violation of this article or has engaged in a pattern or practice of
109 discrimination, the chairperson of the commission, in consultation with the director, shall
110 designate a commission member as investigating commissioner. The director, or
111 designated staff, shall investigate that alleged illegal act. The investigating commissioner
112 shall review or direct further investigation and determine probable or no probable cause.

113 ~~(b) The investigation provided for in this section shall be completed, and a~~
114 ~~determination of probable cause or no probable cause made, within 120 calendar days~~
115 ~~from the date the complaint was filed with the commission. Notwithstanding the time limit~~
116 ~~imposed by the foregoing sentence, for good cause the director with concurrence of the~~
117 ~~investigating commissioner may extend the time limit for completion of the investigation an~~
118 ~~additional period of 60 calendar days if such additional time is necessary to complete the~~
119 ~~investigation. The investigation or the determination of probable cause or no probable~~

120 ~~cause shall not continue more than 180 calendar days beyond the date the complaint was~~
121 ~~filed with the commission unless the respondent refuses to comply with a subpoena and~~
122 ~~subsequent legal proceedings make these time limits impractical. The commission shall not~~
123 ~~lose jurisdiction over a complaint after 180 calendar days when legal proceedings are~~
124 ~~pending or were active during that 180-day time period.~~

125 (b) Complaints filed with the commission may be dismissed by the commission
126 on its own initiative, and shall be dismissed by the commission upon the written request of
127 the complainant, if the commission has not issued a finding of probable cause or no
128 probable cause or taken other administrative action dismissing the complaint within three
129 hundred (300) days of filing the complaint. The commission shall mail written notice to all
130 parties of dismissal of a complaint within five (5) days of dismissal. Dismissal of a
131 complaint in accordance with this section shall not be subject to appeal or judicial review by
132 any court under the provisions of K. S. A. 44-1011 and amendments thereto.

133 (c) Upon the filing of a complaint, a complainant shall be advised by human
134 relations commission staff of any additional remedies, rights and obligations potentially
135 available to the complainant under state and federal civil rights law, as may be appropriate.
136 Specifically, human relations commission staff shall advise complainants of the requirement
137 that they file their complaints with the Equal Employment Opportunity Commission (EEOC)
138 and/or the Kansas Human Rights Commission (KHRC) in order to preserve their rights to
139 bring suit under federal anti-discrimination laws. Human relations commission staff will
140 assist the complainant in the filing of such complaints with the EEOC and the KHRC, if
141 requested.

142 Section 5. City of Topeka Code § 86-79, Reserved, is hereby amended to read as
143 follows:

144 **Rules and regulations.**

145 The commission shall follow articles 30, 32, 33, 34, 41, 42, 43, 45 and 80 of the
146 Kansas Administrative Rules and Regulations as adopted by the Kansas Human Rights
147 Commission pursuant to K.S.A. 77-415 et seq. as applicable and insofar as the rules and
148 regulations are not in conflict with Kansas statutes, provisions of the Code of the City of
149 Topeka, and other rules and/or regulations adopted by the commission under authority of
150 Topeka City Code Section 86-28(4).

151 Section 6. City of Topeka Code § 86-112, Definition, is hereby amended to read
152 as follows:

153 **Definition.**

154 The affirmative action program is a positive program designed to ensure that a good
155 faith effort will be made to employ applicants and to treat employees equally without regard
156 to race, religion, creed, color, sex, ~~physical handicap~~ disability, national origin or ancestry or
157 age which is unrelated to the ability to perform a particular job or occupation ~~national origin~~
158 ~~or ancestry.~~

159 Section 7. Original City of Topeka Code §§ 86-1, 86-2, 86-51, 86-53, 86-79, and
160 86-112 are hereby specifically repealed.

161 Section 8. This ordinance shall take effect and be in force after its passage,
162 approval and publication in the official city newspaper.

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164 PASSED and APPROVED by the City Council October 17, 2006.

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William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk