

Chapter 12

HUMAN RELATIONS

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ARTICLE I. IN GENERAL

Secs. 12-1—12-30. Reserved.

ARTICLE II. HUMAN RIGHTS COMMISSION

Sec. 12-31 Created; composition; appointment, qualification of members.

A Human Rights Commission “Commission” is hereby created and established which shall consist of nine (9) persons. The Commission members shall be residents of the City of Kirkwood. Members, to the extent possible, broadly representative of economic status, race, color, religion, gender, national origin, ancestry, marital status, physical or mental disability, sexual orientation or gender identity. The Commission shall be appointed by the City Council based upon their interest, and an expressed commitment. Commission members shall serve without compensation.

(Gen. Ords. 1959, §4.24(a); Ord. No. 4860, §1, 12-5-63; Ord. No. 7313, §1, 2-21-85; Ord. No. 7332, §1, 3-21-85; Ord. No. 10108, §1, 12/20/2012)

Sec. 12-32. Purpose.

The Commission shall review and advise the council on ways to:

- (a) Promote community awareness and education on the value of diversity to the community.
- (b) Work to eliminate discrimination based on economic status, race, color, religion, gender, national origin, ancestry, marital status, physical or mental disability, familial status, sexual orientation or gender identity.
- (c) Develop tools necessary to establish the Commission as an active servant and leader that is a transparent service to the community, including periodic review of this enabling ordinance.
- (d) Promote responsiveness of government to concerns of all minority groups and others in the community that may be subject to bias or discrimination.
- (e) Encourage the creation of community programs and activities that are available and accessible to all Kirkwood residents.

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- (f) Provide an open and inviting forum for Kirkwood residents who believe they are facing discriminatory practices or acts so that residents can share those experiences with the Commission for advice and counsel.

(Gen. Ords. 1959, §4.24(e); Ord. No. 4860, §1, 2-5-63; Ord. No. 7313, §2, 2-21-85; Ord. No. 10108, §1, 12/20/2012))

Sec. 12-33. Terms of members; removal; vacancies.

In the original appointment of members to the Commission one-third (1/3) of those appointed shall be appointed for a term of one (1) year; one-third (1/3) of those appointed shall be appointed for a term of two (2) years and one-third (1/3) of those appointed shall be appointed for a term of three (3) years, thereafter all appointments shall be for a three (3) year term. The council may remove any member of the Commission at any time without cause.

A member's absence may be excused by the Chair or the Vice-Chair in the absence of the Chair upon request provided such request is made prior to the meeting. Any member who is absent, without being excused from three (3) consecutive meetings or 25% of the regular meetings within a calendar year shall be considered to have resigned. Such resignation shall be presented in writing as a recommendation to the City Council by the Chair through the City Clerk.

Each member of the Commission shall serve until a successor is duly qualified and appointed. In the event of the death, resignation, or removal of any member, a successor shall be appointed to serve the unexpired term for which such member had been appointed.

(Gen. Ords. 1959, §4.24 (b); Ord. No. 4860, §1, 12-563)

Sec. 12-34. Organization.

The officers of the Commission shall consist of a Chairperson and a Vice-Chairperson who shall be elected by the members of the commission; such officers shall serve in their respective offices for a term of one year, or until their successors shall be elected, unless re-elected to such office. (Gen. Ords. 1959, §4.24(c); Ord. No. 4860, §1, 12-5-63)

Sec. 12-35. Rules of procedure; meetings; records.

- (a) The Commission shall make such rules and regulations as it deems necessary for the conduct of its affairs. Such rules and any subsequent amendments shall be filed with the City Clerk and subject to Council approval.
- (b) The Commission shall meet monthly at a fixed time place and day of the week. Special meetings may be called by the Chairperson. Notice of all meetings shall be posted in accordance with State law.
- (c) All meetings shall essentially be conducted in conformity with Robert's Rules of Order.
- (d) The Commission shall keep a complete record of its activities and a journal of all of its meetings and proceedings.

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(Gen. Ords. 1959, §4.24(d); Ord. No. 4860, §1, 12-563)

Sec. 12-36. Powers and duties generally.

The Commission shall have the powers and duties to:

- (a) Formulate and conduct educational programs designed to minimize or eliminate discriminatory acts.
- (b) Provide a forum for individuals who believe they have been victims of discrimination
- (c) Gather and maintain a list of referral agencies and organizations best capable of providing assistance for the purpose of aggressively obtaining a resolution of the issue.
- (d) Cooperate with other organizations and private and public educational institutions to seek ways to eliminate discrimination.
- (e) Advise the City Council on human rights issues.
- (f) Hold forums on the state of human rights and relations in the city and on general human rights issues.
- (g) Recommend that staff create new process(es) for placing matters of concern or service requests before the Commission and other areas of city government, which shall be periodically evaluated for effectiveness.
- (h) Accept comments and concerns of citizens given at Commission meetings,
- (i) Sponsor or initiate focused workshops and ongoing programs to improve human relations and foster understanding and acceptance of each other.
- (j) To present, upon request, informational programs and literature on human rights to schools, businesses, and other organizations.
- (k) To conduct an annual human rights symposium on such issues facing the community and society at large.
- (l) To develop a strategic plan for accomplishing the goals and responsibilities outlined in this ordinance, to be re-evaluated every three (3) years.
- (m) To prepare and publish a written annual report describing the activities of the prior twelve months by December 31 of each year.
- (n) To recommend the creation, expansion and/or focus on specific Kirkwood Police programs and joint programs administered by the Kirkwood Police and specified community members.

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(Gen. Ords. 1959, §4.24(f); Ord. No. 4860, §1, 12-5-63; Ord. No. 6782, §1, 8-6-81; Ord. No. 7313, §3, 2-21-85)

Sec. 12-37. Facilities and personnel; assistance by the city attorney.

The City, through the office of the chief administrative officer, shall assign to the Commission such office space and facilities and such necessary clerical help as shall be necessary for the fulfillment of its duties. The city attorney shall render such legal services as shall be necessary. (Gen. Ords. 1959, §4.24(g); Ord. No. 4860, §1, 12-5-63)

Secs. 12-38—12-58. Reserved.

(Ord. No. 8721, §1, 5-7-98; Ord. No. 9938, §1, 7-15-10)

ARTICLE III. FAIR HOUSING CODE

Sec. 12-59. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Chairman shall mean the chairman of the commission.

Code shall mean this article.

Commission shall mean the Human Rights Commission of the City of Kirkwood, Missouri.

Discriminatory housing practice shall mean an act that is unlawful under section 12-62.

Dwelling shall mean any building, structure, or portion thereof located within the city, which is occupied as, or designed or intended for occupancy as, a residence by one (1) 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.

Gender identity shall mean the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

Handicap means a physical or mental impairment resulting in a disability unrelated to a person's ability to acquire, rent or maintain property.

Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Sexual orientation shall mean an individual's real or perceived heterosexuality, homosexuality or bisexuality.

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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.

(Gen. Ords. 1959, §58.2; Ord. No. 5278, 7-3-69; Ord. No. 6781, §1, 8-6-81; Ord. No. 7364, §1, 6-20-85; Ord. No. 10108, §2, 12/20/2012)

Sec. 12-60. Short title.

This article shall be known and cited as the "Fair Housing Code." (Gen. Ords. 1959, §58.1; Ord. No. 5278, 7-3-69)

Sec. 12-61. The commission shall administer this code.

The authority and responsibility for administering this code shall be in the commission. The commission shall administer this code in a manner affirmatively to further the policies of this code and to prevent or eliminate, discriminatory housing practices. The commission shall cooperate with and render technical assistance through federal, state, or other public or private agencies, organizations, and institutions which are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. (Gen. Ords. 1959, §58.7; Ord. No. 5278, 7-3-69)

Sec. 12-62. Acts constituting discrimination in the sale or rental of housing.

Except as exempted by section 12-65, it shall be unlawful for any person:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of service or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity or an intention to make any such preference, limitation or discrimination.

(c) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, handicap, sexual orientation or gender identity.

(d) To represent to any person, because of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity 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, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity.

(Ord. No. 1959, §58.3; Ord. No. 5278, 7-3-69; Ord. No. 7364, §2, 6-20-85; Ord. No. 8772, §1, 11-19-98; Ord. No. 10108, §3, 12/20/2012)

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Sec. 12-63. Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him/her 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, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity of such person or any person associated with him/her in connection with the loan or other financial assistance, or of the prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given; however, nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 12-65, subsection (b)(1) and (b)(2).

(Gen. Ords. 1959, §58.5; Ord. No. 5278, 7-3-69; Ord. No. 7364, §2, 6-20-85; Ord. No. 8772, §1, 11-19-98; Ord. No. 10108, §3, 12/20/2012)

Sec. 12-64. Discrimination in brokerage services.

It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other services, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership or participation, on account of face, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity. (Gen. Ords. 1959, §58.6; Ord. No. 5278, 7-3-69; Ord. No. 7364, §2, 6-20-85; Ord. No. 8772, §1, 11-19-98; Ord. No. 10108, §3, 12/20/2012)

Sec. 12-65. Implementation of code; exempt activities.

Subject to the provisions of subsection (b) of this section, the prohibitions against discrimination in the sale or rental of housing set forth in section 12-62 shall apply:

(a) Upon the enactment of the ordinance from which this section was derived, viz., July 3, 1969, 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 thereof has been made in full prior to the date of the enactment of Public Law 90-184, 90th Congress, H.R. 2516.
- (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 the date of enactment of Public Law 90-204; however, nothing contained in paragraphs (2)

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and (3) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgage held by an FDIC or FSLIC institution.

- (4) Dwellings provided by the development or the 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 real property under loan or grant contracts entered into after November 20, 1962.
- (b) Nothing in section 12-62 other than subsection (c) thereof, shall apply to:
 - (1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one time; and provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period; and provided further, that the bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time; provided further, that after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this code only if the house is sold or rented.
 - a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and
 - b. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection (c) of section 12-62; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and such other professional assistance as necessary to perfect or transfer the title.
 - (2) 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 (1) of the living quarters as his residence.
 - (c) For the purpose of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:
 - (1) He/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (2) He/she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence, in providing sales or rental

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facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

- (3) He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(d) Nothing in this code 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 dwellings 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, ancestry, sex, handicap, or familial status. Nor shall anything in this code prohibit a private club not in fact 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, for limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Gen. Ord. 1959, §58.4; Ord. No. 5278, 7-3-69; Ord. No. 7364, §2, 6-20-85; Ord. No. 8772, §1, 11-19-98)

Sec. 12-66. Complaint; investigation by the commission; in formal conciliation; hearing; enforcement by the city.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur, hereafter called the "person aggrieved", may file a complaint with the commission. Complaints shall be in writing and shall contain such information and be in such form as the commission may require. Upon receipt of a complaint, a copy shall be furnished to the person who allegedly committed or is about to commit the alleged discriminatory housing practice.

(b) Within thirty (30) days after receiving a complaint, it shall be investigated, and the commission shall determine if cause exists for the allegations made in the complaint. The commission may request the assistance of the county counselor in its investigations. If the commission finds cause for the complaint, it shall attempt to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. The complaint shall be dismissed if the commission finds no cause.

(c) The commission, at any time it has reason to believe that any person has been engaged in discriminatory practice prohibited by this coded may issue a complaint.

(d) A complaint under subsection (a) shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. Complaints may be reasonably and fairly amended at any time.

(e) A respondent may file an answer to the complaint against him and, with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(f) If conciliation efforts fail, the commission shall promptly set a date for hearing of the matters alleged in the complaint and subsequent occurring related matters, but only after giving at

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least five (5) days prior written notice to the person or persons who allegedly committed or are about to commit the alleged unfair housing practice.

(g) The hearing shall be conducted in a fair and impartial manner according to rules adopted by the commission; the person aggrieved and the person or persons who allegedly committed or are about to commit the alleged unfair housing practice 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.

(h) After a hearing pursuant to this section, the commission will report on the matter heard to the council, with copies of such report being forwarded to the city attorney. Upon the receipt of the report, the council will review the report and will take such action as it deems appropriate by entering an order to cease and desist or such other appropriate order, and shall cause such order to be served on all parties, and shall certify the case to the city attorney and the city prosecutor for appropriate action. (Gen. Ords. 1959, §§ 58.8, 58.9; Ord. No. 5278, 7-3-69)

Secs. 12-67—12-69. Reserved.

ARTICLE IV. PUBLIC ACCOMMODATIONS

Sec. 12-70. Discrimination in Public Accommodations Prohibited.

- (a) All persons within the City of Kirkwood are free and equal and shall be entitled to the following equal use and enjoyment within the City at any place of public accommodation without discrimination or segregation on account of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity.
- (b) It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation as defined in § 213.010, R.S.Mo., or segregate or discriminate against any such person and the use thereof on the grounds of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity.
- (c) The provisions of this Section shall not apply to a private club, place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in § 213.010, R.S.Mo.

(Gen. Ords. 1959, §§ 58.8, 58.9; Ord. No. 10108, §4, 12/20/2012)

ARTICLE V. – ENFORCEMENT PROCEDURES

Sec. 12-80. – Unlawful discriminatory acts. It shall be unlawful for any person to discriminate against any person because of race, color, religion, national origin, ancestry, sex, handicap, familial status, sexual orientation or gender identity.

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Sec. 12-81. – Complaints.

- (a) Any individual who claims to be aggrieved by a discriminatory act shall be advised to file with the City a complaint in writing stating their name and address; the name and address of the person(s) alleged to have committed such practice; the particulars thereof; and such other information as may be requested by the City.
- (b) If the complaint seeks affirmative relief, the complainant shall state what relief is sought or proposed.
- (c) The complaint information shall be forwarded to the staff liaison for the Human Rights Commission (“HRC”) who shall notify the HRC of the complaint.
- (d) All such complaints must be filed within one hundred eighty (180) days of the date of the alleged discriminatory act, and if the complaint is not filed within one hundred eighty (180) days the complainant will be notified that no action will be taken by the City because of the untimely filing.
- (e) An individual who files a complaint shall be advised of the right to file a complaint with the Missouri Commission on Human Rights or the appropriate federal agency, and if the individual has the right to file a complaint with the Missouri Commission on Human Rights or an appropriate federal agency, then the City shall take no further action.
- (f) If a timely complaint asserts a claim of discrimination based upon sexual orientation or gender identity, City staff shall
 - (i) send complaint forms to the complainant;
 - (ii) upon receipt of the completed complaint forms from the complainant, send appropriate forms to the persons alleged to have committed the acts (respondent);
 - (iii) review the information received from the complainant and the respondent with the City Attorney’s office to determine if there is a reasonable basis to proceed; and
 - (iv) the complaint and respondent will be notified of the determination of the City Attorney’s office, and, if it is determined that there is a reasonable basis to proceed, the complainant and respondent will be advised of the process set forth in this Article.
- (g) City staff shall review the information received from the complainant and the respondent with the City Attorney’s office to determine if there is a reasonable basis to proceed.
- (h) The complainant and respondent will be notified of the determination of the City Attorney’s office, and, if it is determined that there is a reasonable basis to proceed, the complainant and respondent will be advised of the process set forth in this Article.

Sec. 12-82. – Investigation, mediation, prosecution.

- (i) Before investigating a complaint, City staff and the HRC shall determine if the complainant and respondent are willing to resolve the issues raised in the complaint through mediation or some other method of dispute resolution. If the complainant and respondent are willing, City staff and the HRC will facilitate dispute resolution through Washington University or some other mediation group. The complainant and respondent

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may engage in dispute resolution at any stage in the process. If the complainant and respondent resolve the dispute prior to investigation, the case shall be closed.

- (j) If the complainant and respondent are unwilling to attempt dispute resolution or are unsuccessful in such an attempt, the police department will investigate the allegations of the complaint.
- (k) After completing an investigation, the investigative officer shall report the results of the investigation to the City Prosecuting Attorney (“Prosecutor”), including the investigating officer’s opinion on whether there is probable cause to issue a complaint.
- (l) After receiving the investigation report, the Prosecutor may direct further investigation. When the Prosecutor is satisfied that the complaint has been properly investigated, the Prosecutor shall determine whether there is probable cause to issue a complaint. If the Prosecutor determines that there is no probable cause, the HRC shall be notified and the matter shall be closed. If, in the sole discretion of the Prosecutor, a determination is made that there is probable cause to proceed and a likelihood of success on the merits, the Prosecutor shall issue a charge/information, but will attempt to have the matter resolved through some method of dispute resolution. If the respondent is unwilling to resolve the dispute, the case shall proceed through the municipal court process.

(Code 1964, § 7.2090; Ord. No. 13194, § 4, 12-16-91; Ord. No. 17127, § 1-7-02)

Sec. 12-83. – Prosecution.

No prosecution for a violation of any provision of this Article shall be commenced unless a complaint shall have first been filed and processed in accordance with the provisions set forth herein.

(Ord. No. 13194, § 4, 12-16-91)

Sec. 12-84. – Penalty.

Any person who shall violate any provision of this Article shall be deemed guilty of an offense and shall, upon conviction, be punished in accordance with Section 1-8 of the Code of Ordinances.

(Ord. No. 10283, §1, 9-3-15)