

(Published in the Topeka Metro News December 21, 2020)

ORDINANCE NO. 20276

AN ORDINANCE introduced by Councilmember Hannah Naeger, concerning nondiscrimination ordinances, amending City of Topeka Code § 9.20.020 and § 9.20.040, repealing original sections, as well as creating § 9.20.010, § 9.20.030 and § 9.20.050.

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

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.20.010, which said section reads as follows:

Definitions.

The definitions contained in the Kansas Acts Against Discrimination, K.S.A. 44-1001 to 44-1044; the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 to 44-1121; and the Discrimination Against Military Personnel Act, K.S.A. 44-1125 to 44-1128, all as may be amended from time to time, shall apply to this Chapter unless specifically defined herein.

Section 2. That section 9.20.020, Policy, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Policy.

The practice or policy of discrimination against persons by reason of ~~race, religion, creed, color, sex, disability, national origin or ancestry or age~~ their age, color, disability, familial status, gender identity, genetic information, national origin or ancestry, race, religion, sex, sexual orientation, veteran status or any other factor protected by law ("protected class") is a matter of concern to the City, since such discrimination not only threatens the rights and privileges of the inhabitants of the City but also menaces the institutions and foundations of a free democratic state. It is hereby declared to be

the policy of the City, in exercise of its police power for the protection of the public safety, 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 or segregation ~~because of race, religion, creed, color, sex, disability, national origin or ancestry or~~ based on a protected class. It is further declared to be the policy of the City to assure equal opportunity and encouragement for every person, regardless of ~~race, religion, creed, color, sex, disability, national origin or ancestry or age~~ their membership in a protected class, to secure and hold, without discrimination, employment in any field of work or labor for which the person is otherwise properly qualified; to assure equal opportunity for all persons within this City to full and equal public accommodations and the full and equal use and enjoyment of the services, facilities, privileges and advantages of all governmental departments or agencies; and to assure equal opportunity for all persons within this City in housing, ~~without distinction on account of race, religion, creed, color, sex, disability, national origin or ancestry.~~

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 9.20.030, which said section reads as follows:

Civil Rights Declared.

(a) The right of an otherwise qualified person to be free from discrimination because of that person's actual or perceived age, color, disability, familial status, gender identity, genetic information, national origin or ancestry, race, religion, sex, sexual orientation or veteran status is recognized as, and declared to be, a civil right. This right shall include, but not be limited to, all of the following:

(1) The right to obtain and hold employment and the benefits associated therewith without discrimination.

(2) The right to the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public accommodation without discrimination.

(3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.

(4) The right to exercise any right granted under this ordinance without suffering coercion or retaliation.

(b) Because federal and state law consistently address unlawful discriminatory and retaliatory practices related to the above-described civil rights, a separate enforcement procedure is not created.

Section 4 That section 9.20.040, Intimidation or bias crimes, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Intimidation or bias crimes.

(a) Any person who violates or attempts to violate any of the following ordinances of the code of the City of Topeka, Kansas, and any amendments thereto, by reason of any motive or intent relating to, or any antipathy, animosity or hostility based upon another individual's or group of individuals' membership in a protected class as defined in TMC 9.20.020 shall be guilty of a misdemeanor:

(1) Uniform Public Offense Code (hereinafter "UPOC") 3.1, Battery;

(2) UPOC 3.2.1, Sexual Battery;

(23) UPOC 3.3, Assault;

(3) ~~UPOC 9.1, Disorderly conduct;~~

(4) UPOC 3.6, Unlawful Restraint;

(45) ~~UPOC 6.6, Criminal dDamage to pProperty;~~

(56) ~~UPOC 6.7, Criminal tTrespass;~~

(7) UPOC 9.1, Disorderly Conduct;

(68) ~~UPOC 9.10, Telephone hHarassment by Telecommunications Device;~~

(79) ~~TMC 9.40.010~~UPOC 10.5, Discharge of fFirearms;

(8) ~~UPOC 10.2, Drawing a weapon upon another.~~

(b) Any person who, knowingly assembles with one or more persons and agrees with such person or persons to violate any of the criminal laws of the State of Kansas or of the United States with force or violence by reason of any motive or intent relating to, or any antipathy, animosity or hostility based upon, ~~the race, color, sex, religion, national origin, age, sexual orientation, ancestry, or disability of another individual or group of individuals, knowingly assembles with two or more persons and agrees with such person or persons to violate any of the criminal laws of the State of Kansas or of the United States with force or violence~~ another individual's or group of individuals' membership in a protected class as defined in TMC 9.20.020 shall be guilty of a misdemeanor.

(c) Penalty.

(1) Upon a first conviction of a violation of the provisions of this section a person shall be deemed guilty of a Class B misdemeanor and shall be punished by a fine ~~of not less than \$250.00 nor more than \$2,500~~in an amount not to

98 exceed \$1,000.00, or by imprisonment for not more than one year a sentence not
99 to exceed six months, or by both such fine and imprisonment.

100 (2) On a second or subsequent conviction of a violation of the provisions
101 of this section a person shall be deemed guilty of a Class A misdemeanor and
102 shall be ~~sentenced to~~ punished by a fine in an amount not to exceed \$2,500.00,
103 or by imprisonment of not less than five days, nor more than a sentence not to
104 exceed one year and a fine of not less than \$500.00 nor more than \$2,500.00, or
105 by both such fine and imprisonment.

106 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
107 by adding a section to be numbered 9.20.050, which said section reads as follows:

108 **Severability.**

109 If any clause sentence, paragraph or part of this Chapter or the application
110 thereof to any person or circumstances shall for any reason be adjudged by a court of
111 competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate
112 the remainder of this Chapter and the application thereof to other persons or
113 circumstances, but shall be confined in its operation to the clause, sentence, paragraph
114 or part thereof directly involved in the controversy in which such judgment shall have
115 been rendered and the persons or circumstances involved. It is hereby declared to be
116 the legislative intent that this Chapter would have been adopted had such provisions not
117 been included.

118 Section 6. That original § 9.20.020 and § 9.20.040 of The Code of the City of
119 Topeka, Kansas, are hereby specifically repealed.

120 Section 7. This ordinance shall take effect and be in force from and after its

passage, approval and publication in the official City newspaper.

Section 8. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 9. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on December 15, 2020.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk