

**Nondiscrimination Agreement**  
**City of Newton**

**Kansas Department of Transportation  
and Recipient Policy Statement**

The **City of Newton** hereinafter referred to as the "Recipient" assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The Recipient further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms "programs and activities" to include all programs or activities of federal aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988).

In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Recipient's Public Works Director is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 Code of Federal Regulation 21.

CITY MANAGER OF NEWTON, KANSAS

  
\_\_\_\_\_  
Robert D. Myers, City Manager & Legal Counsel

9-22-16  
\_\_\_\_\_  
Date

**Title VI Program  
Organization and Staffing**

Pursuant to 23 CFR 200, City of Newton, KS has designated the Public Works Director as the Title VI Coordinator who is responsible for attachment 1, which describes the hierarchy for City of Newton's Title VI Program, including an organization's chart illustrating the level and placement of Title VI responsibilities.

**Assurances  
49 CFR Part 21.7**

The City of Newton, hereby gives assurances:

1. That no person shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, services or activity conducted by the recipient regardless of whether those programs and activities are federally funded or not. Activities and programs which the recipient hereby agrees to carry out in compliance with Title VI and related statues include but are not limited to:
  - a. List all major Transportation programs and activities of the recipient and Title VI responsibilities for each of them. Include information as Attachment 2 to this Nondiscrimination Agreement.
2. That it will promptly take any measures necessary to effectuate this Agreement.
3. That each Transportation program, activity, and facility (i.e., lands change to roadways, park and ride lots, etc.) as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this Agreement.
4. That these assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the recipient by the Kansas Department of Transportation (KDOT) under the federally-funded program is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
5. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all federally-funded programs and, in all proposals for negotiated agreements:

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 stat. 252, 42 U.S.C. 2000D TO 2000D-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.



6. That the Recipient shall insert the clauses of Appendix 1 of this Agreement, in every contract subject to the Act and the Regulations.
7. The Recipient shall insert the clauses of Appendix 2 of this Agreement, as a covenant running with the land, in any deed from the United States effect a transfer of real property, structures, or improvements thereon, or interest therein.
8. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of the Agreement, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under a federal aid program; and (b) for the construction or use of or access to space on, over and under property acquired, or improved under a federal aid program.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Agreement.

### **Implementation Procedures**

This Agreement shall serve as the Recipient's Title VI Plan pursuant to 23 CFR 200 and 49 CFR - 21.

For the purpose of this Agreement, "Federal Assistance" shall include:

1. Grants and loans of federal funds.
2. The grant or donation of federal property and interest in property.
3. The detail of federal personnel.
4. The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient.
5. Any federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

### **The recipient shall:**

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provision of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by KDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the recipient shall be held responsible for implementing Title VI requirements.
3. Designate a civil rights coordinator who has a responsible position in the organization and easy access to the head of the recipient. The civil rights coordinator in conjunction with the Title VI coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.

4. The civil rights coordinator in conjunction with the Title VI coordinator shall adequately implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this Agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date of complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to KDOT's Office Contract Compliance (OCC) within 10 days of the date the complaint was received by the recipient.
6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the Transportation programs and activities, conducted by the recipient.
7. Conduct Title VI reviews of the recipient and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Attend training programs on Title VI and related statutes conducted by KDOT Office of Contract Compliance

#### **Discrimination Complaint Procedure**

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Coordinator for review and action.
2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no longer than 180 days after:
  - a. The date of the alleged act of discrimination; or
  - b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.
3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the recipient's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation,



and advise the complainant of other avenues of redress available, such as KDOT or USDOT.

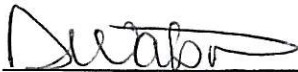
5. The recipient will advise KDOT within 10 days of receipt of the allegations. Generally, the following information be included in every notification to KDOT:
  - a. Name, address, and phone number of the complainant/
  - b. Names(s) and address(es) of alleged discriminating official(s).
  - c. Basis of complaint (i.e., race, color, national origin, or sex)
  - d. Date of alleged discriminatory act(s).
  - e. Date of complaint received by the recipient.
  - f. A statement of the complaint.

### Sanctions

In the event the recipient fails or refuses to comply with the terms of this Agreement, KDOT may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or in part:
2. Refrain from extending any further assistance to the recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.
4. Refer the case to the Department of Justice for appropriate legal proceedings.

### KANSAS DEPARTMENT OF TRANSPORTATION:



Signature

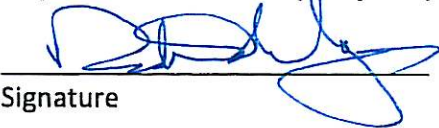
Civil Rights Administrator

Title

Sept. 29, 2016

Date

### City of Newton Kansas (Recipient):



Signature

City Manager & Legal Counsel

Title

9-28-16

Date

## Appendix 1

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest (hereinafter referred to the "contractor") agrees as follows:

1. **Compliance with Regulations**-The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the contract.
2. **Nondiscrimination**-The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or nation origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including in the employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment**-In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports**-The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to it books, records, accounts other sources of information, and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to KDOT or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance**-In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or;
  - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions**-The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for noncompliance.

Providing, however that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request KDOT enter into such litigation to protect the interests of the State and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.



## **Appendix 2**

The following clauses shall be included in any deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### **GRANTING CLAUSE**

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the State of Kansas will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation KDOT (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d-4) does hereby remise, release, quitclaim, and convey unto the State of Kansas all the right, title, ad interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

### **HABENDUM CLAUSE**

TO HAVE AND TO HOLD said lands and interest therein unto the State of Kansas, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the State of Kansas, its successors, and assigns.

The State of Kansas, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or nation origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed. (2) that the State of Kansas, shall use the lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination of Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to land vest in and become the absolute property of the Department of Transportation and is assigns as such interest exited prior to this instruction.



### Appendix 3

The following clauses shall be included in all transportation related deeds, licenses, leases, permits, or similar instruments entered into by (Recipient) pursuant to the provisions of Assurance 8.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on said property described in this lease, for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and service compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.

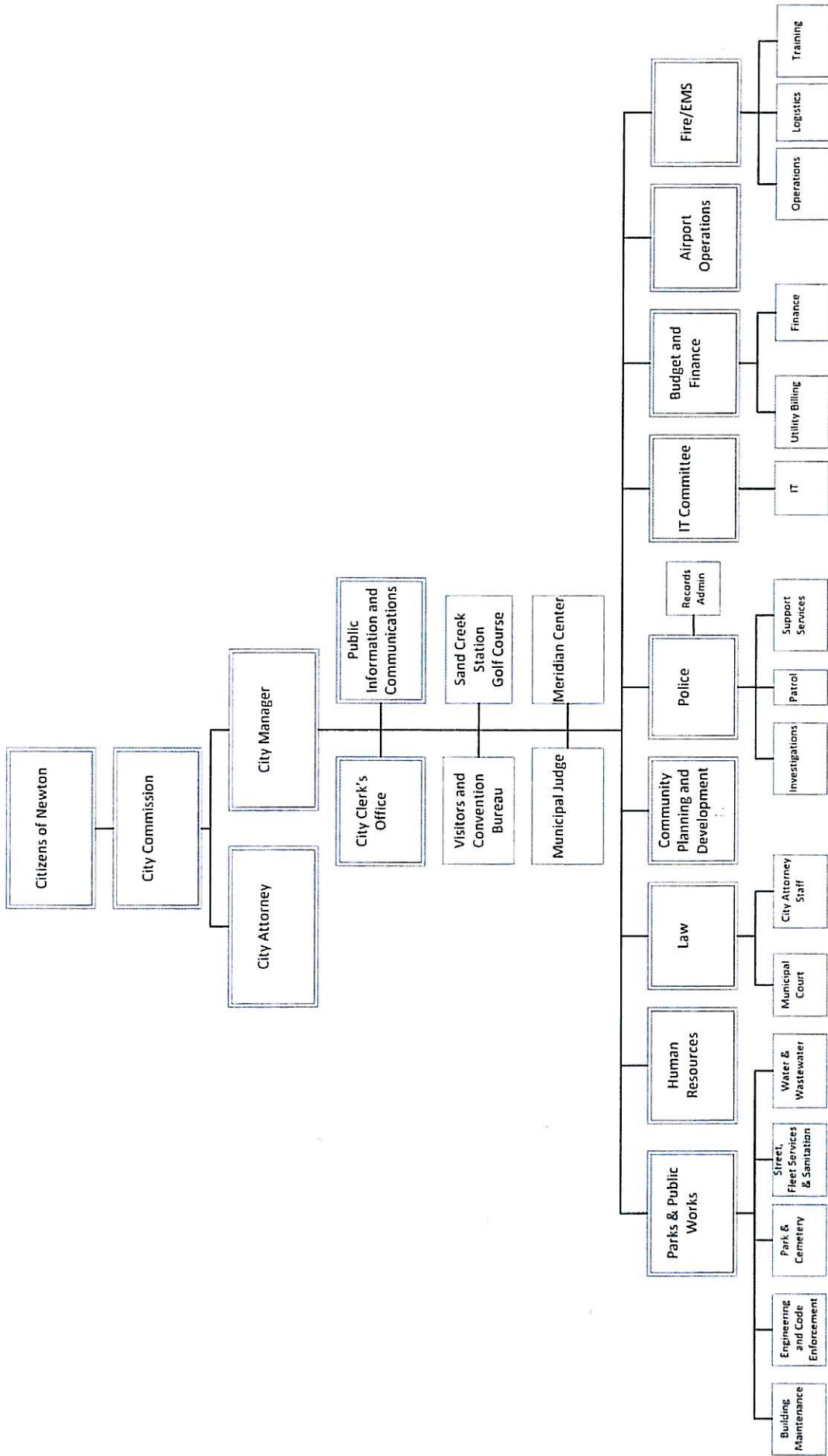
That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Kansas Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color, sex or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

# City of Newton Organization Chart



The Law Dept. is under the supervision of the City Attorney but is under the City Manager's authority  
 Title VI coordinator is the Public Works Director and the civil rights coordinator is the HR Director



City of Newton, Kansas  
Title VI Agreement-Attachment 2  
PROGRAMS, SERVICES AND ACTIVITIES

City Manager's Office

- Boards and Committees
- City Commission
- Golf Course
- Meridian Center
- City Property Insurance Claims
- Risk Management
- Information Technology

Communications

- Public Information
- Community & Visitor's Bureau
- City Website and Social Media

Director of Planning and Development

- Downtown Development
- Historic Preservation
- Housing and Neighborhood Development
- Economic Development

Airport

- Airport Businesses
- FAA General Aviation Reliever
- Harvey County Transport Facility
- Fueling

City Clerk's Office

- Beer License and Alcoholic Liquor Tax
- Cemetery Records
- City Commission record keeper
- City Records
- Merchant Patrol-security License
- Peddlers license for organizations
- Taxicab Licenses

Code Enforcement/Engineering/Inspection

- Building Permits and Code Enforcements
- Construction Inspections
- Construction Projects
- Engineering Services
- GIS Mapping
- Nuisances and Housing Enforcement

- Sign Permits
- Storm Water Management
- Traffic Signals
- Trade Permits and Licenses
- Zoning & Development

#### Finance and Utility Billing Department

- Billing for Sewer and Water, Recycling and Refuse
- City Budget & Financial Accounting
- Dog Tags
- Peddler s License-Door to Door

#### Fire/EMS Department

- Ambulance and Advanced Life Support
- Community Education and Outreach
- Disaster Medical Services
- Emergency Medical Billing
- Emergency Response Team
- Fire Services
- Fire Inspections & Investigations
- Fireworks Enforcement

#### Human Resources

- ADA Compliance
- Employment Opportunities
- Employee Benefits
- Civil Rights and EEO
- Organizational and Staff Development
- Performance Management
- Policy and Procedures
- Time and Leave
- Workers Compensation

#### Municipal Court and Law

- City Code
- City Legal Administration
- Court for traffic, misdemeanor, criminal and code violations
- Diversion/probation
- Standard Traffic Ordinance and Uniform Public Offense Code
- Victim Witness Program

#### Police Department

- Animal Control
- Citizens Policy Academy
- Domestic Violence/Sexual Assault
- Drug Enforcement
- Emergency Response Team



- Investigation
- K-9
- Police Patrol
- School Crossing Guards
- School Resource Officers
- Traffic
- Volunteer Patrol
- Warrant/Bailiff

#### Parks and Public Works

- Bid Opportunities/Vendors
- Cemetery Operation & Maintenance
- Fleet Maintenance
- Park, Bike Path, & Right-of-Way Maintenance
- Parks, Open & Closed Shelter rentals
- Public Water Wholesale District 17 Administration and Maintenance
- Sanitation & Recycle
- Splash Park
- Street and Alley Maintenance
- Title VI Compliance
- Water, Sewer and Storm Water Maintenance
- Water Treatment Production
- Wastewater Treatment

#### City Boards & Commissions

- Accessibility Advisory Board
- Aviation Commission
- Building Code Board of examiners & Appeals
- Community Corrections Advisory Board
- Electrical Advisory Board
- Fair Housing Board
- Historic Preservation Commission
- Mechanical Advisory Board
- Planning Commission
- Harvey County Economic Development Council
- Newton Housing Authority
- Newton Recreation Commission
- Newton Public Library Board
- Plumbing Advisory Board
- Public Building Commission
- Substance Abuse Board
- Tree Board

**Nondiscrimination Policy  
CITY OF NEWTON, KANSAS  
NON-DISCRIMINATION POLICY STATEMENT**

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**Discrimination Complaint Procedure**

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the City Manager's office. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Human Resources Director/ADA Coordinator who will serve as the Review Officer.

2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:

- a. The date of alleged act of discrimination; or
- b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the City, the person shall be interviewed by the Review Officer. If necessary, the Review Officer will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the City's investigative procedures.

4. Within 10 days, the Review Officer will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available.

  
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Robert D. Myers, City Manager & Senior Legal Counsel

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