

ORDINANCE NO. 13,922

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by repealing Section 62-1, subsection (b) of Section 62-3, subsection (a) of Section 62-4, subsection (b) of Section 62-7, subsection (c) of Section 62-8, Section 62-10, 62-13 and 62-15 in Article I, Section 62-41, subsection (a), paragraphs (18) and (19) and subsection (b) of Section 62-42 in Article II, subsection (a), paragraphs (5) and (7) of Section 62-101, subsection (m) of Section 62-107 in Article IV, Section 62-166 and Section 62-168 in Article VI thereof and enacting a new Section 62-1, subsection (b) of Section 62-3, subsection (a) of Section 62-4, subsection (b) of Section 62-7, subsection (c) of Section 62-8, Section 62-10, 62-13 and 62-15 in Article I, Section 62-41, subsection (a), paragraphs (18) and (19) and subsection (b) of Section 62-42 in Article II, subsection (a), paragraphs (5) and (7) of Section 62-101, subsection (m) of Section 62-107 in Article IV, Section 62-166 and Section 62-168 in Article VI, and adding and enacting a new subsection (c) to Section 62-2 relating to human rights.

Be It Ordained by the City Council of the  
City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by repealing Section 62-1, subsection (b) of Section 62-3, subsection (a) of Section 62-4, subsection (b) of Section 62-7, subsection (c) of Section 62-8, Section 62-10, 62-13 and 62-15 in Article I, Section 62-41, subsection (a), paragraphs (18) and (19) and subsection (b) of Section 62-42 in Article II, subsection (a), paragraphs (5) and (7) of Section 62-101, subsection (m) of Section 62-107 in Article IV, Section 62-166 and Section 62-168 in Article VI thereof and enacting a new Section 62-1, subsection (b) of Section 62-3, subsection (a) of Section 62-4, subsection (b) of Section 62-7, subsection (c) of Section 62-8, Section 62-10, 62-13 and 62-15 in Article I, Section 62-41, subsection (a), paragraphs (18) and (19) and subsection (b) of Section 62-42 in Article II, subsection (a), paragraphs (5) and (7) of Section 62-101, subsection (m) of

Section 62-107 in Article IV, Section 62-166 and Section 62-168 in Article VI, and adding and enacting a new subsection (c) to Section 62-2 relating to human rights, as follows:

**ARTICLE I. IN GENERAL**

**Sec. 62-1. Definitions.**

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

*Commission or human rights commission* means the Des Moines Human Rights Commission.

*Covered multifamily dwelling* means:

(1) A building consisting of four or more units of such building having one or more elevators; and

(2) Ground floor units in other buildings consisting of four or more units.

*Disability* means the physical or mental impairment that substantially limits one or more of the major life activities of a person; a record of this impairment; or being regarded as having such an impairment. Disability does not include current, illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substance Act (21 USC 802). In reference to employment, under this chapter, the term "disability" also means the physical or mental condition of a person which constitutes a substantial handicap, but is unrelated to such person's ability to engage in a particular occupation.

*Discriminate, discrimination, or discriminatory* means any significant and unreasonable difference in treatment because of age, race, religion, creed, color, sex, national origin, ancestry, disability or familial status and includes any and all of the illegal discriminatory

practices enumerated in this chapter. This term shall also mean to separate, to segregate, or to make a distinction against any persons, because of age, race, religion, creed, color, sex, national origin, ancestry, disability or familial status. This term shall also include any significant and unreasonable difference in treatment because of a person's association with another of a different age, race, religion, creed, color, sex, national origin, ancestry, disability or familial status.

*Dwelling* means any building, structure, or portion thereof, including but not limited to trailer courts, trailer parks, or mobile home courts, whether such building or portion is constructed or is to be constructed, which is occupied as or designed or intended for occupancy as a residence or sleeping place of one or more persons or families and any vacant land or real estate which is offered for sale, rent, or lease for the construction or location thereof of any such building, structure, or portion thereof or real property usable for purposes of human habitation or for the construction thereon of a residential facility.

*Employee* includes any person employed by an employer but does not include an individual employed by that person's parents, spouse, or child or in the domestic service of any person.

*Employer* includes, but is not limited to, any person in this city employing four or more persons; any person acting directly or indirectly for an employer; and the city and any other governmental entity or any board, commission, department, or agency thereof employing persons whose employment or any part thereof is within this city.

*Employment agency* includes any person or governmental agency undertaking, with or without compensation, to procure employees or opportunities to work, or to procure, recruit, refer, or place employees or any person holding itself equipped to do so.

*Familial status* means one or more individuals who have not attained the age of 18 years being domiciled with:

(1) A  
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(2) The  
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The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

*Financial institution* includes any person regularly engaged in the business of lending money or guaranteeing such loans on dwellings.

*Illegal discriminatory practice* means those practices specified as illegal or discriminatory in articles III and V of this chapter and in sections 62-101, 62-102, 62-103, 62-104, 62-166, 62-168, 62-169 of this chapter or as otherwise specified as illegal in this chapter.

*Labor organization* includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions or privileges of employment or of mutual aid or protection in connection with employment.

*Owner* includes the owner, lessee, sublessee, assignee, agent, or other person having the right to sell, rent, lease, or transfer any housing accommodation or real property within the corporate limits.

*Person* includes, but is not limited to, one or more individuals, partnerships, associations, labor organizations, corporations, legal representatives, mutual companies, trusts, trustees, trustees in bankruptcy or receivers, fiduciaries, joint stock companies, unincorporated organizations, and the state, county and city and any other governmental entity and any of their respective departments, divisions, boards, commissions, officials, agents and employees.

*Public accommodations* includes any person who caters or offers his or her goods, services, facilities, privileges, advantages, and accommodations to the public, including but not limited to, state and local governmental units and tax-supported district of whatever kind.

*Real estate broker* includes any person, licensed or not, who, either for a fee or other valuable consideration or without fee, sells, purchases, exchanges, rents, negotiates, or attempts to negotiate the sale, purchase, exchange, or rental of a dwelling as a regular practice, whether for himself or herself or another person, or who acts as a go-between for a would-be-purchaser and seller of a dwelling.

*Real estate salesperson or agent* includes any person, licensed or not, employed by a real estate broker to perform or to assist in the performance of any or all of the functions of a real estate broker, whether individually or for another person, or who acts as a go-between for would-be-purchasers and sellers of housing accommodations or real property on behalf of a real estate broker or individually.

*Respondent* means the person accused in any illegal discriminatory practices and any other person identified in the course of investigation and notified as required.

*Sex* means gender. It includes but is not limited to pregnancy, childbirth, and related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all purposes covered by this chapter.

**Sec. 62-2. Complaints filed.**

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(c) A complaint may be amended at any time before the final order is entered.

**Sec. 62-3. Procedure for processing complaints.**

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(b) The executive director of the human rights commission shall appoint a member of the commission staff who, under the supervision of the executive director, shall make a prompt and full investigation of the alleged illegal discriminatory practice and forward to the executive director a summary of the investigation. If a complainant or respondent fails or refuses to provide information requested for an investigation, the executive director may issue a subpoena for that information.

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**Sec. 62-4. Additional proceedings on housing discrimination.**

(a) The human rights commission shall investigate the alleged discriminatory housing practice and make its determination no later than 100 days after a complaint is filed unless any of the following applies:

(1) It is impracticable to make the determination within that time period;

(2) The commission has approved a mediation agreement relating to the complaint; or

(3) If the commission is unable to

complete the investigation within the time period, provided the commission shall notify the complainant and respondent in writing of the delay.

**Sec. 62-7. Confidentiality.**

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(b) The members of the human rights commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavor to eliminate such illegal discriminatory practice by conciliation or persuasion except when such disclosure is made in connection with the conduct of the investigation, including enforcement of a subpoena. The identity of individuals interviewed shall remain confidential except as the disclosure of their identity becomes necessary at the time of public hearing.

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**Sec. 62-8. Public hearing.**

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(c) Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party at his or her or its expense. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the commission for at least five years from the date of decision. Notice of public hearing shall be disseminated among local news media at least five days prior to the date of the hearing.

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**Sec. 62-10. Temporary injunction.**

If, at any time after a complaint is filed pursuant to this chapter, it shall appear to the human rights commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to do acts which would make compliance with an order of the commission to alleviate the grievance difficult, the commission may request the attorney for the commission to seek a temporary injunction or other order granting preliminary or temporary relief, restraining the respondent from violation of this chapter.

**Sec. 62-13. Executive director.**

(a) The executive director of the human rights commission shall serve as the principal administrative officer of the commission. The executive director shall be a person skilled in human relations, knowledgeable by training and experience in civil rights law and procedure with sufficient management and communication skills to effectuate the purposes of this chapter and work effectively within the established parameters of city government. The executive director shall provide a written self-evaluation to the commission at least ten days before the commission's annual meeting, at which meeting the commission shall evaluate the executive director's performance for the year.

(b) In addition to such evaluation, the commission may from time to time, as it deems it necessary or advisable, confer with the executive director regarding the relative strengths and weaknesses of job performance and the steps needed to maximize or correct the job performance. If such steps are not promptly taken with a measurable improvement in the performance of duty, the commission may initiate appropriate action including removal.

**Sec. 62-15. Effect of remedies.**

The remedies contained in this chapter shall be exclusive, and the provisions of section 1-15 of this Code shall not apply.

**ARTICLE II. COMMISSION**

**Sec. 62-41. Established; appointment; composition; terms.**

(a) There is established in the city government a commission to be known as the Des Moines Human Rights Commission.

(b) This commission shall consist of seven members broadly representative of the community.

(c) Commission members shall be appointed by the city council. All appointments shall be for a term of three years until the first Monday in April of the year in which the term

ends. No member shall be appointed to serve more than two consecutive terms.

(d) The commission shall elect a chair, vice-chair, and secretary and such other officers as it deems appropriate from its members on an annual basis.

(e) Officers shall serve in their respective offices for a term of one year or until their successors shall be appointed and qualified.

(f) Any five members shall constitute a quorum.

(g) All commission members shall serve without compensation.

(h) If any member dies or resigns, a successor shall be appointed to serve for the unexpired period of the member's term.

(i) The commission may name subcommittees which in its judgment will aid in effectuating the purposes of this chapter and may empower it to study the problems of prejudice, intolerance, bigotry, and discrimination in any fields of human relationships within the purview of this chapter.

(j) When appropriate, the Commission shall nominate three candidates to fill a vacancy in the executive director position. In forwarding the nominations for executive director to the mayor and the city council, the commission may indicate the order of its preference for appointment. The executive director shall not be a commission member.

(k) The appointment of the executive director shall be made by the mayor and confirmed by the city council. The executive director shall be compensated in such amount as the city council shall fix. The executive director shall serve at the pleasure of the commission.

(l) The removal of the executive director must be approved by a majority vote of all commission members and of all city council members. Removal may be initiated by either body.

(m) The commission may select additional personnel deemed necessary to carry out the purposes of this chapter.

(n) The expenses of activities shall be paid out of the funds appropriated for the purpose. The commission shall in addition be authorized to receive gifts



and grants from any other sources to carry on its work.

**Sec. 62-42. Powers and duties of commission and director.**

(a) The human rights commission shall have the power and duty to:

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director.

(b) The executive director shall exercise the following powers and duties:

(1)  
Perform such duties as the Commission may direct or delegate.

(2)  
Assist the commission in exercising its powers and performing its duties as set out in this chapter.

(3)  
Supervise and manage the staff of the commission.

(4)  
Report to the commission at each monthly meeting the activities and performance of duties of the executive director and commission staff. Copies of this report shall be submitted to

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**ARTICLE IV. DISCRIMINATORY HOUSING PRACTICEDES**

**Sec. 62-101. Enumeration of illegal practices.**

(a) It shall be an illegal discriminatory housing practice for any person, owner, or person acting for an owner, of rights to dwelling with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, appraisers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will to:

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**Sec. 62-107. Additional civil proceedings.**

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(m) A court in a civil action brought under this section or the commission in an administrative hearing under section 62-4 and/or 62-8 of this chapter may award reasonable attorney's fees to the prevailing party and assess court costs against the non-prevailing party.

**ARTICLE VI. DISCRIMINATORY MUNICIPAL PRACTICES**

**Sec. 62-166. Illegal practices.**

It shall be an illegal discriminatory municipal practice for the city or any employee, official, agent or representative of the city to refuse or deny to any person, because of age, race, religion, creed, color, sex, national origin, ancestry or disability, the services, advantages, facilities or privileges offered by the city or otherwise to discriminate, separate, segregate, or make a distinction against any person, because of age, race, religion, creed, color, sex, national origin, ancestry or disability, in the furnishing of such services, advantages, facilities or privileges.

**Sec. 62-168. City contracts.**

The city and all of the contracting departments, divisions, boards, commissions, officials, agents and employees shall include in all contracts a provision obligating the contractor not to commit any of the illegal discriminatory employment practices set forth in this chapter and shall require such contractor to include the same provision in all subcontracts.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Emily Gould Chafa, Assistant City Attorney

Preston Daniels, Mayor

Attest:

I, Donna Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 01-575), passed by the City Council of said City at a meeting held February 26, 2001, signed by the Mayor on February 26, 2001, and published as provided by law in the Business Record on March 12, 2001. Authorized by Publication Order No.1592.

Donna Boetel-Baker, MMC, City Clerk