

ORDINANCE NO. 15,446

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, as heretofore amended, by adding and enacting a new Article III, Division 4 State Income Tax Offset Procedures, relating to the administrative hearing process.

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, as heretofore amended, is hereby amended by adding and enacting a new Article III, Division 4 State Income Tax Offset Procedures, relating to the administrative hearing process, as follows:

DIVISION 4. STATE INCOME TAX OFFSET PROCEDURES

Sec. 3-26. Statement of Purpose.

This division provides procedures to follow in the event that the city seeks to collect legally enforceable debts owed to the city by placement of such qualified debts in the state program established and maintained by the Iowa Department of Administrative Services to offset the debts against a person's state income tax refund pursuant to Iowa Code section 8A.504 and the Iowa Administrative Rules implemented thereunder.

Sec. 3-27. Notice of Intent to Place Debt; Informal Opportunity to Challenge Placement of Debt.

- (a) A department director or his or her designee shall make a good faith effort to collect a qualified debt. If such effort to collect is not successful, notice shall be provided to the debtor by regular mail that the debt will be placed in the offset program and that the debtor shall have an informal opportunity to challenge such placement by filing the challenge with the finance director within ten days of the date of notice.
- (b) If a challenge to the placement of the debt in the offset program is timely filed, the finance director or his or her designees shall notify the debtor of the date and time that it will conduct an informal hearing on such challenge. At such informal hearing the debtor shall be provided with an opportunity to present its challenge either in-person or by electronic means. After the informal hearing, a determination on the challenge shall be delivered to the debtor by regular mail.

Sec. 3-28. Placement of Debt and Notification of Offset.

After notification and completion of any informal challenge to placement, the finance director or his or her designee shall place the debt in the offset program in accordance with the procedures set forth in the applicable Iowa Administrative Rules and as otherwise established by the Iowa Department of Administrative Services. If the Iowa Department of Administrative Services notifies the city of a potential offset of a debt, the finance director or his or her designee shall within ten days send notification by regular mail to the debtor that shall include:

- (1) The city's right to the payment in question.
- (2) The city's right to recover the payment through the offset procedure.
- (3) The basis of the city's case in regard to the debt.
- (4) The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- (5) The debtor's right to appeal the offset and required appeal procedures set forth in this chapter.
- (6) The name of the city as the public agency to which the debt is owed, with a telephone number for the debtor to contact the city regarding questions about the offset.

Sec. 3.29. Appeal of Offset

Following notification, a debtor may appeal the application of an offset by initiating an administrative appeal pursuant to section 3-16. The administrative appeal shall be scheduled and conducted in accordance with sections 3-17—3-25. In the event of an appeal, funds collected by the city shall be held by the city until a ruling issued by the administrative hearing officer as to the amount that can be retained by the city or refunded to the debtor. The administrative hearing officer has jurisdiction to determine whether the debt is owed by the debtor, whether there is an error in the amount of the debt and whether the debt is properly placed in the offset program. The administrative hearing officer does not have the authority to set aside court judgments or scheduled civil or criminal violations in which the debtor failed to seek available judicial review.

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

FORM APPROVED:

Thomas G. Fisher Jr., Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, 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. 16-0225), passed by the City Council of said City at a meeting held January 25, 2016 signed by the Mayor on January 25, 2016 and published and provided by law in the Business Record on February 12, 2016. Authorized by Publication Order No. 9473.

Diane Rauh, City Clerk