

★ Roll Call Number

Agenda Item Number

40

Date March 9, 2020

An Ordinance entitled, "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 amending Sections 62-1 and 62-166, relating to discriminatory municipal practices",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
Douglas P. Philip  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

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 amending Sections 62-1 and 62-166, relating to discriminatory municipal practices.

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 amending Sections 62-1 and 62-166, relating to discriminatory municipal practices, as follows:

**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:

*City Manager* means the city manager of the City of Des Moines, or his or her designee, or any acting or interim city manager.

*Commission or human rights commission* means the Des Moines Civil and 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, national origin, ancestry, disability or familial status. This term also means any additional protected class or classes as are identified and/or defined by Iowa Code Chapter 216.

*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.

*Enforcement action* means enforcement of city and state laws or ordinances by a law enforcement officer or person vested by law with a duty to maintain public order and make arrests or the actions of a code enforcement officer whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

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

- (1) A parent or another person having legal custody of such individual; or
- (2) The designee of such parent or other person having such custody of the individual, with the written permission of such parent or other person.

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.

*Gender identity* means a gender-related identity of a person, regardless of the person's assigned sex at birth.

*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* include 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. (see Iowa Code §216.2(a)(12))

*Racial profiling* means enforcement action where an appreciably motivating factor of the action taken by a city employee is based on an individual's race, color, ethnicity, religion or national origin rather than on the individual's behavior or on information of the type and kind customarily and reasonably relied upon in enforcement actions identifying the individual as having engaged in prohibited activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of prohibited activity. This term does not include non-governmental person initiated conduct, which may result in a claim of other illegal discriminatory practice specified in this chapter.

*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.

*Sexual orientation* means actual or perceived heterosexuality, homosexuality or bisexuality. *Sexual orientation* does not include participation in acts which are prohibited by law.

*Source of income* means money, funds, income, and support, payable directly or indirectly to or on behalf of a renter or buyer of housing, derived from any pension, annuity, child support, or alimony, or any tax supported Federal, State or local funds, including but not limited to, social security, supplemental security income, temporary assistance for needy families, family investment program, general relief, food stamps, unemployment compensation, housing choice voucher rent subsidies, and similar rent subsidy programs.

**Cross reference(s)**--Definitions generally, § 1-2.

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

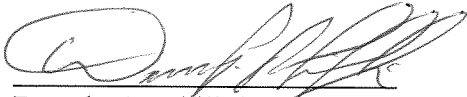
- (1) It shall be an illegal discriminatory municipal practice for the city or any employee, official, agent or representative of the city to refuse or deny to any person, because of age, race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status or source of income, 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, sexual

orientation, gender identity, national origin, ancestry, disability, familial status or source of income, in the furnishing of such services, advantages, facilities or privileges.

(2) It shall be an illegal discriminatory municipal practice for the city or any employee, official, or agent of the city to racial profile any person. Any penalty for violation of this subsection related to any employee racial profiling shall be limited to that provided under state or federal law, which violation may include serving as cause for discipline up to and including termination from employment as consistent with federal and state law requirements including Iowa Code Chapters 400 and 20 as applicable. The limitation related to violations related to employee racial profiling is not intended to expand or limit any other remedy or cause of action available under state or federal law, nor to expand or restrict the time for seeking such remedy or cause of action and shall not be construed as doing so, nor as conferring jurisdiction on the commission, although any complaint may be referred to the Iowa Civil Rights Commission for investigation and resolution. The declaration of illegal discriminatory practice set forth in this subsection related to racial profiling shall not create any new or separate legal rights or claims by or on behalf of any third party and shall not be construed as a waiver, modification, or alteration of any available defense or governmental immunity of the city under federal or state law.

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

FORM APPROVED:



Douglas P. Philip  
Assistant City Attorney