

ORDINANCE NO. 13,965

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, and amended by Ordinance No. 13,922, passed February 26, 2001, by repealing Section 62-1, subsection (a), paragraphs (6), (8), (15) and (16) of Section 62-42, Sections 62-71 and 62-101, subsection (a) of Section 62-103, Sections 62-104, 62-136, 62-137, 62-166 and 62-169 thereof and enacting a new Section 62-1, subsection (a), paragraphs (6), (8), (15) and (16) of Section 62-42, Sections 62-71 and 62-101, subsection (a) of Section 62-103, Sections 62-104, 62-136, 62-137, 62-166 and 62-169, relating to adding sexual orientation as a protected class to the human rights chapter.

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, and amended by Ordinance No. 13,922, passed February 26, 2001, is hereby amended by repealing Section 62-1, subsection (a), paragraphs (6), (8), (15) and (16) of Section 62-42, Sections 62-71 and 62-101, subsection (a) of Section 62-103, Sections 62-104, 62-136, 62-137, 62-166 and 62-169 thereof and enacting a new Section 62-1, subsection (a), paragraphs (6), (8), (15) and (16) of Section 62-42, Sections 62-71 and 62-101, subsection (a) of Section 62-103, Sections 62-104, 62-136, 62-137, 62-166 and 62-169, relating to adding sexual orientation as a protected class to the human rights chapter, 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:

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

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units in
other
buildin
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consist
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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, 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, 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, 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
parent
or
another
person
having
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custod
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(2) The
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parent
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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.

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. (see Iowa Code §216.2(a)(12))

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.

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

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

(6)
Formulate and carry out a comprehensive educational program designed to prevent and eliminate discrimination because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial

status, including the provision of training and educational services to businesses, professional groups, and educational agencies requesting workshops, seminars, or speakers to address specific issues and concerns within the purview of this chapter, as well as maintaining as

a part of the commission's formal educational program a series of public forums addressing upon a rotating basis the various matters within this chapter about which there is the need to increase public awareness and response. The commission shall prepare and distribute a brochure explain

ing its
mission,
purpose, and
procedures
for
dissemination
within
the city
and
shall
publish
and
distribute a
quarterly
newsletter of
its
activities
and
concerns. The
commission's
educational
and
training
efforts
shall
be
undertaken in
cooperation
with
any
private,
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apprenticeship
programs, on-
the-job
training
programs,
housing and
public,
private,
, and
vocational
schools
because of
age,
sex,
sexual
orientation,
race,
religion,
n,
creed,
color,
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origin,
ancestry,

disability or familial status and the effect of such discrimination, and segregation in public accommodations, employment, apprenticeship programs, on-the-job training programs, housing patterns and public, private and vocational schools; and advise and cooperate with the mayor,

the
board
and
officials
with
relation
to
any
such
problems.

The
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from
time to
time
make
recommendations
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mayor,
the city
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, the
city
manager,
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procurement and financing of housing accommodations, according to one's ability to pay, without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.

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for the development of rules and procedures, and for the programs of formal and informal education, which the commission may recommend to the appropriate local agency

. Advisory agencies shall be composed of representative citizens serving without pay. The

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Sec. 62-71. Enumerated.

It shall be an illegal discriminatory employment practice for:

(1) An
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such individual's status as an employee, because of such individual's age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability. Sexual harassment is a prohibited discriminatory practice.

(2) A labor organization or the employ

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way

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affect
such
individual's
status
as an
employee or
as an
applicant for
employment
or to
otherwise
discriminate
against
any
applicant for
membership
or any
member in the
privileges,
rights
or the
benefits of
such
membership
because of
age,
race,
religion,

creed,
color,
sex,
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(3) An employer, employment agency, labor organization or the employees, agents or members thereof to directly or indirectly print or circulate or cause to be printed or circulated any advertisement, statement, or publication or to use any form of application for employment

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(5) An
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person
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this
chapter
or has
filed a
complaint,
testified or
assisted in
any
proceeding
under
this
chapter
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(6)
Any
person
to aid,
abet,
incite,
compel
or
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the
doing
of any
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practices
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discriminatory by this chapter

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:

(1) Refuse to sell, lease or rent after making of a bona fide offer; refuse to show or represent that a dwelling is unavailable; or refuse to

negotiate for the sale, lease or rental of any dwelling or refuse to sublease or assign or otherwise make unavailable or deny a dwelling to any person because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial

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status.

(2)
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manner
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rental,
lease,
assign
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or
subleas
e of
any
dwellin
g or
any
part,
portion
or
interest
therein
, by
person
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any
particu
lar
race,
color,
sex,
sexual

orientation,
creed,
religion or
national
origin,
ancestry,
disability,
or
familial
status,
is
unwelcome,
objectively
not
acceptable,
or
not
solicited.

(3)
Include
in the
terms,
conditions or
privileges of
any
sale,
lease,
sublease,
rental,
assignment
or
other
transfer

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any
dwellin
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ancestr
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familia
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status.

(5)
Make,
utter,
print,
publish
or
circulat
e or
cause
to be
made,
printed
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uttered
,
published or
circulated any
notice,
statement or
advertisement
;
announce a
policy;
use
any
form
of
application
with
respect
to the
sale,
purchase,
lease,
rental
or
financing of
dwelling;
or
make
any
record
or
inquiry
in
connection
with
the
prospective

purchase,
rental
or
lease
of a
dwelling
which
either
records
the
race,
religion,
creed,
color,
sex,
sexual
orientation,
national
origin,
ancestry,
disability
or
familial
status
of
applicants
or
indicates
directly
or
indirectly
any
preference,
limitation,
specification
or

discrimination on the basis of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status or an intention to make any such preference, limitation, specification or discrimination .

(6) Discriminate against any other person

because the latter has opposed any practice forbidden under this chapter or has filed a complaint, testified, or assisted in a proceeding under this chapter .

(7)
Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account

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person
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any
other
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in the
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any
right
granted
or
protect
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chapter
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(8)
Aid,
incite,
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to be a
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coerce,
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any
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any
person
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any
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human
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or its
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(9) For
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any
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to sell
or rent
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an area
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(b) As used in this subsection, the term "residential real-estate-related transaction" means any of the following: (i) the making or purchasing of loans, accepting mortgages or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or secured by residential real estate; (ii) the selling, brokering, or appraising of residential real property. 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, salespersons or entities whose business includes engaging in residential real-estate-related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction, because of race, color, religion, sex, sexual orientation, ancestry, disability, familial status, or national origin to discriminate in rates, terms, conditions or provisions of any such financial assistance or in the extension of services in connection therewith because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status of the applicant for such loan or funds or of the would-be-purchaser or lessee or prospective occupant of dwelling or of the racial makeup of the neighborhood in which the property is located. Nothing in this subsection prohibits a person

engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, creed, national origin, ancestry, sex, sexual orientation, disability or familial status.

Sec. 62-103. Exemptions.

(a) Nothing in sections 62-101 and 62-102 of this article shall be construed to apply to the following:

(1) The rental or leasing of a dwelling in a building which contains dwellings for not more than two families living independently of each other, if the owner resides in one of such

dwelling
gs.

(2)
Any
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rship
in the
religio
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restrict
ed on
accoun
t of
race,
color
or
nationa
l
origin.

(3) The
rental
or
leasing
of less
than
four
rooms
within
a
single
dwellin
g by
the
occupa
nt or
owner
of such
dwellin
g, if
the
occupa

nt or
owner
resides
in the
dwellin
g.

(4) The
rental
or
leasing
of a
dwellin
g
within
which
residen
ts of
both
sexes
must
share a
commo
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bathro
om
facility
on the
same
floor
of the
buildin
g. This
exempt
ion
does
not
apply
to race,
color,
creed,
religio
n,
sexual
orienta
tion,

national
origin,
ancestry,
disability or
familial status
basis.

(5) The rental or leasing of a dwelling in a building which contains dwellings for not more than four families living independently of each other, if the owner resides in one of the dwellings for which the owner qualifi

es for
the
homest
ead tax
credit
under
I.C. §
425.1.

Sec. 62-104. Threat of force or intimidation; penalty.

(a) A person commits a public offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with or attempts to interfere with a person under any of the following circumstances:

(1)
Beaus
e of the
person'
s race,
color,
creed,
sex,
sexual
orienta
tion,
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because the
person
is or
has
been
selling,
purchasing,
renting
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occupying, or
financing,
contracting
for, or
negotiating for
the
sale,
purchase,
rental
or
occupation of
any
dwelling,
or
applying for or
participating
in a
service
,
organization,
or
facility
relating

g to the
business
of
selling
or
renting
dwellin
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(2)
Because
the
person
is or
has
been
doing
any of
the
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(b) Any person who fails to perform an act required by this section or who commits an act prohibited by this section shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 of this Code.

Sec. 62-136. Enumerated.

It shall be an illegal discriminatory public accommodations practice for any person, owner, lessor, lessee, sublessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation to:

(1)
Refuse
or
deny to
any
person
because
of
race,
religion,
creed,
color,
sex,
sexual
orientation,
national
origin,
ancestry or
disability the
accommodati

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advant
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faciliti
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goods,
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(2)
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cause
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or
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applica
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which
expresses,
directly or
indirectly, any
limitation,
specification
or
discrimination
as to
race,
religion,
creed,
color,
sex,
sexual
orientation,
national
origin,
ancestry or
disability
or
indicate or
publicize that
the
patronage of
persons of
any
particular
race,
religion,
n,

creed,
color,
sex,
sexual
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tion,
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unwelc
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objecti
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(3)
Discri
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against
any
other
person
becaus
e such
person
has
oppose
d any
practic
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forbidd
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under
this
chapter
or has
filed a

complaint, testified or assisted in any proceeding under this chapter .

(4) Aid, incite, compel, coerce, or participate in the doing of any act declared to be a discriminatory accommodations practice under this section, or attempt, directly or indirectly, to

commi
t any
act
declare
d by
this
section
to be a
discrim
inatory
practic
e.

Sec. 62-137. Exemptions.

Nothing in this article shall be construed to apply to the following:

(1)
Any
bona
fide
religio
us
institut
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with
respect
to any
qualifi
cations
the
institut
ions
may
impose
based
on
religio
n or
sexual
orienta
tion,
when
such

qualifications are related to a bona fide religious purpose.

(2) The rental or leasing to transient individuals of fewer than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or

owner
or
members of
the
occupant's or
owner's
family
reside
therein
.

(3)
Restrictions
based
on sex
on the
rental
or
leasing
of
housing
accommodations by
nonprofit
corporations.

(4)
Restrictions
based
on sex
on the
rental
or
leasing
of
housing
g

accommodations which the owner can show were operated for the purpose of providing housing for persons of any one sex prior to January 21, 1972.

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, sexual orientation, 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, sexual orientation, national origin, ancestry or disability, in the furnishing of such services, advantages, facilities or privileges.

Sec. 62-169. Nondiscrimination in urban renewal projects.

Nondiscrimination clauses shall be included in all leases and contracts which the city proposes to enter into with respect to the lease, sublease, transfer, use, occupancy, tenure, or enjoyment of

any land in an urban renewal project, in substantially the following form:

(1)
Leases.
The lessee herein covenants by and for the lessee and the lessee's heirs, executors, administrators and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

That
there
shall
be no
discrim
ination
against
or
segreg
ation
of any
person
or
group
of
person
s on
accoun
t of
race,
religio
n,
creed,
color,
sex,
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tion,
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or
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leasing
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ing,
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ring,
use,
occupa
ncy,
tenure
or

enjoyment of the premises herein leased, nor shall the lessee or any person claiming under or through the lessee establish or permit any such practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants

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lessees
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ees,
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ants or
vendee
s in the
premis
es
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leased.

(2)
Contra
cts. In
contrac
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relatin
g to the
sale,
transfe
r, or
leasing
of
land,
or any
interest
therein
acquire
d by
the
city,
within
any
urban
renewa
l area
or
project
, the
provisi
ons in
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ion (1)

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in
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tially
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set
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ts shall
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e that
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ons
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g upon
and
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e the
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party
and
any
subcon-
tractin
g party
or
other
transfe
rees
under
such
instru-
ment.

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. 01-2121), passed by the City Council of said City at a meeting held July 9, 2001, signed by the Mayor on July 9, 2001, and published as provided by law in the Business Record on July 23, 2001. Authorized by Publication Order No. 1821.

Donna Boetel-Baker, MMC City Clerk