

ORDINANCE NO. 15,781

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, 62-101, 62-103, 62-104, 62-166 and 62-169, relating to discriminatory housing practices and source of income.

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, 62-101, 62-103, 62-104, 62-166 and 62-169, relating to discriminatory housing practices and source of income, 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:

-----

*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.

-----

**ARTICLE IV. DISCRIMINATORY HOUSING PRACTICES\***

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

- (a) It shall be an illegal discriminatory housing practice for any person, or for any owner or person acting for an owner of rights to a 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, gender identity, national origin, ancestry, disability, familial status, or source of income.

- (2) Directly or indirectly advertise or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any dwelling or any part, portion or interest therein, by persons of any particular race, color, sex, sexual orientation, gender identity, creed, religion, national origin, ancestry, disability, familial status, or source of income, is unwelcome, objectionable, not acceptable, or not solicited.
- (3) Include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any dwelling, any clause, condition or restriction discriminating against any person in the use or occupancy of the dwelling because of race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status, or source of income.
- (4) Discriminate in the furnishing of any facilities or services for any dwelling because of race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status, or source of income.
- (5) Make, utter, print, publish or circulate or cause to be made, printed, 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, gender identity, national origin, ancestry, disability, familial status, or source of income of applicants or indicates directly or indirectly any preference, limitation, specification or discrimination on the basis of race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status, or source of income 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 of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.
- (8) Aid, incite, compel, coerce, or participate in the doing of any act declared to be a discriminatory housing practice under this section; attempt, directly or indirectly, to commit any act declared by this section to be a discriminatory practice; or attempt in any fashion to coerce, intimidate, compel, threaten, interfere, or in any other fashion force any person not to cooperate or participate in any hearing or other proceeding conducted by the human rights commission or its staff.
- (9) For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, sex, sexual orientation, gender identity, color, creed, religion, ancestry, national origin, disability or familial status, or with a particular source of income.
- (10) Steer or channel a prospective buyer into or away from an area because of race, sex, sexual orientation, gender identity, creed, religion, national origin, ancestry, color,

disability, familial status, or source of income, by action by a real estate broker or salesperson which is intended to influence the choice of a prospective dwelling buyer on the basis of racial, religious, national origin, sex, sexual orientation, gender identity, religion, national origin, color, disability, ancestry, familial status, or source of income.

- (11) Deny another person access to or membership or participation in a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, sexual orientation, gender identity, religion, ancestry, national origin, disability, familial status, or source of income.
- (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, creed, religion, sex, sexual orientation, gender identity, ancestry, disability, familial status, national origin, or source of income 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, gender identity, national origin, ancestry, disability, familial status, or source of income 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.

### **Sec. 62-103. Exemptions; Applicability.**

- (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 dwellings.
  - (2) Any bona fide religious institution with respect to any qualifications it may impose based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose, unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of race, color or national origin.
  - (3) The rental or leasing of less than four rooms within a single dwelling by the occupant or owner of such dwelling, if the occupant or owner resides in the dwelling.
  - (4) The rental or leasing of a dwelling within which residents of both sexes must share a common bathroom facility on the same floor of the building. This exemption does

not apply to race, color, creed, religion, sexual orientation, gender identity, national origin, ancestry, disability or familial status basis, or on the basis of source of income.

- (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 qualifies for the homestead tax credit under I.C. § 425.1.
- (b) Nothing in sections 62-101 and 62-102 of this article regarding familial status shall apply with respect to housing for older persons. As used in this subsection, the term "housing for older persons" means housing:
  - (1) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program, that the human rights commission determines to be consistent with determinations made by the Secretary of Housing and Urban Development;
  - (2) Intended for and solely occupied by persons 62 years of age or older; or
  - (3) For 80-percent occupancy by at least one person 55 years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of the persons, and the housing facility must publish and adhere to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (c) None of the exemptions stated in subsections (a) and (b) of this section shall apply to advertising.
- (d) Nothing in section 62-101(b) 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, gender identity, disability, familial status, or source of income.
- (e) The protection against source of income discrimination in section 62-101 of this article shall not:
  - (1) Require a person to rent to any participant receiving a source of income for the sole reason that the individual has such income source. Section 62-101 does not create a preference for persons with a source of income over those without such income source.
  - (2) Prohibit a person from refusing to lease a dwelling to a potential or current renter who is relying on a rent subsidy source of income administered by the city municipal housing agency or other city department, or administered by any other entity, for payment of part or all of the rent for a dwelling, if and when the entity administering the applicable source of income, or the U.S. Department of Housing and Urban Development determine that:
    - a. The rent for the dwelling exceeds the fair market rent authorized by the U.S. Department of Housing and Urban Development or by other regulations or contract requirements governing the applicable rent subsidy source of income; or
    - b. The person is not eligible or qualified for participation in the applicable rent subsidy program due to federal or local regulations and requirements, insufficient program funding, or other determinations made by the U.S.

Department of Housing and Urban Development or by the entity administering the applicable rent subsidy source of income.

- (f) Nothing in section 62-101 of this article prohibits any person, and any owner or person acting for an owner of rights to a dwelling, with or without compensation, from:
  - (1) Determining the ability of any potential buyer or renter to pay a purchase price or pay rent by:
    - a. Verifying, in a commercially reasonable manner, the source of income and amount thereof of the potential buyer or renter, including any rental or purchase payments or portions of thereof that will be made by other individuals or entities providing the source of income, on the same basis as payments to be made directly by the potential buyer or renter.
    - b. Evaluating, in a commercially reasonable manner, the prospective stability, security, and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter, including any rental or purchase payments or portions thereof that will be made by other individuals or entities providing the source of income.
    - c. Refusing to consider income derived from any criminal activity.
  - (2) Obtaining and retaining records regarding a lessee's or purchaser's race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status, or source of income, when and for the sole purpose that such records are required for compliance with a federal, state, or local funding, loan, grant, or tax credit program, or federal, state, or local property development, rehabilitation, or redevelopment program, used, in whole or in part, to construct, operate, or maintain a housing project, or sharing said records with the applicable federal, state or local agency administering said program.
  - (3) Renting or selling a dwelling in accordance with restrictions for unit affordability, project unit mixes, area median income, owner-occupancy, or similar requirements, as required for compliance with a federal, state, or local funding, loan, grant, or tax credit program, or federal, state, or local property development, rehabilitation or redevelopment program, used, in whole or in part, to construct, operate, or maintain a housing project.

**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) Because of the person's race, color, creed, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, familial status, or source of income, and because the person is or has been selling, purchasing, renting, 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 to the business of selling or renting dwellings.
  - (2) Because the person is or has been doing any of the following:
    - a. Participating, without discrimination because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, ancestry,

disability, familial status, or source of income, in an activity service, organization, or facility described in subsection (a)(1) of this section.

- b. Affording another person the opportunity or protection to so participate.
- c. Lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, familial status, or source of income, in an activity, service, organization, or facility described in subsection (a)(1) of this section.

- (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 as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

## **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, 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.

### **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 discrimination against or segregation of any person or group of persons on account of race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability, familial status or source of income, in the leasing, subleasing, transferring, use, occupancy, 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, lessees, sublessees, subtenants or vendees in the premises herein leased.
- (2) *Contracts.* In contracts relating to the sale, transfer, or leasing of land, or any interest therein acquired by the city, within any urban renewal area or project, the provisions in subsection (1) of this section in substantially the forms set forth shall be included, and such

contracts shall further provide that such provisions shall be binding upon and shall obligate the contracting party and any subcontracting party or other transferees under such instrument.

Section 2. This ordinance shall be in full force and effect from and after September 1, 2019, following its passage and publication as provided by law.

FORM APPROVED:

Glenna K. Frank, 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. 19-0923), passed by the City Council of said City at a meeting held June 3, 2019 signed by the Mayor on June 3, 2019 and published and provided by law in the Business Record on June 21, 2019. Authorized by Publication Order No. 10753.

Diane Rauh, City Clerk