

ORDINANCE NO. 15,838

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 Section 62-3, relating to human rights and the procedure for processing complaints.

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 Section 62-3 relating to human rights and the procedure for processing complaints, as follows:

Sec. 62-3. Procedure for processing complaints.

- (a) Whenever a verified complaint is filed pursuant to this chapter, a true copy of the complaint shall be transmitted to the person alleged to have committed the illegal discriminatory practice, referred to as the "respondent," within ten days with a bill of particulars setting out the dates and facts upon which the complaint is based. Upon receipt of the complaint, the respondent shall be advised of the right to file a written response to the allegations of the complaint, of the right to counsel and the right to present evidence at any stage of the investigation and hearing and shall be informed of the confidentiality of the human rights commission's investigation and conciliation efforts and the respondent's cooperation in maintaining the non-adversarial environment such confidentiality fosters shall be sought by commission staff.
- (b) The director of the human rights commission shall appoint a member of the commission staff who, under the supervision of the director, shall make a prompt and full investigation of the alleged illegal discriminatory practice and forward to the director a summary of the investigation. If a complainant or respondent fails or refuses to provide information requested for an investigation, the director may issue a subpoena for that information.
- (c) The director and staff member may determine during the investigation that the complaint has no validity or is not within the jurisdiction of the commission. Upon such determination the complaint may be closed with a ministerial finding of no probable cause or no jurisdiction and the complainant and respondent shall be so notified by regular mail at their last known addresses and by electronic mail if an email addresses is known. The complainant may appeal such ministerial finding to the chair, vice-chair, and secretary of the commission within ten days of the mailing of the notification. If complainant timely appeals, respondent shall be notified and given ten days to respond with reasons the appeal should not be granted.
- (d) If it is determined by the director that no probable cause exists for the complaint, or any part of the complaint, the complainant and respondent shall be promptly notified in writing

by regular mail and electronic mail if an email address is known and the case shall be closed, or in the case of mixed determinations of cause and no probable cause, the investigation of the portion(s) determined to have no probable cause shall be closed, unless this finding is appealed to the chair, vice-chair, and secretary of the commission within ten days of the notification. If complainant timely appeals, respondent shall be notified and given ten days to respond with reasons the appeal should not be granted.

- (e) Appeals of ministerial findings closing any portion of a complaint shall be determined by the chair, vice chair, and secretary of the commission. The complaint and information on file with the commission concerning the complaint and the appeal shall be considered according to commission rules. The chair, vice-chair, and secretary shall either affirm the director's decision, reverse the director's decision, or remand to the director and staff for further investigation. If the director's decision is affirmed, a final order shall be entered and the complainant and respondent shall be promptly notified. If the director's decision is reversed or remanded staff shall be directed to proceed accordingly with notice sent to the complainant and respondent.
- (f) If the director determines that probable cause exists for crediting the allegations in the complaint, the staff shall proceed with conciliation and persuasion under the director's supervision.
- (g) An investigation shall be deferred if the same complaint has been filed with an agency with duties and powers similar to the commission which is proceeding with its own investigation of the complaint. The commission's investigation may be stayed pending the completion of the other agency's investigation if it is determined by the executive director to be in the best interests of the commission.

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

T. M. Franklin Cownie, Mayor

Attest: I, P. Kay Cmelik, 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. 19-1933), passed by the City Council of said City at a meeting held December 2, 2019 signed by the Mayor on December 2, 2019 and published and provided by law in the Business Record on December 20, 2019. Authorized by Publication Order No.10938.

P. Kay Cmelik, City Clerk