

ORDINANCE NO. 16,282

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 2-62, relating to the salary of the mayor and councilmembers, Section 2-112, relating to council attendance, and by adding Section 2-113, relating to the determination of sanctions, and renumbering Sec. 2-112 to Sec. 2-114.

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 2-62, relating to the salary of mayor and councilmembers, as follows:

Sec. 2-62. Salary of mayor and councilmembers.

With the full understanding that attendance at city council meetings and work sessions is a requirement of the office of mayor and council member and is an ethical duty imposed by Sec. 2-112 of this Code and is also a large foundation of the salary provided herein, the mayor shall receive and be paid a salary at an initial rate of \$70,000.00 per annum for discharging all duties of the office of mayor imposed by state statute and this code of ordinances and \$100.00 per week as allowance for expenses incurred on city business conducted in the city and all other councilmembers shall receive and be paid a salary at an initial rate of \$35,000.00 per annum for discharging all duties of the office of council member imposed by state statute and this code of ordinances and \$100.00 per week as the only allowance for expenses, other than as specifically authorized by Council for direct reimbursement, incurred on city business conducted in the city, which salaries shall be payable as hereinafter provided. The salary referenced in this section includes a contemplated downward adjustment if the mayor or any city council member is absent for more than 10 percent of the total number of regular meetings held by the city council during any calendar year, which contemplated downward adjustment would be proportionate to the percentage of meetings missed. Meetings missed by the mayor or city council member while he or she is on official city business at the direction of the city council or absent as otherwise required by law will not be counted towards the percentage of missed meetings for which the downward compensation adjustment is required under this section, but will be counted as though the member had attended the meetings that are missed while so engaged in city business or as otherwise required by law. The mayor and councilmembers shall be entitled to group insurance and other benefits that are made available to regular full-time supervisory, professional and management employees with a hire date commensurate to the commencement date of the mayor's or councilmember's initial consecutive term on the city council, except for leave accruals and long-term disability, phone allowance which is intended to be included within the expense allowance referenced in this paragraph, and with the exception that Council shall pay 15% of the monthly health and dental insurance premium cost for such group insurance. All changes in compensation are subject to the provisions of section I.C. § 372.13(8), with respect to the effective date of such changes. The mayor and each councilmember may choose to decline any benefit provided for the position. However, the benefits shall be presumed to be applicable unless the mayor or councilmember declines the respective benefit in writing. Any written declination of benefits shall

be effective from the date specified in such writing to the end of the current term of the mayor or councilmember and shall be deemed to cancel the entitlement to such benefits for the balance of the term. In receiving salary, allowance for expenses, insurance and benefits or in making any declination thereof each individual mayor and councilmember shall assume any tax consequences resulting therefrom and hold the city harmless from any such consequence.

Section 2. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 16,212, passed December 12, 2022, as heretofore amended, is hereby amended by adding a new Sec. 2-112 relating to council attendance, as follows:

Sec. 2-112. Council Attendance.

Appropriate governance of the city requires that the mayor and all of the council members attend all regular meetings and work sessions of the council in order to fulfill each member's obligation to the residents of the City to fully participate in the process of government. Each member of the Council has an obligation to his or her constituents and to his or her fellow members to be informed in attending such meetings and work sessions. If a physical presence is not possible, then the mayor or council member shall endeavor to attend all meetings electronically as allowed by law. As a courtesy and when time permits, a member shall notify the mayor or the City Clerk that he or she will not be able to attend a meeting.

Section 3. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 16,212, passed December 12, 2022, as heretofore amended, is hereby amended by adding a new Sec. 2-113 relating to determination of sanctions, as follows:

Sec. 2-113. Determination of Sanction.

Upon motion passed by a majority vote of the other members of the Council, a member may be sanctioned as herein provided. If the motion fails or a motion is passed stating that there has been no violation of this ethics code, then the member shall be deemed not to have been in violation of this ethics code. If the motion passes, the Council may sanction any member whose conduct does not comply with this ethics code by any of the following actions which may be cumulative:

- (a) a formal resolution of reprimand which shall identify the improper conduct and express Council's disapproval of said conduct;
- (b) a formal resolution of censure, which shall identify the improper conduct and express Council's strong and continuing disapproval of said conduct;
- (c) For conduct that does not comply with Sec. 2-112 concerning mayor or council member attendance, in addition to any other provision of this code or state statute, Council may compel the attendance of the absent Council member by written notice to the absent Council member, delivered by registered or certified mail or by any person authorized to serve process that is not an interested party, and ordering the Council member's attendance. Any member of the Council who when notified of such compulsion for his or her attendance fails to attend such meeting for reasons other than confining illness or absence from the City may be deemed guilty of misconduct in office unless excused by the Council.

- (d) For conduct that does not comply with Sec. 2-112 concerning mayor or council member attendance, in addition to any other provision of this code or state statute, Council may find that such behavior has been willful or habitual in imposing any of the sanctions herein provided and that the office has been constructively abandoned and may seek recourse under state statute.

Section 4. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 16,212, passed December 12, 2022, as heretofore amended, is hereby amended by renumbering former Section 2-112 to Section 2-114.

Sec. 2-114. City ethics officer enforcement responsibility and city attorney opinions binding.

- (a) The city ethics officer shall be the deputy city manager and shall be responsible for education and enforcement of this ethics code, including determination of apparent conflicts, the appearance of conflicts, potential conflicts, and conflicts of interests under this ethics code. To discharge such responsibilities, the deputy city manager may request advice and opinions from the city attorney.
- (b) Councilmembers may also request an opinion from the city attorney on any issue regarding this ethics code, which opinion shall be binding upon the city, or councilmember, as applicable, in any subsequent action or transaction. The city ethics officer shall be required to retain copies of all such city attorney opinions and to make them available to the city council upon request.

Secs. 2-115—2-140. Reserved.

Section 5. Section 1 of this ordinance shall be in full force and effect after the next election as required by statute. All other remaining sections of this ordinance shall be in full force and effect from and after its passage and publication as provided by law.

APPROVED AS TO FORM: Jeffrey D. Lester, City Attorney

T.M. Franklin Cownie, Mayor

Attest: I, Laura Baumgartner, 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. 23-1381), passed by the City Council of said City at the meeting held on October 2, 2023 and signed by the Mayor on October 2, 2023 and published and provided by law in the Business Record on October 20, 2023. Authorized by Publication Order No. 12417.

Laura Baumgartner, City Clerk