

★ **Roll Call Number**

Agenda Item Number

32A

Date February 8, 2016

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 adding and enacting a new Article III, Division 4 State Income Tax Offset Procedures, relating to the administrative hearing process",

which was considered and voted upon under Roll Call No. 16-_____ of February 8, 2016; again presented.

Moved by _____ that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass.

ORDINANCE NO. _____

NOTE: Waiver of this rule is requested by the Legal Department.

FORM APPROVED:



Thomas G. Fisher Jr.
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, 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.

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 adding and enacting a new Article III, Division 4 State Income Tax Offset Procedures, relating to the administrative hearing process.

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 adding and enacting a new Article III, Division 4 State Income Tax Offset Procedures, relating to the administrative hearing process, as follows:

DIVISION 4. STATE INCOME TAX OFFSET PROCEDURES

Sec. 3-26. Statement of Purpose.

This division provides procedures to follow in the event that the city seeks to collect legally enforceable debts owed to the city by placement of such qualified debts in the state program established and maintained by the Iowa Department of Administrative Services to offset the debts against a person's state income tax refund pursuant to Iowa Code section 8A.504 and the Iowa Administrative Rules implemented thereunder.

Sec. 3-27. Notice of Intent to Place Debt; Informal Opportunity to Challenge Placement of Debt.

- (a) A department director or his or her designee shall make a good faith effort to collect a qualified debt. If such effort to collect is not successful, notice shall be provided to the debtor by regular mail that the debt will be placed in the offset program and that the debtor shall have an informal opportunity to challenge such placement by filing the challenge with the finance director within ten days of the date of notice.
- (b) If a challenge to the placement of the debt in the offset program is timely filed, the finance director or his or her designees shall notify the debtor of the date and time that it will conduct an informal hearing on such challenge. At such informal hearing the debtor shall be provided with an opportunity to present its challenge either in-person or by electronic means. After the informal hearing, a determination on the challenge shall be delivered to the debtor by regular mail.

Sec. 3-28. Placement of Debt and Notification of Offset.

After notification and completion of any informal challenge to placement, the finance director or his or her designee shall place the debt in the offset program in accordance with the procedures set forth in the applicable Iowa Administrative Rules and as otherwise established by the Iowa Department of Administrative Services. If the Iowa Department of Administrative Services notifies the city of a potential offset of a debt, the finance director or his or her designee shall within ten days send notification by regular mail to the debtor that shall include:

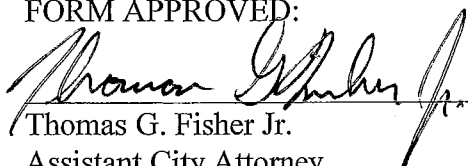
- (1) The city's right to the payment in question.
- (2) The city's right to recover the payment through the offset procedure.
- (3) The basis of the city's case in regard to the debt.
- (4) The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- (5) The debtor's right to appeal the offset and required appeal procedures set forth in this chapter.
- (6) The name of the city as the public agency to which the debt is owed, with a telephone number for the debtor to contact the city regarding questions about the offset.

Sec. 3.29. Appeal of Offset

Following notification, a debtor may appeal the application of an offset by initiating an administrative appeal pursuant to section 3-16. The administrative appeal shall be scheduled and conducted in accordance with sections 3-17—3-25. In the event of an appeal, funds collected by the city shall be held by the city until a ruling issued by the administrative hearing officer as to the amount that can be retained by the city or refunded to the debtor. The administrative hearing officer has jurisdiction to determine whether the debt is owed by the debtor, whether there is an error in the amount of the debt and whether the debt is properly placed in the offset program. The administrative hearing officer does not have the authority to set aside court judgments or scheduled civil or criminal violations in which the debtor failed to seek available judicial review.

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

FORM APPROVED:


Thomas G. Fisher Jr.
Assistant City Attorney