

**AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS**

By Council Member Benson

**Amending Title 7 Chapter 141 of the Minneapolis Code of Ordinances
relating to Civil Rights: Administration and Enforcement.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 141.20(c) of the above-entitled ordinance be amended to read as follows:

141.20. Commission membership.

- (c) *Removal and vacancies*; compensation; quorum. Any member may be removed by the appointing authority for incompetence, neglect of duty, misconduct or malfeasance. Any vacancy occasioned by resignation, death or removal shall be filled for the balance of the unexpired term in the same manner as provided for original appointment. Members of the commission shall be compensated at the rate of thirty-five dollars (\$35.00) per monthly meeting attended and further as provided in section ~~141.50(j)(2)~~ 141.50(k)(2) and (3). Nine (9) members of the commission shall constitute a quorum.

Any member who has ~~three (3) unexcused~~ four (4) absences from regular meetings in a calendar year shall automatically cease to be a member of the commission. ~~A commissioner intending to be absent from a regular meeting on account of a valid excuse shall request of the chairperson of the commission to be excused, prior to the meeting if possible.~~ Any member appointed to a standing committee or task force who has four (4) absences from any scheduled committee or task force meeting in a calendar year shall automatically cease to be a member of the commission. Any member of a hearing committee who misses two (2) public hearings to which the member has been assigned by the chairperson of the commission without providing a substitute in any calendar year shall automatically cease to be a member of the commission.

Any time a member has been automatically removed from the commission by operation of this section, the chairperson shall immediately inform the appointing authority of the vacancy.

Section 2. That Section 141.50(m) of the above-entitled ordinance be amended to read as follows:

141.50. Procedure for complaints; investigations, conciliations, mediations, and hearings before commission.

(m) *Findings.* If the hearing committee finds that the respondent has engaged in discrimination, the hearing committee shall make written findings of fact and conclusions of law, and shall issue an order directing the respondent to cease and desist from the discriminatory act or practice found to exist, and to take such other affirmative action as in the judgment of the hearing committee will effectuate the purposes of this title. Such order shall be a final decision for purposes of appeal or enforcement. The hearing committee shall order any respondent found to be in violation of any provision of section ~~449.40~~ 139.40 to pay a civil penalty to the City of Minneapolis. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The hearing committee shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, the cost of investigation incurred by the City of Minneapolis, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the city. In all cases, the hearing committee may order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three (3) times the actual damages sustained. In all cases, the hearing committee may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorneys fees in addition to punitive damages in an amount not more than eight thousand five hundred dollars (\$8,500.00). Punitive damages shall be awarded pursuant to Minnesota Statutes Section 549.20. In any case where a political subdivision is a respondent, the total punitive damages awarded an aggrieved party may not exceed eight thousand dollars five hundred (\$8,500.00) and in that case if there are two (2) or more respondents, the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for the payment of punitive damages pursuant to this subdivision. In addition to the aforesaid remedies, in a case involving discrimination in:

- (1) Employment: The hearing committee may order the hiring, reinstatement or upgrading of an aggrieved party who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or his or her admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program, or any other relief the hearing committee deems just and equitable.
- (2) Housing: The hearing committee may order the sale, lease or rental of the housing accommodation or other real property to an aggrieved party who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by

or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker; or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the hearing committee deems just and equitable.

The hearing committee shall cause the findings of fact, conclusions of law and order to be served on the complainant and respondent personally, or by first class mail, and shall furnish copies to the director and the city attorney.

Section 3. That Section 141.50 of the above-entitled ordinance be amended by adding thereto a new subdivision (o) to read as follows:

141.50. Procedure for complaints; investigations, conciliations, mediations, and hearings before commission.

(o) If a complainant has met its burden of showing that a practice is responsible for a statistically significant adverse impact on a particular class of persons protected by section 139.40, a respondent must justify that practice by demonstrating one of the following justifications:

(1) The practice is manifestly related to the job.

(2) The practice is manifestly related to the product, facility or the service being offered.

(3) The practice significantly furthers an important business purpose.

Upon establishment of this justification, the complainant may prevail upon demonstration of the existence of a comparably effective practice that the commission finds would cause a significantly lesser adverse impact on the identified protected class.

Section 4. That Section 141.80(c)(5), (c)(6), (c)(16) and (c)(17) of the above-entitled ordinance be amended to read as follows:

141.80. Department of civil rights.

(c) *Appointment of director; powers and duties.* The mayor shall appoint and the council shall confirm a director of such department who shall be the head of the department and such director may appoint such other employees as may from time to time be authorized by the city council. The director shall:

- (5) ~~Subpoenas: Apply to the district court for subpoenas to require witnesses to appear at depositions or regularly scheduled public hearings before a hearing committee to give testimony and to bring with them for examination any books, papers or documents relative to any verified complaint which is under investigation or which is the subject matter of a public hearing.~~ Subpoena witnesses and require the production for examination of any books, papers or documents relative to any verified charge under investigation or in question as the director deems appropriate to carry out the purposes of this title.
- (6) *Enforcement, effect and service of a subpoena:*
- a. Apply to the district court to punish a person who disobeys a subpoena issued at the request of by the director in like manner as a contempt proceeding is initiated in the district courts of this state.
- b. It is not a violation of rights conferred by chapter 13 or any other statute related to the confidentiality of government data for a city department or independent board or agency to provide data or information under a subpoena issued by the director under this section.
- c. A subpoena issued under this section must be served personally or by mailing a copy of the subpoena, by first class mail, postage prepaid, to the person to be served. A subpoena served by mail must include two copies of a notice and acknowledgment of service on a form to be provided by the director and a return envelope, postage prepaid, addressed to the director. If acknowledgment of service is not received by the director within 20 days, service is not effective. Unless good cause is shown for not doing so, a court or administrative law judge shall order the payment of the costs of personal service by the person served if the person does not complete and return the notice and acknowledgment of receipt of the subpoena within the time allowed.
- (16) *City contracts:* Adopt and promulgate, pursuant to Chapter ~~15~~ [14] 14 of Minnesota Statutes, suitable rules and regulations that explain which city contractors and subcontractors are subject to or exempt from the provisions of section 139.50. The procedure for adopting, amending, suspending or revoking such rules and regulations shall be that procedure set out in section ~~141.04(10)~~ 141.10. Receive complaints, investigate and monitor city contractors and subcontractors to insure that they are complying with all of the terms of this title and report the director's findings to the city council.

- (17) *Issuance of charge:* Whenever the director has reason to believe that a person is engaging in an unfair discriminatory practice, the director may issue a charge stating in ordinance language an alleged violation of a particular section of section 139.40 or a violation of section 139.50.