Policy on Equitable Provision of City Services And Prohibition of Profiling by City Employees

I. Policy Statement

The City of Des Moines is committed to the unbiased, equitable treatment of all persons irrespective of race, gender, national origin, other protected status or individual characteristics in providing City services. City employees shall treat all persons in a fair, impartial and objective manner, in accordance with State and Federal law, and without consideration of their individual characteristics as defined in this policy.

II. Definitions

**Biased Provision of City services**: Discrimination in the performance of assigned duties or delivery of City services, based on personal prejudices or partiality of employees toward classes of individuals or persons based on individual characteristics.

**Fair and Impartial Treatment**: The belief that persons, irrespective of individual characteristics, shall be treated fairly and equitably under the same or similar circumstances. Reasonable concessions and accommodations may be made, when dealing with individuals with physical or mental disabilities, injury, illness, or similar conditions, or when information about them necessitates legally permissible different treatment.

**Individual Characteristics**: Personal characteristics including, but not limited to: race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, socioeconomic status, disability, immigration status, housing status, occupation, language fluency, cultural group, political status or any other identifiable characteristics.

III. Procedures

A. **Fair & Impartial Treatment**

All persons receiving City services or otherwise interacting with City services are entitled to the fair and equitable provision of such services from every City employee.

1. Biased provision of City services is prohibited both in enforcement of the law and the delivery of City services by any employee.

2. Employees shall perform their duties, exercise authority, take appropriate actions and provide equal services to all persons in the same or similar circumstances.

3. Employees shall not consider individual characteristics when providing City services or otherwise discharging their duties assigned by statute, ordinance or policy except when best practices for such employee’s duties specifically allow consideration of such characteristics as required by law.

4. Employees shall not intentionally use any terms, language or remarks that are derogatory, tend to belittle, show contempt for or defame any individual characteristics. Employees may, as necessary in the performance of its duties, collect data, document specific circumstances, prepare official reports or provide testimony or preparation therefor.
B. Complaints & Compliance

1. Anyone may file a complaint if they feel they have had an encounter of biased provision of City services. No person shall be discouraged, intimidated or coerced from filing such a complaint, nor should they be discriminated against because they have filed a complaint.

   a. Employees who witness or who are aware of instances of biased provision of City services shall report the incident to a supervisor.

   b. Where appropriate, employees are encouraged to intervene at the time the biased provision of City services incident occurs.

2. Supervisors will endeavor to ensure the working environment is free of bias. This may include periodic inspections of work areas, staff reports of citizen interactions, body and in-car audio/video systems, field inspections or supervision during citizen interactions. As part of ensuring the appropriate environment, supervisors will:

   a. take the appropriate action when a violation of this policy occurs.

   b. ensure that there is no retaliation for individuals reporting such violations.

3. All complaints of biased provision of City services shall be directed to the City Manager, unless a department has already established a citizen complaint process prior to the adoption of this policy, in which case the complaints shall be provided to the department to complete its complaint process as well as to the City Manager.

   a. The City Manager or designee will conduct a thorough investigation, consistent with an established citizen complaint process, for review and determination. The designee may be a department staff member which has already established a citizen complaint process.

   b. If the complaint is substantiated, the City will take appropriate measures commensurate to the severity of the substantiated complaint.

   c. The City Manager shall maintain data relating specifically to complaints of biased provision of City services. Information shall be subject to administrative review, problem identification, and development of appropriate corrective actions to prevent biased provision of City services.

C. Training

All employees will receive training and guidance regarding unbiased provision of City services while discharging their duties, which shall include training regarding implicit or unconscious bias, and may also include without limitation: training on subjects related to ethics, cultural diversity, employee-citizen interaction, standards of conduct, and related topics suitable for preventing incidents of biased provision of City services.
AN ORDINANCE OF THE CITY OF DES MOINES, IOWA, PROVIDING FOR THE EQUITABLE PROVISION OF CITY SERVICES AND THE APPROPRIATE BEHAVIOR OF ITS EMPLOYEES AND ADOPTING AN EQUITABLE PROVISION OF CITY SERVICES AND RACIAL PROFILING PROHIBITION POLICY FOR EMPLOYEES

WHEREAS, the City Council determines and insists that all of the employees of the City of Des Moines (“City”) shall conduct themselves in a dignified and respectful manner at all times when dealing with members of the public, and that its employees shall equitably provide City services, treating all persons equitably irrespective of age, race, ethnicity, color, national origin, use of a foreign language, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, socioeconomic status, immigration status, physical or mental disability, or serious medical condition; and,

WHEREAS, the City Council believes the conduct of its employees in interacting with all citizens, persons receiving City services and any other person interacting with the City shall be for the prompt, professional, efficient provision of services and the delivery or denial of City services shall not be based in any manner or respect on age, race, ethnicity, color, national origin, use of a foreign language, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, socioeconomic status, immigration status, physical or mental disability, or serious medical condition; and,

WHEREAS, the City Council hereby affirms its commitment to unbiased services in all encounters between any employee and any person and instructs the City Manager to take measures to ensure behaviors and operating procedures that serve to ensure and promote public confidence and mutual trust through the fair and equitable provision of City services; and

WHEREAS, in order to broadly enforce the fair and equitable provision of City services, the City shall accept complaints from any person who believes he or she has been treated differently or inappropriately based on factors related to age, race, ethnicity, color, national origin, use of a foreign language, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, socioeconomic status, immigration status, physical or mental disability, or serious medical condition and shall not discourage the filing of such a complaint nor retaliate for such a filing against any person; and,

WHEREAS, implicit or unconscious biases are learned attitudes or stereotypes that may be either automatic, unintentional, heuristic or reflexive responses that affect actions and decisions of employees, and such biases may result in disparate treatment of members of the public which disparate treatment the City Council intends to eliminate in the provision of City services by requiring each of its employees to complete training designed to expose participants to unconscious biases, provide awareness and methods to adjust automatic patterns of thinking, and to significantly reduce and ultimately eliminate disparate treatment behaviors; and,

WHEREAS, accumulation of data concerning certain classifications and characteristics can help the City to better educate its workforce in the equitable provision of City services and otherwise enable the City to utilize best practices in providing equitable services and such data should be collected in an appropriate fashion.
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA, as follows:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof.

Section 2. Approval and Adoption. The City of Des Moines Policy on Equitable Provision of City Services and Prohibition of Racial Profiling by City Employees, attached hereto as Exhibit " A " and incorporated herein by this reference (the "Policy "), is hereby approved and adopted. The Policy shall be and remain in full force and effect, until such time as repealed, revised, modified or amended by resolution of the City Council. Where the Policy conflicts with any City Manager rule or specific department policy, the more restrictive shall govern.

Section 3. City Manager and Department Directors and Division Managers. The City Manager is responsible for the day-to-day operation of the City and must operate and manage the City in a manner consistent with the policies and procedures of the City, State and Federal laws, and the needs of its citizens. The City Manager may from time to time issue additional rules and regulations or specific policy statements for the City that are consistent with the Policy adopted herein for the City and consistent with the personnel policies of the City as needed to guide department and divisional practices not specifically addressed in the Policy and to vary personnel policies as needed to comply with changes in law. The City Manager shall cause such policies, rules and regulations, and any modifications or amendments thereto, to be drafted, prepared and implemented as necessary to serve the best interests of the City, its employees and citizens. Any such policies, rules and regulations, modification or amendments shall also be provided to the City Council upon issuance.

Section 4. City Council Approval. The Policy, and all revisions, modifications and amendments to the Policy, shall be approved by the City Council, in its discretion, by resolution, and no such revisions, modifications or amendments shall be in effect except as approved by the City Council acting by resolution. Such revisions, modifications or amendments as are approved by resolution of the City Council shall be and remain in effect until thereafter repealed, revised, modified or amended by resolution, and all, or any part of, such revisions, modifications and amendments may be repealed, revised, modified or amended, at any time by the City Council.

Section 5. Accepting Complaints. To ensure adherence to and enforcement of the Policy by any City employee, the City shall accept complaints from any person who believes he or she has been treated differently or inappropriately based on racial, ethnic, national origin, religion, gender or other individual characteristics identified in the Policy. No person shall be coerced, intimidated or discouraged from filing a complaint, nor discriminated against or suffer retribution because he or she filed such a complaint.

a. Complaints concerning the equitable provision of City services, alleged racial profiling by a City officer, employee or contractor, the demeanor of a City officer, employee or contractor, the conduct of a City officer, employee or contractor, alleged racial disparate treatment or any other form of misconduct can be filed in person, or in written form with a signature or email verification.

b. Complaints must be filed within sixty days of the occurrence.

c. Complaints can be filed with the City Manager or any department director, who shall report the information on the appropriate form and immediately forward to the City Manager; provided, however, that any department with an already existing citizen complaint process
which conforms to the Policy may utilize such process in addition to forwarding the complaint to the City Manager.

d. The City Manager shall establish a pre-printed form for all complaints and make that form available to assist any person in filing a complaint against any City officer, employee or contractor.

e. All complaints will be reviewed by the City Manager or its designee and assigned for investigation, which may include utilization of an already existing citizen complaint process which conforms to the Policy.

f. Complaints filed under this ordinance are separate from any complaints which may be filed pursuant to City Code Chapter 62 where intake and referral to the Iowa Civil Rights Commission may occur as appropriate.

Section 6. Implicit Bias Training

The City Council recognizes that no one is exempt from potentially and unconsciously displaying bias or prejudice and that the first phase in dealing with implicit bias is awareness of the potential or the actual existence of implicit bias based on race, ethnicity, national origin, religion, gender or other individual characteristics identified in the Policy. Both to gauge implicit bias and to effectively address implicit bias, the City Council hereby mandates implicit or unconscious bias training for its employees and the City Council on at least a biannual basis. Such training shall be designed for local government and incorporate national best practices for implicit bias training. The initial training shall be in person unless the City Manager otherwise directs, but subsequent trainings may be online or webinar based, so long as some sort of metric is available to measure course understanding and absorption.

Section 7. Voluntary Data Collection

a. City departments shall maintain data concerning all persons receiving City services that include information concerning the race or ethnicity, gender, and approximate age of the individuals served; the identification of these characteristics shall be based on data from independent third party sources or offered by the persons receiving City services provided such information shall not be requested of the persons served.

b. In lieu of data maintenance described in (a) above, City departments may offer the person receiving City services the opportunity to participate in an anonymous online survey and shall provide the person with a web address or online application where the person may choose to complete a survey about the interaction and provide the information referenced above, including comments about the nature of the interaction and the conduct of the employee.

c. The City Manager is hereby authorized and directed to create a link on the City’s website or a link in any City online application to allow for an anonymous survey to collect the data referenced above. The City Manager is also directed to make available a preprinted form or receipt to be offered to persons receiving City services which will direct them to the link on the City’s website.

d. The data collected shall be summarized no less than annually and the results shared with individual affected departments and the City Council in a narrative report with appropriate metrics and plans for utilization of the data. At the time of presenting the data, the City Manager or designee shall summarize appropriate best practices and all steps utilized to achieve best practices in a timely fashion.
Section 8. Interpretation and Construction. Any policies, procedures, rules and regulations of the City related to the provision of City services shall be interpreted and construed consistent with State and Federal Law and shall not be interpreted or construed as creating any new additional legal claims or third party rights. The policies, procedures, rules and regulations of the City, including this ordinance and the Policy, shall be interpreted as a general guideline to be used by the City to promote professionalism, appropriate conduct and organizational development. Nothing in this ordinance, the Policy or other policies, or amendments, rules or regulations, procedures or policy statements, or the revisions, modifications or amendments of each, shall be interpreted or construed as an obligation, mandate, requirement or agreement of the City to function or operate in the manner or methods described therein, nor shall the same be construed as setting a standard of care, except that the City Manager may use such items in encouraging or discouraging behaviors and in imposing discipline up to and including discharge, when necessary.

Section 9. Governmental Immunity. Nothing in this ordinance shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the City, its officers or employees nor to create any liabilities, standards of care, legal rights or claims on behalf of any third party. Neither the City nor its officers or employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity or individual immunity under State or Federal Law.

Section 10. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 11. Effective Date. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.