

ORDINANCE NO. 2013-3818

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 62, ENTITLED "HUMAN RELATIONS," BY AMENDING ARTICLE II, ENTITLED "DISCRIMINATION," BY AMENDING DIVISION 3, ENTITLED "REGULATIONS," BY ADDING SEC. 62-92 TO REQUIRE THE POSTING OF NOTICES IN EVERY PLACE OF EMPLOYMENT, PUBLIC ACCOMMODATION, HOUSING ACCOMMODATION, AND CITY FACILITY THAT FALLS SUBJECT TO THE HUMAN RIGHTS ORDINANCE INDICATING THE APPLICABLE SUBSTANTIVE PROVISIONS OF THE HUMAN RIGHTS ORDINANCE, THE PLACE WHERE COMPLAINTS MAY BE FILED, AND SUCH OTHER INFORMATION AS THE CITY OF MIAMI BEACH DEEMS PERTINENT, AND PROVIDING FOR ENFORCEMENT PROCEDURES; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, on January 13, 2010, the Mayor and City Commission of the City of Miami Beach adopted Ordinance 2010-3669, amending the City of Miami Beach Human Rights Ordinance; and

WHEREAS, the Miami Beach Human Rights Ordinance established the City of Miami Beach Human Rights Committee, which has as one of its principle duties recommending to the City Manager and the City Commission legislation that would further the purpose of eliminating and preventing discrimination in employment and public accommodations because of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital and familial status, or age; and

WHEREAS, the Mayor and City Commission adopt the Miami Beach Human Rights Committee's finding, made at its June 19, 2012 and February 12, 2013 meeting, that many residents and visitors to Miami Beach are unaware of the City's Human Rights Ordinance; and

WHEREAS, the Mayor and City Commission also adopt the Miami Beach Human Rights Committee's concurrent finding that amending the Miami Beach Human Rights Ordinance to require every person being the owner, lessee, sub-lessee, assignee, or managing agent of public accommodations subject to the Miami Beach Human Rights Ordinance to post and maintain at such public accommodations, in conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such public accommodations, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinances relative to public accommodations, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent, to be an important tool to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, the Mayor and City Commission also adopt the Miami Beach Human Rights Committee's concurrent finding that amending the Miami Beach Human Rights Ordinance to require every employer subject to the Miami Beach Human Rights Ordinance to post and maintain at its offices, places of employment or employment training centers, in a conspicuously and easily accessible and well-lighted place customarily frequented by employees and

applicants for employment, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to employment, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent, to be an important tool to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, the Mayor and City Commission also adopt the Miami Beach Human Rights Committee's concurrent finding that amending the Miami Beach Human Rights Ordinance to require every person providing housing or housing accommodation services subject to the Miami Beach Human Rights Ordinance to post and maintain at such person's business or housing unit, in a conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such housing or housing accommodation services, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to housing and housing accommodations, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent, to be an important tool to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, the Mayor and City Commission also adopt the Miami Beach Human Rights Committee's concurrent finding that amending the Miami Beach Human Rights Ordinance to require every department or facility of the City of Miami Beach where City employees provide services or access shall post and maintain at such department or facility, in a conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such City department or facility, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to public benefits and services, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent, to be an important tool to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, on June 19, 2012, the Human Rights Committee passed a resolution urging the Mayor and City Commission of the City of Miami Beach to amend the Human Rights Ordinance to incorporate notice requirements to be posted at all public accommodations and places of employment that are subject to the Miami Beach Human Rights Ordinance, in order to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, on February 12, 2013, the Human Rights Committee passed a resolution urging the Mayor and City Commission of the City of Miami Beach to further amend the Human Rights Ordinance to incorporate notice requirements to be posted at all places of housing and housing accommodations and City of Miami Beach departments and facilities that are subject to the Miami Beach Human Rights Ordinance, in order to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance; and

WHEREAS, on February 12, 2013, the Human Rights Committee passed a resolution urging the Mayor and City Commission of the City of Miami Beach to further amend the Human Rights Ordinance to provide for enforcement of these notice requirements and penalties for violation of these notice requirements;

WHEREAS, Mayor Matti Herrera Bower and Commissioner Michael Gongora referred the Human Rights Committee's resolution to the Land Use & Development Committee for consideration and discussion of the Human Rights Committee's resolution; and

WHEREAS, at its January 23, 2013 and July 22, 2013 meetings, the Land Use & Development Committee considered and discussed the matter of amending the City's Human Rights Ordinance to require the posting of notices in every place of employment, housing or housing accommodation, City department or facility, and public accommodation that falls subject to the Human Rights Ordinance indicating the applicable substantive provisions of the Human Rights Ordinance, the place where complaints may be filed, and such other information as the City Of Miami Beach deems pertinent; and recommended that this Ordinance be forwarded to the Mayor and City Commission for its consideration.

NOW THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AS FOLLOWS:

SECTION 1. That Section 62-92 of Chapter 62 of the City Code is hereby added and enacted as follows:

Chapter 62

HUMAN RELATIONS

* * *

Article II. Discrimination

* * *

Division 3. Regulations

Sec. 62-92. Posting.

- (a) Every person being the owner, lessee, sub-lessee, assignee, or managing agent of a public accommodation subject to the Miami Beach Human Rights Ordinance shall post and maintain at such public accommodation, in a conspicuously and easily accessible and well-lighted place where it may be readily observed by those seeking or visiting such public accommodation, a notice furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to public accommodations, the place where complaints may be filed, and such other information as the City of Miami Beach deems pertinent.
- (b) Every employer subject to the Miami Beach Human Rights Ordinance shall post and maintain at its offices, places of employment or employment training centers, in a conspicuously and easily accessible and well-lighted place customarily frequented by employees and applicants for employment, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to employment, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent.
- (c) Every person, owner, financial institution, real estate broker or any representative of the above who interacts with prospective buyers, renters, or lessees of housing or housing

accommodations, or any person associated therewith, shall post and maintain in a conspicuously and easily accessible and well-lighted place where it may be readily observed by those seeking or visiting the housing unit or business establishment, a notice furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to housing and housing accommodations, the place where complaints may be filed, and such other information as the City of Miami Beach deems pertinent.

- (d) Every department or facility of the City of Miami Beach where City employees provide services or access shall post and maintain at such department or facility, in a conspicuously and easily accessible and well-lighted place where it may be readily observed by those seeking or visiting such department or facility, a notice furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to public benefits and services, the place where complaints may be filed, and such other information as the City of Miami Beach deems pertinent.
- (e) Posting of the notices required in this section is deemed to be an important educational tool to provide residents of and visitors to Miami Beach with vital information concerning their rights under the City's Human Rights Ordinance, so the Administrator is authorized and directed to enforce its provisions. For a period of one year following the effective date of this section, violators of its requirements shall be issued one warning by City of Miami Beach Code Compliance officers or by the Administrator upon complaint, or upon recommendation by a majority vote of the Miami Beach Human Rights Committee. Subsequent violations shall be punished, if not remedied within five calendar days, by fine as described in Sec. 62-92(f)
- (f) One (1) year after the effective date of this section, penalties for violations of subsections 62-92(a) and 62-92(b) shall assessed (except against the City of Miami Beach) by City of Miami Beach Code Compliance officers or by the Administrator upon complaint, or upon recommendation by a majority vote of the Miami Beach Human Rights Committee as follows:
 - (1) For the first violation, a fine of \$50.00.
 - (2) For the second violation, a fine of \$100.00.
 - (3) For the third violation, a fine of \$150.00.
 - (4) For the fourth and any subsequent violation, a fine of \$200.00.
- (g) Penalties shall be assessed by service of a notice of violation, served personally or by certified mail upon the property owner, business owner, or upon a manager present at the premises.
- (h) Any person receiving a notice of violation pursuant to this section may request, within fifteen (15) days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector or the Administrator resulting in the issuance of the notice. The special master shall hold a hearing and shall hear testimony and evidence from the code inspector or the Administrator and the alleged violator. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall

be observed and shall govern said proceedings. At the conclusion of the hearing, the special master shall issue findings of fact based on evidence and conclusions of law and shall issue an order affording the proper relief consistent with the powers granted in Sec. 30-72. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.

- (i) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of collection procedures until thirty (30) days after the issuance of a written determination by the special master. Any costs or penalty amounts due the city pursuant to such determination must be received by the city within thirty (30) days after the issuance of the determination, or collection procedures may be commenced, as provided by this chapter or under state law.

SECTION 2. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY.

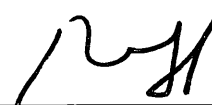
If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

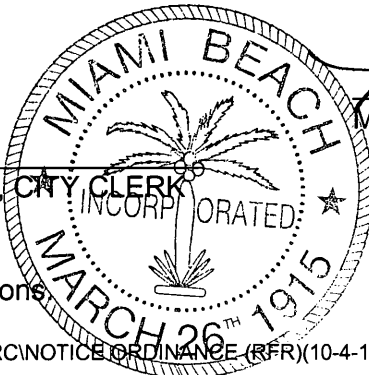
Passed and adopted this 16 day of October, 2013.

This Ordinance shall take effect the 26 day of October, 2013.

ATTEST:



RAFAEL E. GRANADO

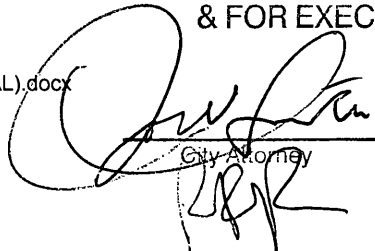



MAYOR MATTI HERRERA BOWER

Underline denotes additions.

APPROVED AS -
FORM & LANGUAGE
& FOR EXECUTION

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City Attorney

10/4/13
Date

DISCRIMINATION IS ILLEGAL

The City of Miami Beach
human rights ordinance
prohibits discrimination
in employment, housing,
public accommodations,
and use of city services.

EQUALITY IS
THE LAW IN
MIAMI BEACH



If you believe you have been subjected to discrimination, or retaliation for complaining of discrimination, in Miami Beach based upon your race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital or familial status, or age, the City of Miami Beach wants to know about it and stop it.

Report Discrimination or Retaliation by calling 305.673.7425

MIAMI BEACH

Condensed Title:

An Ordinance amending the Code of Miami Beach, by amending Chapter 62, entitled "Human Relations," by amending Article II, entitled "Discrimination," by amending Division 3, entitled "Regulations," by adding Sec. 62-92 requiring the posting of notices in every place of employment, public accommodation, housing accommodation, and City facility that falls subject to the Human Rights Ordinance indicating the applicable substantive provisions of the Human Rights Ordinance, the place where complaints may be filed, and such other information as the City deems pertinent, and providing for enforcement procedures.

Key Intended Outcome Supported:

Promote and celebrate our City's Diversity.

Supporting Data (Surveys, Environmental Scan, Etc.): N/A

Item Summary/Recommendation:

The Miami Beach Human Rights Committee (MBHRC) has determined that many residents and visitors are unaware of the City's Human Rights Ordinance. The MBHRC passed two resolutions urging the City Commission to amend the Human Rights Ordinance to require that notice be posted in every place of employment, housing or housing accommodation, City Department or Facility, and public accommodation that falls subject to the Human Rights Ordinance in order to provide residents and visitors with vital information concerning their right to be free of discrimination because of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital and familial status, or age.

The proposed Ordinance requires the posting of notices in every place of employment, housing or housing accommodation, City Department or Facility, and public accommodation that falls subject to the Human Rights Ordinance, indicating the applicable substantive provisions of the Human Rights Ordinance, the place where complaints may be filed, and such other information as the City deems pertinent, and providing for enforcement procedures.

One year after the effective date of the proposed Ordinance, penalties for its violation shall be assessed (except against the City) by Code Compliance Division officers or by the Administrator upon complaint, or upon recommendation by a majority vote of the MBHRC as follows: for the first violation, a fine of \$50.00; for the second violation, a fine of \$100.00; for the third violation, a fine of \$150.00; for the fourth and any subsequent violation, a fine of \$200.00. Violations may be appealed before the Special Master.

On September 11, 2013, the Miami Beach City Commission unanimously (6-0; Absent Commissioner Weithorn) approved the proposed Ordinance, as amended, on first reading; and set a second reading/public hearing for October 16, 2013. At the suggestion of Commissioner Libbin, the proposed Ordinance was amended to include a provision that after a warning is received during the one-year amnesty/educational period, subsequent violations during the amnesty/educational period will be issued a fine as set forth in Section 62-92(f).

The Administration recommends, on behalf of the MBHRC, that this Ordinance be approved on second reading.

Advisory Board Recommendation:

Mayor Bower and Commissioner Góngora referred the MBHRC's resolutions to the LUDC for consideration. At the January 23, 2013 and July 22, 2013 LUDC meetings, the members present recommended by a vote of 2-0 that this Ordinance be forwarded to the full Commission for its consideration.

Financial Information:



Source of Funds:	Amount	Account	Approved
OBPI	1		
	Total		

The cost to the City would be the staff time required to design the notice. The enforcement of the proposed Ordinance would be done by existing Code Compliance Division staff.

City Clerk's Office Legislative Tracking:

Rafael E. Granado, City Clerk

Sign-Offs:

Department Director	Assistant City Manager	City Manager
REG 		JLM 

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MIAMIBEACH

AGENDA ITEM R5A
DATE 10-16-13



MIAMI BEACH

OFFICE OF THE CITY MANAGER

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: October 16, 2013

Second Reading

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 62, ENTITLED "HUMAN RELATIONS," BY AMENDING ARTICLE II, ENTITLED "DISCRIMINATION," BY AMENDING DIVISION 3, ENTITLED "REGULATIONS," BY ADDING SEC. 62-92 TO REQUIRE THE POSTING OF NOTICES IN EVERY PLACE OF EMPLOYMENT, PUBLIC ACCOMMODATION, HOUSING ACCOMMODATION, AND CITY FACILITY THAT FALLS SUBJECT TO THE HUMAN RIGHTS ORDINANCE INDICATING THE APPLICABLE SUBSTANTIVE PROVISIONS OF THE HUMAN RIGHTS ORDINANCE, THE PLACE WHERE COMPLAINTS MAY BE FILED, AND SUCH OTHER INFORMATION AS THE CITY OF MIAMI BEACH DEEMS PERTINENT; PROVIDING FOR ENFORCEMENT PROCEDURES AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION:

Approve the Ordinance on second reading.

BACKGROUND:

On January 13, 2010, the Mayor and City Commission of the City of Miami Beach ("the City") adopted Ordinance 2010-3669, amending the City of Miami Beach Human Rights Ordinance. The Human Rights Ordinance established the Miami Beach Human Rights Committee (MBHRC), which has as one of its principal duties recommending to the City Manager and the City Commission legislation that would further the purpose of eliminating and preventing discrimination in every place of employment, housing or housing accommodation, public accommodation, and City facility because of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital and familial status, or age.

The MBHRC has determined that many residents and visitors to Miami Beach are unaware of the City's Human Rights Ordinance. On June 19, 2012, the MBHRC passed a resolution urging the Mayor and City Commission to amend the Human Rights Ordinance to incorporate notice requirements to be posted at all public accommodations and places of employment that are subject to the Human Rights Ordinance, in order to provide Miami Beach residents and visitors with vital information concerning their rights. On February 12, 2013, the Human Rights Committee passed a second resolution urging the Mayor and City Commission to further amend the Human Rights Ordinance to incorporate notice requirements to be posted at all places of housing and housing accommodations and City of Miami Beach Departments and Facilities that are subject to the Human Rights Ordinance, in order to provide Miami Beach residents and

visitors with vital information concerning their rights. The February 12, 2013 resolution further urged the Mayor and City Commission to amend the Human Rights Ordinance to provide for enforcement and penalties for violation of these notice requirements.

Following Mayor Matti Herrera Bower and Commissioner Michael Góngora's referrals of the Human Rights Committee's resolutions to the Land Use & Development Committee (LUDC), the LUDC considered and discussed the matter on January 23, 2013 and July 22, 2013, and recommended by a vote of 2-0 that this Ordinance be forwarded to the full Commission for its consideration. During the LUDC meetings, Commissioner Libbin expressed support for the proposal, but did not want heavy penalties for not posting the notices. Commissioner Góngora expressed support for the proposal.

On September 11, 2013, the Miami Beach City Commission unanimously approved the proposed Ordinance, as amended, on first reading¹; and set a second reading/public hearing for October 16, 2013. At the suggestion of Commissioner Libbin, the proposed Ordinance was amended to include a provision that after a warning is received during the one-year amnesty/educational period, subsequent violations during the amnesty/educational period will be issued a fine as set forth in Section 62-92(f).

SUMMARY OF PROPOSED ORDINANCE:

The Proposed Ordinance requires:

1. Public Accommodations - Every person being the owner, lessee, sub-lessee, assignee, or managing agent of public accommodations subject to the Human Rights Ordinance to post and maintain at such public accommodations, in conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such public accommodations, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinances relative to public accommodations, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent.
2. Place of Employment - Every employer subject to the Human Rights Ordinance to post and maintain at its offices, places of employment or employment training centers, in a conspicuously and easily accessible and well-lighted place customarily frequented by employees and applicants for employment, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to employment, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent.
3. Housing or Housing Accommodation - Every person providing housing or housing accommodation services subject to the Human Rights Ordinance to post and maintain at such person's business or housing unit, in a conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such housing or housing accommodation services, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to housing and housing accommodations, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent.

¹Ballot vote: 6-0; Absent: Commissioner Weithorn.

4. City Department or Facility - Every Department or Facility of the City of Miami Beach where City employees provide services or access to post and maintain at such Department or Facility, in a conspicuously and easily accessible well-lighted place where they may be readily observed by those seeking or visiting such City Department or Facility, notices furnished by the City of Miami Beach indicating the substantive provisions of the Human Rights Ordinance relative to public benefits and services, the place where complaints may be filed and such other information as the City of Miami Beach deems pertinent.

A copy of the proposed notice, which will be made available on the City's webpage free of charge, is attached hereto as Exhibit "A."

The proposed Ordinance imposes the following penalties:

1. One (1) year after the effective date of the Ordinance, penalties for its violation shall be assessed (except against the City of Miami Beach) by City of Miami Beach Code Compliance Division officers or by the Administrator upon complaint, or upon recommendation by a majority vote of the MBHRC as follows:
 - (1) For the first violation, a fine of \$50.00.
 - (2) For the second violation, a fine of \$100.00.
 - (3) For the third violation, a fine of \$150.00.
 - (4) For the fourth and any subsequent violation, a fine of \$200.00.


Penalties shall be assessed by service of a notice of violation, served personally or by certified mail upon the property owner, business owner, or a manager present at the premises. Any person receiving a notice of violation may request, within fifteen (15) days of receiving the notice, an administrative hearing before the Special Master to appeal the decision of the City inspector or the Administrator resulting in the issuance of the notice.

FISCAL IMPACT ANALYSIS:

There is minimal anticipated fiscal impact associated with the proposed amendments to the Human Rights Ordinance. The cost to the City would be the staff time required to design the notice. The enforcement of the proposed Ordinance would be done by existing staff. The City will make available electronic copies of the required notice, which may be downloaded free of charge.

CONCLUSION:

The Administration recommends, on behalf of the MBHRC, that this Ordinance be approved on second reading.

JM/reg 

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