

ORDINANCE NO. 2010-3669

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 62 OF THE CITY CODE, ENTITLED, "HUMAN RELATIONS;" AMENDING ARTICLE II, SECTION 62-32 THEREIN, TO FORMALLY NAME AND ALSO HEREINAFTER REFER TO THE PROVISIONS OF SAID ARTICLE (AND SECTIONS THERETO) AS THE "CITY OF MIAMI BEACH HUMAN RIGHTS ORDINANCE;" AMENDING ARTICLE II, SECTIONS 62-31 THROUGH 62-66, TO AMENDING THE EXISTING PROVISIONS AND, WHERE NOTED, CREATING NEW PROVISIONS PERTAINING TO THE PROCEDURES FOR FILING AND INVESTIGATING COMPLAINTS, MEDIATION OF COMPLAINTS, HEARING PROCEDURES, AND PENALTIES; FURTHER AMENDING CHAPTER 62, ARTICLE II, DIVISION 3, SECTIONS 62-88.1, AND 62-90, AND 62-91 THEREOF, AND CHAPTER 62, ARTICLE II, DIVISION 4, SECTION 62-112(c), TO INCLUDE ALL CLASSIFICATION CATEGORIES (AS SET FORTH IN SECTION 62.33) BY WHICH DISCRIMINATION IS PROHIBITED UNDER THE CITY'S HUMAN RIGHTS ORDINANCE; AND PROVIDING FURTHER FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

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

SECTION 1.

That Chapter 62, Article II, Divisions 1 and 2, Sections 62-31 through 62-66, of the Code of the City of Miami Beach, Florida, is hereby amended as follows:

DIVISION 1. GENERALLY

Sec. 62-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means that person appointed pursuant to section 62-56(a).

Age means the chronological age of any individual who is eighteen (18) years or older.

Classification category means each category by which discrimination is prohibited as set forth within section 62-33. These categories are as follows: race, color, national origin, religion, gendersex, sexual orientation, gender identity, sexual orientation, disability, marital ~~status~~, and familial status, or age.

Committee means the City of Miami Beach Human Rights Committee.

Disability. Disabled persons are persons who:

- (1) Have a physical or mental impairment that substantially limits one or more of such persons'person's major life activities.
 - a. *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
 - b. *Qualified*, with respect to employment, means such individual can perform the essential functions of the job in question with reasonable accommodations, and with respect to public services means an individual who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the city.
 - c. *Substantially limited* means likely to experience difficulty in securing, retaining or advancing in employment because of a disability.

Discriminatory practice means an intentional act that is unlawful and prohibited.

Employee means a person employed by or seeking employment from an employer. It does not include any person employed by parents, a spouse or child.

Employer means any person who has five (5) or more employees, in each of four (4) or more calendar weeks in the current calendar year, and any agent of such person.

Entity includes "employee," "employer," and "person."

Familial status means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other person having custody, with the written permission of such parent or other person.

Family means one or more individuals living as a single housekeeping unit.

~~*Gender*~~ *Gender identity* includes but is not limited to actual or perceived sex, pregnancy, child birth, or medical conditions related to pregnancy or child birth, and shall also include a person's gender identity, gender-related self-identity, self-image, appearance, expression or behavior, whether or not that gender identity, self image, appearance, expression or behavior is different such gender-related characteristics differ from that traditionally these associated with the individual's assigned sex assigned to that person at birth.

Housing or housing accommodations means any building, structure or portion thereof, or other facility occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof, mobile home, trailer or other facility. However, nothing in this article shall apply to rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

Interested party means the person filing a complaint or the person against whom a complaint has been filed.

Marital status means the presence or absence of a marital relationship and includes the state of being married, separated, or unmarried ~~state of being unmarried, married or separated, as defined by state law.~~ The term "unmarried" includes persons who are single, divorced or widowed.

Mediation agreement means a written agreement entered into between a complainant and respondent setting forth the resolution of the issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the mediator.

Mediator means that person appointed pursuant to section 62-623.

National origin means the origin of an ancestor, the country of origin of a person's forbearer, naturally, by marriage or by adoption.

Person means one or more individuals, partnerships, associations, political subdivisions, labor unions, organizations, cooperatives, mutual companies, joint-stock companies, unincorporated organizations, trusts, trustees, or receivers, legal representatives, for-profit and not-for-profit associations and corporations, and business associations of whatever kind including without limitation general partnerships, limited liability partnerships, corporations, limited liability companies, business trusts, and joint ventures.

Owner means any person, including but not limited to a lessee, sublessee, assignee, manager or agent, and also including the city and its departments or other subunits, having the right of ownership or possession or the authority to sell or lease any real property.

Public accommodations means any retail establishment, an inn, hotel, motel or other establishment providing lodging to transient guests, other than an establishment located within a building containing not more than five (5) rooms for rent or hire and is actually occupied by the proprietor of such establishment as his residence; any restaurant, cafeteria, lunchroom, lunch counter, soda fountain or other facility principally engaged in selling food for consumption on the premises, including but not limited to any such facility located on the premises of any retail establishment, or any gasoline station; any bar, lounge, nightclub or other facility principally engaged in selling alcoholic beverages for consumption on the premises or any facility principally engaged in selling both food and alcoholic beverages for consumption on the premises; any motion picture house, theater, concert hall, convention hall, or other place of exhibition of entertainment; and

any establishment physically located within the premises of any establishment otherwise covered by this article or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

Public services means services, programs, or activities of the city.

Real property means any land, buildings, fixtures, and all other improvements to land. The terms "land", "real estate," "realty" and "real property" may be used interchangeably.

Rent means to lease, sublease, assign, let or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Respondent means any person against whom a complaint is filed pursuant to this article.

Sale includes any contract to sell, exchange, convey, transfer or assign legal or equitable title to, or a beneficial interest in, real property.

Sex means ~~the state of being a~~ gender, and includes pregnancy, child birth, or medical conditions related to pregnancy or child birth.

Sexual orientation means actual or perceived heterosexuality, homosexuality, or bisexuality~~the condition of being heterosexual, homosexual, or bisexual.~~

Sec. 62-32. City of Miami Beach Human Rights Ordinance.

This article shall be known and may be cited as the "City of Miami Beach Human Rights Ordinance.

Sec. 62-323. Purpose; declaration of policy.

In the city, with its cosmopolitan population consisting of people of every race, color, national origin, religion, gender, gender identity, sexual orientation, marital and familial status, and age, some of them who are disabled as defined under Section 62-31 hereof, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of prejudice against one another and antagonistic to each other because of differences of race, color, national origin, religion, sex, gender identity, sexual orientation, marital and familial status, age, or disability. The city finds and declares that prejudice, intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the very institutions, foundations and bedrock of a free, democratic society.

The general purpose of this article and the policy of the city, in keeping with the laws of the United States of America and the spirit of the state constitution, is to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain employment, housing and public accommodations of the person's choice in the city without regard to race, color, national origin, religion, ~~gendersex, sexual orientation, gender identity, sexual orientation, disability,~~ marital ~~status,~~ and familial status, ~~or age, or disability,~~ and, to that end, to prohibit discrimination in employment, housing and public accommodations by any person.

Sec. 62-34. City of Miami Beach Human Rights Committee established.

Effective April 15, 2010, there shall be established a City of Miami Beach Human Rights Committee, which shall be a standing committee of the city.

Sec. 62-35 Membership.

(a) The committee shall consist of a minimum of five (5) and a maximum of eleven (11) members, with one (1) out of every five (5) members who shall also serve as the chair of the committee, to be a direct appointment by the Mayor, and with the remaining members to be at-large appointments of the city commission.

(b) The members of the committee shall reflect, as nearly as possible, the diversity of individuals protected under the City's Human Rights Ordinance. In keeping with this policy, not less than two (2) months prior to making appointments or re-appointments to the committee, the city manager shall solicit nominations from as many public service groups and other sources, which he/she deems appropriate, as possible.

(c) At least one (1) of the committee members shall possess, in addition to the general qualifications set forth herein for members, a license to practice law in the State of Florida; be an active member of and in good standing with the Florida Bar; and have experience in civil rights law. The attorney member shall also serve as chair of the committee.

(d) Members shall serve without compensation.

Sec. 62-36 Meetings; conduct of business.

(a) Regular meetings of the committee shall be held at least monthly.

(b) The city manager shall provide such adequate and competent administrative, technical and clerical personnel as may be reasonably required for the proper performance of the committee's duties.

Sec. 62-37 Duties and powers.

The committee shall have the following advisory duties, functions, powers, and responsibilities:

(a) to study, advise, and make recommendations to the city manager and city commission for:

(i) legislation on policies, procedures, and practices which would further the purposes of this article;

(ii) developing human relations plans and policies for the city to consider and making investigations and studies appropriate to effectuate the purposes of this article;

(b) to inform persons of the rights assured and remedies provided under this article, and to promote goodwill, and minimize or eliminate discrimination because of race,

color, national origin, religion, sex, sexual orientation, gender identity, disability, marital and familial status, or age;

(c) to call conferences of persons in the industries of housing, public accommodations, and employment in the city to acquaint them with the requirements of this article and, without limitation, the City of Miami Beach Human Rights Ordinance, and to endeavor with their advice to develop programs of voluntary compliance and enforcement; And

(d) to hear appeals from the city manager's determination of no probable cause, where appropriate and necessary; and designate committee members to hear, in an advisory capacity to the hearing examiner, complaints alleging unlawful discrimination practices; and provide the hearing examiner (through the designated committee members) with a non-binding advisory recommendation prior to final disposition of the complaint.

The City's adoption of any committee recommendations (pursuant to those powers and duties which may be exercised by the committee under subsections (a) – (d) above, including, without limitation, recommendations that the city enact any legislation; plans, policies and procedures; call for studies and/or investigations; call for conferences; enact any programs; and/or distribute educational/informational materials—all with the purpose of furthering and effectuating the mission of the City of Miami Beach Human Rights Ordinance and this article), shall be subject to prior approval of the city commission, and such approval (if given at all) shall be further subject to funding availability.

DIVISION 2. ADMINISTRATION

Sec. 62-56. Administrative authority; powers and duties.

(a) The provisions of this article shall be administered and enforced by the city manager or his/her designee (The city manager or his/her designee shall hereinafter be referred to as the "administrator"). ~~For purposes of administration of the provisions of this article, the city manager or his designee shall be the administrator.~~

(b) The administrator's powers and duties include the following:

- (1) ~~R~~rceive written complaints as provided by this article relative to alleged unlawful discriminatory practices, and transmit those complaints ~~to a mediator~~ for proper handling;
- (2) ~~E~~establish, administer or review programs at the request of the city commission and make reports on such programs to the city commission;
- (3) ~~R~~render to the city commission annual written reports of activities under the provisions of this article, along with such comments and recommendations as the administrator may choose to make;
- (4) ~~C~~cooperate with and render technical assistance to federal, state, local and other public and private agencies, organizations and institutions that are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this article; and
- (5) ~~C~~conduct educational and public information activities at the request of the city commission that are designed to promote the policy of this article.

Sec. 62-57. Religious organizations.

The provisions in this article relating to sexual orientation shall not apply to any religious organization, association, society or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

Sec. 62-58. Filing of a complaint and time limit.

(a) Any person alleging that an unlawful discriminatory practice has occurred ~~may~~ must file a verified, written complaint with the administrator within 180 days after the alleged unlawful discriminatory practice occurred.

(b) The complaint may be filed by personal delivery, ordinary mail, registered mail or certified mail, addressed to the office of the city manager.

Sec. 62-59. Information on complaint.

(a) A complaint of an unlawful discriminatory practice must be in writing, either on a form promulgated by the city administration (and approved by the administrator) or on any paper suitable for a complaint. The complaint shall be signed by the person making the complaint (hereinafter, the "complainant"); shall be sworn to or affirmed; and shall, at a minimum, shall state the full name and address, if known, of the respondent, complainant; the full name and address of each respondent against whom the complaint is made, and who are alleged to have committed the unlawful discriminatory practice; the facts upon which the complaint is based; and other such information as may be required by as the administrator requires.

(b) A complaint shall not be within the jurisdiction of the City of Miami Beach Human Rights Ordinance if:

- (1) the complaint has been filed more than 180 days after the alleged unlawful discriminatory practice occurred;
- (2) the complainant has previously initiated, or initiates, a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice with respect to the same grievance which is the subject of the complaint under this article; or
- (3) the complainant has previously filed, or files, an action or proceeding before any administrative agency under any other law of the state, county, or city (including, without limitation, an agency with duties and powers similar to those prescribed in this article) alleging an unlawful discriminatory practice with respect to the same grievance which is the subject of the complaint under this article, and the administrative agency is either proceeding with its own investigation of the complaint or final determination has been made thereon.

Sec. 62-60. Notification of respondent; answer.

(a) The administrator shall, within ~~twenty (20)~~ forty-five (45) days after the filing of a verified, written complaint of an unlawful discriminatory practice, or the identification of an additional respondent to a complaint, serve on each the respondent, by certified mail or personal delivery, a copy of the complaint and a notice identifying the alleged unlawful discriminatory practice and advising each respondent of the procedural rights and obligations of respondents under this article.

(b) Each respondent may file, w~~W~~ithin ~~twenty (20)~~ forty-five (45) days after a copy of the complaint is served upon the respondent by the administrator, the respondent may file an answer thereto. If an answer is filed, the administrator shall cause a copy of such answer to be served upon the complainant receipt of notice from the administrator, an answer to such complaint. If an answer is filed, the answer shall be in writing and contain, at a minimum, a separate and specific response to each and every particular of the complaint or a denial of any knowledge or information thereof sufficient to form a belief. Any allegation in the complaint which is not denied shall be deemed admitted. If the respondent elects not to answer the complaint (i.e. and an answer to the complaint is not filed), then the hearing shall proceed on the evidence in support of the complaint.

Sec. 62-61. Amending complaints or answers.

A complaint of an unlawful discriminatory practice, or answer (if filed), may be amended in writing at any time when it would be fair and reasonable to do so, so long as the administrator will have adequate time to investigate any additional allegations and the parties will have adequate time to present the administrator, mediator, or hearing examiner (as the case may be) with evidence concerning such allegations before the issuance of findings of fact and a determination. and ~~†~~The administrator shall furnish a copy of each amended complaint or answer to the respondent or complainant, respectively, as promptly as practicable. For jurisdictional purposes, such amendments shall be related back to the date the original complaint was first filed.

Sec. 62-62. Investigation of complaints.

(a) Whenever a verified, written complaint is filed pursuant to this article, the administrator, at his or her sole option and election, shall either designate a member of his/her administrative staff, or retain an outside consultant/investigator, who shall make a full and prompt investigation in connection therewith (including a prompt and full investigation of the alleged unlawful discriminatory practice), and forward to the administrator a written summary of the investigation. In the event that the administrator retains an outside investigator, he/she shall first report same to the city commissioners through the "Letter to Commission" (LTC) process, indicating the name, qualifications and other curriculum vitae of the investigator; and the proposed fee for the investigation. Any city commissioner may place the administrator's proposed retention of an outside investigator for discussion by the full city commission; provided that the item must be placed on the agenda of the next city commission meeting immediately following the administrator's issuance of the LTC.

(b) The administrator may determine, upon conclusion of the investigation and review of the written summary, that (i) the complaint has no validity; (ii) the respondent charged in the complaint has not engaged in or is not engaging in the alleged unlawful

discriminatory practice; and/or (iii) the complaint is not within the jurisdiction of the City of Miami Beach Human Rights Ordinance. Such determination shall be issued in writing. With respect to the written determination, "issued" shall be defined as the date signed by administrator. Upon issuance, the administrator's findings of fact, determination and order may not be amended or withdrawn except upon the agreement of the parties or, by the administrator, in response to an appeal taken pursuant to subsection 62-62(d) below; provided, however, that the administrator may correct clerical mistakes or errors arising from oversight or omission.

(c) If, upon conclusion of the investigation and review of the written summary, the administrator finds that probable cause exists for the allegations made in the complaint, such determination shall also be made in writing. Upon issuance, the written determination shall be furnished promptly to the complainant and respondent.

(d) **Determination of no probable cause; appeal from and dismissal.** If a determination is made by the administrator that no probable cause exists for the allegations made in the complaint, the complainant shall have the right to appeal such determination to the committee within thirty (30) days of the issuance of the written determination, by filing a written statement of appeal with the committee. The committee shall promptly deliver a copy of the statement to the administrator and the respondent, and shall, at a duly noticed meeting of the committee, promptly consider and act upon such appeal by either (i) affirming the administrator's determination, or (ii) remanding it to the administrator with appropriate instructions. In the event no appeal is taken or such appeal results in affirmance; or, if remanded on appeal (and on remand), the administrator still determines that no probable cause exists, the determination of the administrator shall be final; the complaint shall be closed with a ministerial finding of no probable cause or no jurisdiction; the complainant and the respondent shall be promptly notified, in writing; and the complaint shall be dismissed.

Sec. 62-623. Mediator~~Mediation.~~

(a) If a determination is made by the administrator that probable cause exists to believe that an unlawful discriminatory practice has occurred, or is occurring, the administrator shall first endeavor to resolve the complaint by mediation. ~~A mediator shall be appointed by the city manager~~ At his or her election, the administrator may serve as the mediator, or (in consultation with the city attorney) the administrator may appoint an independent mediator to act as a neutral third person to encourage and facilitate the resolution of ~~any~~the complaint, filed pursuant to the terms of this article. The independent mediator shall be an individual who shall have been determined by the ~~city manager~~ administrator and city attorney to have the knowledge, skills, and abilities to perform in such capacity as mediator. In the event that the administrator appoints an independent mediator, the costs for mediation shall be shared equally by the complainant and the respondent.

Sec. 62-63. ~~Processing complaints.~~

(b) ~~Within 30 days after service of a complaint, the administrator shall attempt to informally resolve the complaint between the parties, and if the complaint is not resolved informally, the administrator shall refer the complaint to a~~ The mediator, who shall attempt to mediate the dispute and to report to the ~~city manager~~ administrator and the

city attorney on the results of the mediation efforts within 120 days of commencement of mediation receiving the mediation assignment.

Sec. 62-64. Mediation; mediation agreements.

(c) If the parties in an alleged unlawful discriminatory practice desire to mediate, the terms of the mediation shall be reduced to writing in the form approved by the mediator, and must be signed and verified by the complainant and respondent, and approved by the mediator. The mediation agreement shall constitute an agreement between the complainant and respondent, shall be for mediation purposes only, and does not constitute an admission by any party that the law has been violated.

(d) If the respondent complies with the recommendations under the mediation agreement, the matter shall be deemed settled and terminated and no further proceedings with regard to the complaint need be taken.

Sec. 62-654. Proceeding before hearing examiner; decision and order special master.

(a) In the event mediation fails to resolve a complaint, or after 120 days have passed from commencement of mediation, in which the City of Miami Beach is a respondent the administrator shall refer the complaint shall be referred to the city attorney and independent counsel selected by the chief special master. If the independent counsel has reasonable cause to believe that a violation of this article has occurred, he shall present. The city attorney shall prosecute the complaint before a hearing examiner special master, who. The hearing shall be conducted a hearing pursuant to the procedures set forth in section 30-72; provided, however, that if the city attorney determines that there is no legal basis for a complaint to be filed, or for the proceedings to continue, the complaint shall be dismissed, and a statement of the reasons therefor shall be filed with the administrator, with copies furnished to the complainant and respondent. The city attorney's determination shall be final.

(b) For purposes of this article, the hearing examiner shall be selected by the city's chief special master, and shall have the knowledge, skills and abilities to perform in such capacity as special master with regard to hearing the particular complaint. At his or her election, the chief special master may either select one of the city's sitting special masters, or a hearing examiner pro tempore, appointed by the chief special master from a list approved by the city commission (and having the knowledge, skills and abilities to perform in the capacity of special master with regard to hearing the particular complaint).

(c) The committee, after notice of the date of hearing from the hearing examiner, shall, appoint two (2) members of the committee who have not otherwise been involved in the charge, investigation, fact-finding, or other resolution and proceedings on the merits of the case, who have not formed an opinion on the merits of the case, and who have no pecuniary, private or personal interest or bias in the matter, to hear the case with the hearing examiner. The committee designated representatives, shall act in an advisory capacity to the hearing examiner. The hearing examiner shall preside over the hearing, serve as the chair, and make all evidentiary rulings; provided, however, that following conclusion of the hearing but prior to the hearing examiner's ruling on the case, as provided in subsection 62-64(d) below, the designated committee members shall

issue their non-binding advisory recommendation to the hearing examiner as to whether, based on the evidence presented, a violation of this article has occurred.

~~(d) Within ten (10) days of the conclusion of the hearing, the special-master hearing examiner shall issue written findings of fact and conclusions of law, and a determination as to whether a violation of this article has occurred, which Copies shall be sent by certified mail to the complainant and the respondent, with copies also sent to the administrator, city attorney, and the committee city manager for appropriate consideration.~~

~~(b) If mediation fails to resolve a complaint other than one covered in subsection (a) of this section, the complaint shall be referred to the city attorney. If the city attorney has reasonable cause to believe that a violation of this article has occurred, he shall present the complaint to a special master pursuant to the procedures set forth in chapter 30 of this Code.~~

Sec. 62-65. Penalties; compliance investigation.

~~(a) Any person(s) found in violation pursuant to this subsection of this article shall be subject to the following penalties:~~

- ~~(1) For a first finding of an unlawful discriminatory practice within a five (5)-year period, up to \$1,000.00;~~
- ~~(2) For a subsequent finding of an unlawful discriminatory practice within a five (5)- year period, up to \$5,000.00; and~~
- ~~(3) Notwithstanding subparagraphs (1) and (2), for a finding of an unlawful discriminatory practice which is irreparable or irreversible in nature, up to \$15,000.00.~~

~~(b) In determining the amount of the fine, if any, the special-master hearing examiner shall consider the following factors:~~

- ~~(1) The gravity of the violation;~~
- ~~(2) Any actions taken by the violator to correct the violation; and~~
- ~~(3) Any previous violations committed by the violator.~~

~~(c) In addition to the fines which may be imposed in subsection (a), the following penalties may also be applied:~~

- ~~(1) In the event of a finding of discrimination in either public accommodations, housing, or employment, a letter may be sent asking that the alleged offender desist from the actions complained of.~~
- ~~(2) In the event of a finding of discrimination in public accommodations where the alleged offender holds a license to sell alcoholic beverages, the hearing examiner may request that the administrator refer the violation to the appropriate state agency to determine whether due cause exists under applicable state law to revoke such license.~~
- ~~(3) In the event of a finding of discrimination in either public accommodations, housing, or employment where the alleged offender holds an occupational license issued by the city or is doing business with the city pursuant to a contract, the hearing examiner may request~~

that the administrator direct the appropriate city department to conduct an investigation to determine whether due cause exists to revoke such license or contract.

(4) In the event of a finding of discrimination in either public accommodations, housing, or employment, the hearing examiner may request that the administrator direct the appropriate city department to conduct an investigation to determine whether the alleged offender has violated any other city ordinance which applies to the alleged discriminatory conduct.

(5) In the event of a finding of discrimination in either public accommodations, housing, or employment, the hearing examiner may request that the administrator refer the alleged discriminatory practice to the appropriate and applicable state and/or federal agency(ies) for further investigation, action, and handling (including, without limitation, determination by such appropriate/applicable agency(ies) as to whether the alleged offender has violated any state or federal law which applies to the alleged discriminatory conduct).

(ed) ~~TheA special master~~ hearing examiner may reduce a fine imposed pursuant to this article section in accordance with the procedures contained in chapter 30 of this Code.

(e) Compliance investigation. Not later than one (1) year from the date of a mediation agreement or findings after hearing, and at any other times (in his or her discretion) the administrator shall investigate, or may direct the committee to investigate, whether the respondent is complying with the terms of such agreement or recommendations.

Sec. 62-66. Additional remedies.

The procedures prescribed by this article do not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this article shall be deemed to modify, impair, diminish, limit or otherwise affect any right or remedy conferred by local, state or federal law.

SECTION 2.

That Chapter 62, Article II, Division 3, Sections 62-88.1 and 62-90 is hereby amended as follows:

DIVISION 3. REGULATIONS

* * * *

Sec. 62-88.1. Discrimination in public services.

No individual shall, by reason of race, color, national origin, religion, ~~gender~~sex, sexual orientation, gender identity, ~~marital status~~, and familial status, or age, nor any qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the public services of the city, or be subjected to discrimination by the city.

* * * *

Sec. 62-90. Use of municipal facilities.

The use of municipal facilities in the city shall be regulated pursuant to the provisions of this section. The purpose and intent of this section is to establish legislative and administrative policies for the non-discriminatory use of municipal facilities, which shall be defined as any and all city-owned and operated facilities including buildings, parks, fields, and any other facility now or in the future owned, controlled, leased, or operated by the city. All organizations, clubs, and individuals wishing to obtain any fee waiver to use municipal facilities shall confirm in writing as follows:

I [name of organization, club, or person] the [title] of [name of organization or club], certify that I/my organization or club does not discriminate in its membership or policies based on race, color, national origin, religion, ~~sex~~gender, sexual orientation, gender identity, ~~familial status~~ and marital status, age or disability ~~handicap~~.

Sec. 62-91. Municipal funds.

Municipal funding of organizations or clubs shall be regulated pursuant to this section. The purpose and intent of this section is to establish legislative and administrative policies for the award of municipal funds to organizations or clubs that do not discriminate in their membership or policies. All organizations or clubs wishing to obtain municipal funding shall confirm in writing as follows:

I [name of organization or club] the [title] of [name of organization or club], certify that my organization/club does not discriminate in its membership or policies based on race, color, national origin, religion, ~~sex~~gender, sexual orientation, gender identity, ~~familial status~~, and marital status, age or ~~handicap~~disability.

SECTION 3.

That Chapter 62, Article II, Division 4, Sections 62-112(c) is hereby amended as follows:

DIVISION 4. EXCEPTIONS

Sec. 62-112. Housing.

* * * *

(c) Nothing contained in this article shall preclude the seller, developer, condominium association, lessor, property owner, or that person's authorized agent from setting forth reasonable rules, regulations, terms and conditions pertaining to the sale, lease or disposal of that person's property provided such rules, regulations, terms and conditions are not based on race, color, religion, ~~sex~~gender, sexual orientation, gender identity, national origin, age, ~~handicap~~disability, familial status, or marital status and provided there is no conflict with the affirmative provisions set forth in this article. Furthermore, nothing in this article shall preclude reasonable rules, regulations, or terms and conditions pertaining to the safe and prudent use by minors of facilities and amenities provided in conjunction with real property.

SECTION 4. REPEALER

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article," or other appropriate word.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect the 23 day of JANUARY, 2010; provided however that Sections 62-34 through 62-37 (pertaining to the establishment of the City of Miami Beach Human Rights Committee) shall not take effect until April 15, 2010.

PASSED and ADOPTED this 13 day of JANUARY, 2010.

ATTEST:

Munt Parcker
CITY CLERK

Matt H. Bauer
MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

F:\atto\AGUR\RESOS-ORD\Human Relations Ordinance - Chapter 62 (Final 1-13-10).doc

[Signature]
City Attorney
1-21-10
Date