

**ORDINANCE NO. 2013-3828**

**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 1, ENTITLED "GENERALLY," BY AMENDING SEC. 62.31 ENTITLED "DEFINITIONS" TO DEFINE INTERSEXUALITY AND ADD THAT TERM AS A PROTECTED CLASSIFICATION CATEGORY; TO AMEND SECTIONS 62-33 ENTITLED "PURPOSE; DECLARATION OF POLICY," 62-37(b) ENTITLED "DUTIES AND POWERS," 62-88.1 ENTITLED "DISCRIMINATION IN PUBLIC SERVICES," 62-90 ENTITLED "USE OF MUNICIPAL FACILITIES," 62-91 ENTITLED "MUNICIPAL FUNDS," AND 62-112(c) ENTITLED "HOUSING" TO INCLUDE INTERSEXUALITY AS A PROTECTED CLASSIFICATION CATEGORY; 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 principal 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 based upon classification categories defined in Section 62-31 of the City of Miami Beach's Human Rights Ordinance; and

**WHEREAS**, intersexuality, is defined by the Miriam Webster Dictionary as "the condition of either having both male and female gonadal tissue in one individual or of having the gonads of one sex and external genitalia that is of the other sex or is ambiguous;" and

**WHEREAS**, the Miami Beach Human Rights Committee discussed the issue of discrimination based upon intersexuality at its October 8, 2013 meeting and voted to recommend protection for intersexuals by amending the City of Miami Beach Human Rights Ordinance to protect intersexuals from discrimination in employment, public accommodations, housing, and provision of public services; and

**WHEREAS**, the Mayor and City Commission wish to adopt the Miami Beach Human Rights Committee's recommendation to provide protection from discrimination for intersexuals; and

**NOW THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY**

**COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AS FOLLOWS:**

**SECTION 1.** That Chapter 62 of the City Code is hereby amended as follows:

**Chapter 62**

**HUMAN RELATIONS**

\* \* \*

**Article II. Discrimination**

\* \* \*

**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:

\* \* \*

*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, sex, intersexuality, gender identity, sexual orientation, disability, marital and familial status, or age.

\* \* \*

*Intersexuality* means the condition of either having both male and female gonadal tissue in one individual or of having the gonads of one sex and external genitalia that is of the other sex or is ambiguous.

\* \* \*

**Sec. 62-33. Purpose; Declaration of Policy.**

In the city, with its cosmopolitan population consisting of people of every race, color, national origin, religion, sex, intersexuality, ~~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, intersexuality, 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, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, or disability, and, to that end, to prohibit discrimination in employment, housing and public accommodations by any person.

\* \* \*

**Sec. 62-37. Duties and Powers.**

\* \* \*

(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, intersexuality, sexual orientation, gender identity, disability, marital and familial status, or age;

\* \* \*

**Sec. 62-88.1. Discrimination in Public Services.**

No individual shall, by reason of race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, marital 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 nondiscriminatory 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,

intersexuality, sexual orientation, gender identity, familial and marital status, age or disability.

**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 polices 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, intersexuality, sexual orientation, gender identity, familial and marital status, age or disability.

\* \* \*

**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, intersexuality, sexual orientation, gender identity, national origin, age, 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 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.

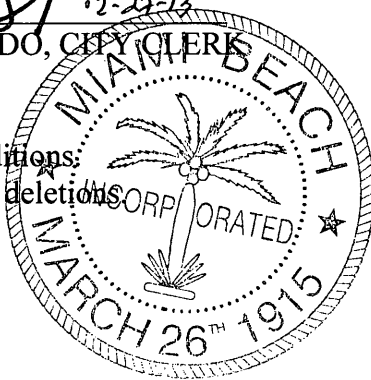
**SECTION 5. EFFECTIVE DATE.**

Passed and adopted this 11<sup>th</sup> day of December, 2013.

This Ordinance shall take effect the 21 day of December, 2013.

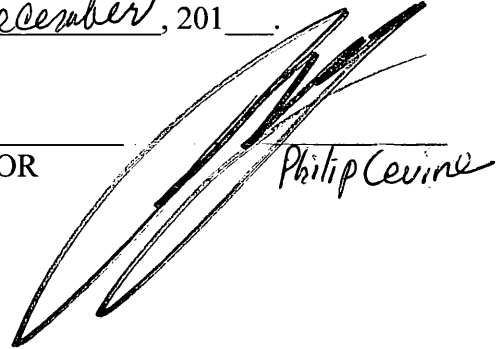
**ATTEST:**


  
\_\_\_\_\_  
RAFAEL E. GRANADO, CITY CLERK




Underline denotes additions.  
~~Strikethrough~~ denotes deletions.

\_\_\_\_\_  
MAYOR

  
Philip Cervino

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION  
  
\_\_\_\_\_  
CITY ATTORNEY

10/9/13  
DATE





# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

CC: Jimmy Morales, City Manager

FROM: Jose Smith, City Attorney *JPS*

DATE: December 11, 2013

SUBJECT: **SECOND READING**

**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 1, ENTITLED "GENERALLY," BY AMENDING SEC. 62.31 ENTITLED "DEFINITIONS" TO DEFINE INTERSEXUALITY AND ADD THAT TERM AS A PROTECTED CLASSIFICATION CATEGORY; TO AMEND SECTIONS 62-33 ENTITLED "PURPOSE; DECLARATION OF POLICY," 62-37(b) ENTITLED "DUTIES AND POWERS," 62-88.1 ENTITLED "DISCRIMINATION IN PUBLIC SERVICES," 62-90 ENTITLED "USE OF MUNICIPAL FACILITIES," 62-91 ENTITLED "MUNICIPAL FUNDS," AND 62-112(c) ENTITLED "HOUSING" TO INCLUDE INTERSEXUALITY AS A PROTECTED CLASSIFICATION CATEGORY; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

### BACKGROUND

The Miami Beach Human Rights Ordinance established the City of Miami Beach Human Rights Committee, 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 employment and public accommodations based upon classification categories defined in Section 62-31 of the City of Miami Beach's Human Rights Ordinance. At the request of the City of Miami Beach Human Rights Committee, Mayor Matti Herrera Bower sponsored this proposed ordinance. The item was passed on first reading at the October 16, 2013 City Commission meeting.

### ANALYSIS

Intersexuality, is defined by the Miriam Webster Dictionary as "the condition of either having both male and female gonadal tissue in one individual or of having the gonads of one sex and external genitalia that is of the other sex or is ambiguous."

In 2012, Australia adopted an anti-discrimination law that protects "intersex status" alongside established grounds such as "sex" and "race." The government has also adopted new guidelines on the recognition of sex and gender, which are currently being implemented. The Australian healthcare system is removing gendered references in its services, focusing on the specific biological needs of patients instead of their legal sex or gender.

Also in 2012, the European Union released a report on discrimination against intersex and trans people, titled "Discrimination against trans and intersex people on the grounds of sex, gender identity and gender expression."

The report identifies Germany and Finland as having the most advanced protection. In Germany, for example the ground of sexual identity is interpreted broadly covering the whole LGBTI spectrum.

The report also identifies Scotland as having the only (then) known explicit reference to intersex people in domestic legislation. In Scotland's Offences (Aggravation by Prejudice) (Scotland) Act 2009,211, Art. 2(8) includes "intersexuality" within the meaning of "transgender identity".

Research has not revealed any governmental entity in the United States that has yet enacted protection for intersex people, so passage of this measure by the City of Miami Beach would once again place the City on the cutting edge of civil rights protections. This model could then be utilized to encourage other U.S. jurisdictions to adopt similar measures.

The Miami Beach Human Rights Committee discussed the issue of discrimination based upon intersexuality at its October 8, 2013 meeting and voted to recommend that the City Commission adopt protection for intersexuals by amending the City of Miami Beach Human Rights Ordinance to protect intersexuals from discrimination in employment, public accommodations, housing, and provision of public services.

The Miami Beach Human Rights Committee and the administration therefore recommend the passage of this Ordinance amending the Chapter 62 of the City Code to define and protect intersexuality as a protected Classification Category.

### **ECONOMIC IMPACT**

There is no cost to the City of Miami Beach associated with the adoption of this ordinance.



# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

To: Jose Smith, City Attorney

From: Matti Herrera Bower, Mayor

Date: October 9, 2013

Re: **Amending our Human Rights Ordinance to protect Intersexuality from Discrimination in the City of Miami Beach**

I would like the City of Miami Beach to follow the recommendation of our Human Rights Committee and request that your office draft the necessary amendments to our existing Human Rights Ordinance to protect intersex status alongside other classification categories, such as race, sex and sexual orientation. I would like to sponsor these amendments for first reading at the October 16, 2013 meeting of the City Commission.

Should you have any questions, please contact Gabrielle Redfern at extension 6157.

Thank you.

MHB/ fgr



**MIAMIBEACH****CITY OF MIAMI BEACH  
NOTICE OF PUBLIC HEARINGS**

**NOTICE IS HEREBY** given that public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, December 11, 2013** to consider the following:

**10:15 a.m.**

Resolution Setting A Public Hearing To Adopt The First Amendment To The Capital Budget For Fiscal Year (FY) 2013/14.

Inquiries may be directed to the Office of Budget & Performance Improvement at (305) 673-7510.

**11:15 a.m.**

Ordinance 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 1, Entitled "Generally," By Amending Sec. 62.31 Entitled "Definitions" To Define Intersexuality And Add That Term As A Protected Classification Category; To Amend Sections 62-33 Entitled "Purpose; Declaration Of Policy," 62-37(b) Entitled "Duties And Powers," 62-88.1 Entitled "Discrimination In Public Services," 62-90 Entitled "Use Of Municipal Facilities," 62-91 Entitled "Municipal Funds," And 62-112(c) Entitled "Housing" To Include Intersexuality As A Protected Classification Category.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

**11:30 a.m.****GSAF Classified Salary Ordinance**

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, As Follows: Providing For The Classifications In Group V, Represented By The Government Supervisors Association Of Florida, OPEIU, Local 100 (GSAF), In Accordance With The Negotiated Collective Bargaining Agreement; Effective The First Pay Period Ending In October Of 2014, There Shall Be An Across The Board Cost-Of-Living Adjustment (COLA) Of Three Percent (3%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By Three Percent (3%); Repealing All Ordinances In Conflict.

Inquiries may be directed to the Human Resources Department at (305) 673-7524.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these items are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting, or any item herein, may be continued, and under such circumstances additional legal notice will not be provided.

Rafael E. Granado, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities and/or any accommodation to review any document or participate in any City-sponsored proceeding, please contact us five days in advance at (305) 673-7411(voice) or TTY users may also call the Florida Relay Service at 711.

Ad #849