

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 62 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED, "HUMAN RELATIONS," BY AMENDING ARTICLE II, ENTITLED "DISCRIMINATION," BY AMENDING DIVISIONS 1-4, ENTITLED "GENERALLY," BY AMENDING SECTIONS 62-31, ENTITLED "DEFINITIONS;" 62-33, ENTITLED "PURPOSE; DECLARATION OF POLICY;" 62-37, ENTITLED "DUTIES AND POWERS;" 62-88.1 ENTITLED "DISCRIMINATION IN PUBLIC SERVICES;" 62-90, ENTITLED "MUNICIPAL FACILITIES;" 62-91, ENTITLED "USE OF MUNICIPAL FUNDS;" 62-112 ENTITLED "HOUSING" TO AMEND TO PROTECTED CLASSES WITHIN THE ORDINANCE TO PROHIBIT DISCRIMINATION BASED ON A PERSON'S HAIR TEXTURE OR HAIRSTYLE IF THAT STYLE OR TEXTURE IS COMMONLY ASSOCIATED WITH A PARTICULAR RACE OR NATIONAL ORIGIN; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, on April 12, 2021, the City's Human Rights Advisory Committee unanimously requested the City to amend its Human Rights Ordinance to prohibit discrimination based on natural hairstyles and textures, as referenced in the attached LTC No. 188-2021; and

**WHEREAS**, throughout United States history, society has used (in conjunction with skin color) hair texture and hairstyle to classify individuals on the basis of race, and like one's skin color, one's hair has served as a basis of race and national origin discrimination; and

**WHEREAS**, racial and national origin discrimination can often occur because of longstanding racial and national origin biases and stereotypes associated with hair texture and style; and

**WHEREAS**, for example, routinely, people of African descent are deprived of educational and employment opportunities because they are adorned with natural or protective hairstyles in which hair is tightly coiled or tightly curled, or worn in locs, cornrows, twists, braids, Bantu knots, or Afros; and

**WHEREAS**, as recently as 2018, the United States Armed Forces had grooming policies that barred natural or protective hairstyles that servicewomen of African descent commonly wear and that described these hairstyles as "unkempt," which were later rescinded these policies and recognized that this description perpetuated derogatory racial stereotypes; and

**WHEREAS**, however, some courts have interpreted federal and state civil rights law by narrowly interpreting the meaning of race or national origin, and thereby leading employers, school administrators, and other entities to discriminate against people of African descent who wear natural or protective hairstyles even though the employment policies involved are not related to workers' ability to perform their jobs; and

**WHEREAS**, this narrow interpretation of race or national origin has resulted in a lack of federal civil rights protection for individuals who are discriminated against on the basis of characteristics that are commonly associated with race and national origin; and

**WHEREAS**, consequently, state legislatures, including California, New York, New Jersey, Virginia, Maryland, Washington, and Colorado, and municipal bodies throughout the United States have introduced and passed legislation that expressly classifies race and national origin discrimination as inclusive of discrimination on the basis of natural or protective hairstyles commonly associated with race and national origin; and

**WHEREAS**, the City's Human Rights Ordinance prohibits discrimination against any individuals on any basis articulated in Section 62-33 of the City Code, because of such individual's actual or perceived classification category; and

**WHEREAS**, the City of Miami Beach prides itself on being a diverse community, and a leader in adopting policies of inclusiveness, and has demonstrated a long history of opposing discrimination race, ethnicity, ancestry, or national origin; and

**WHEREAS**, as such, the City has an important government interest in protecting its residents and visitors with hair texture or hairstyle commonly associated with a particular race or national origin, and providing them with legal protections under the City Code; and

**WHEREAS**, it is the desire of the Miami Beach City Commission to prohibit discrimination on any basis articulated in Section 62-33, including individual's hair texture or hairstyle, if that hair texture or that hairstyle is commonly associated with a particular race or national origin (including a hairstyle in which hair is tightly coiled or tightly curled, locs, cornrows, twists, braids, Bantu knots, and Afros).

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

**SECTION 1.** That Sections 62-31 and 62-33 of Chapter 62 of the City Code is hereby amended as follows, with additional provisions provided for references purposes:

## **Chapter 62**

### **HUMAN RELATIONS**

\* \* \*

## ARTICLE II. DISCRIMINATION

### DIVISION 1. GENERALLY

#### Sec. 62-31. Definitions.

\* \* \*

*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, age, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, and political affiliation.

\* \* \*

*Hair texture and/or hairstyle* means individual's hair texture or hairstyle, if that hair texture or that hairstyle is commonly associated with a particular race or national origin (including a hairstyle in which hair is tightly coiled or tightly curled, locs, cornrows, twists, braids, Bantu knots, and Afros).

*Height* means a numerical measurement from base to top of a human person, but includes an expression of that measurement in relation to weight, or an individual's unique physical composition through body size, shape, and proportions.

\* \* \*

#### 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 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 actual or perceived differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, or political affiliation. 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 actual or perceived differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, hair texture and/or hairstyle, domestic partnership status, labor organization membership, familial situation, or political affiliation, and, to that end, to prohibit discrimination in employment, housing and public accommodations by any person.

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### **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:
  - (1) Legislation on policies, procedures, and practices which would further the purposes of this article;
  - (2) 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 actual or perceived discrimination because of race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, disability, marital and familial status, age, ancestry height, weight, hair texture and/or hairstyle, domestic partnership status, labor organization membership, familial situation, or political affiliation;

\* \* \*

### **Sec. 62-88.1. Discrimination in public services.**

No individual shall, by reason of actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, marital and familial status, age, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, or political affiliation, 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 actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, familial and marital status, age, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, political affiliation, 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 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 actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, familial and marital status, age, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, political affiliation, or disability.

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**Sec. 62-112. Housing.**

- (a) Nothing in this article shall prohibit a 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 from limiting or from advertising the sale, rental or occupancy of housing it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons. However, this exception shall not apply if such 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 restricts membership in its organization on the basis of actual or perceived race, color or national origin;

nor shall anything in this article prohibit a private club not in fact opened to the public, which as an incident to its preliminary purpose provides lodgings it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) No provision in this article regarding familial status shall apply to housing for older persons.

(1) As used in this subsection, "housing for older persons" means housing:

- a. Provided under any local, state or federal program that the administrator determines is specifically designed and operated to assist elderly persons as defined in the local, state or federal program;
- b. Intended for and solely occupied by persons 62 years of age or older; or
- c. Intended for and occupied by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the administrator shall develop regulations that require at least the following factors:
  1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
  2. That at least 80 percent of the housing is occupied by at least one person 55 years of age or older per unit; and
  3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(2) Housing shall not fail to be considered housing for older persons if:

- a. A person who resides in such housing on or after the effective date of the ordinance from which this article is derived does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or
- b. One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

(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 actual or perceived race, color, religion, sex, intersexuality, sexual orientation, gender identity, national origin, age, disability, familial status, marital status, ancestry, height, weight, hair texture and/or hairstyle,

domestic partner status, labor organization membership, familial situation, or political affiliation, 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.

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**SECTION 2. 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 part of the Miami Beach City Code. 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 3. REPEALER**

All ordinances or parts of ordinances in conflict herewith be and the same 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.**

This Ordinance shall take effect on the \_\_\_\_ day of \_\_\_\_\_, 2021.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Michael Gongora  
Co-sponsored by Commissioner Micky Steinberg)

Underlines denote additions  
~~Strikethrough~~ denotes deletions

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION  
\_\_\_\_\_  
City Attorney      Date 10-19-21