

ORDINANCE NO. 2018-4207

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," BY CREATING ARTICLE VI THEREOF, TO BE ENTITLED "PROTECTION OF HOTEL AND HOSTEL EMPLOYEES FROM ASSAULT AND SEXUAL HARASSMENT," TO PROVIDE REGULATIONS REGARDING THE PERSONAL SAFETY OF CERTAIN HOTEL AND HOSTEL EMPLOYEES; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, hotel and hostel employees are vital contributors to the community of the City of Miami Beach, and the hospitality industry is a profitable and important component of the City's economy that receives substantial taxpayer support; and

WHEREAS, due to the unique nature of their work, including work performed alone (or alone with a guest) in a guest room, certain hotel and hostel employees are subjected to a higher risk of harassment and violence on the job; and

WHEREAS, as a vast majority of hotel and hostel employees are women, the safety and harassment risks within the hospitality industry are of greater concern; and

WHEREAS, by adopting certain workplace safety protections, the hospitality industry can improve the personal safety and security of hotel and hostel employees; and

WHEREAS, the City has determined that it is appropriate and necessary to protect employees in the hospitality industry from assault and sexual harassment; and

WHEREAS, the proposed regulations promote the public health, safety, and welfare of the City, and should be adopted to accomplish the above objectives.

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

SECTION 1. Chapter 62 of the Code of the City Miami Beach is hereby amended to create Article VI thereof, to be entitled "Protection of Hotel Employees from Assault and Sexual Harassment," as follows:

**CHAPTER 62
HUMAN RELATIONS**

* * *

**Article VI. Protection of Hotel and Hostel Employees from
Assault and Sexual Harassment.**

Sec. 62-204. Legislative intent.

The legislative intent of this article is to protect certain hotel and hostel employees in the hospitality industry from violent assault, including sexual assault, and sexual harassment, Hotel and hostel employees often work alone (or alone with a guest) in a guest room or restroom, placing the employees at risk of violent assault, including sexual assault, and sexual harassment.

Sec. 62-205. 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:

"Guest" means any invitee to a hotel or hostel, including registered guests, persons occupying guest rooms with registered guests, visitors invited to guest rooms by a registered guest or other occupant of a guest room, persons patronizing food or beverage facilities provided by the hotel or hostel, or any other person whose presence at the hotel or hostel is permitted by the hotel or hostel employer. The term "guest" does not include employees.

"Guest room" means any room made available by a hotel or hostel for overnight occupancy by guests.

"Hotel or hostel employer" means any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any employee, and who owns, controls, and/or operates a hotel or hostel in the City of Miami Beach; or a person who employs or exercises control over the wages, hours, or working conditions of any person employed in conjunction with a hotel or hostel employer in furtherance of the provision of lodging and other related services for the public.

"Hotel or hostel employee" or "employee" means any natural person who works full-time or part-time at a hotel or hostel for or under the direction of the hotel or hostel employer, or any subcontractor of the hotel or hostel employer, for wages or salary or remuneration of any type under a contract or subcontract of employment, whether express or implied.

"Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

"Restroom" means any room equipped with toilets.

"Panic Safety button" or "notification device" means a portable emergency contact device that is designed so that an employee can quickly and easily activate such button or device to effectively summon prompt assistance to the employee's location by a hotel or hostel security officer, manager or other appropriate hotel or hostel staff member designated by the hotel or hostel employer. [Note to codifier: This definition was relocated alphabetically]

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this

conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sec. 62-206. Requirement to provide ~~panic~~ safety button or notification device to certain employees.

Each hotel or hostel employer shall:

- (a) Provide a ~~panic~~ safety button or notification device to each hotel or hostel employee that is a room attendant, housekeeping attendant, minibar attendant, or room service server, and any other employee who is required to be in a guest room or restroom without other employees present. An employee may use the ~~panic~~ safety button or notification device if the employee reasonably believes there is an ongoing crime, harassment, or other emergency in the employee's presence. It is recognized that because of the varying size and physical layout of each hotel, different devices may be appropriate for different hotels. ~~Panic~~ Safety buttons and notification devices shall be provided by the hotel or hostel employer at no cost to the employee.
- (b) Submit an affidavit, on a form prescribed by the city, with the annual renewal of the hotel's or hostel's City business tax receipt, stating that the hotel or hostel employer is in compliance with Sections 62-206(a) and 62-207.
- (c) The provisions in subsections 62-206(a) and (b) shall take effect ~~January~~ August 1, 2019.

Sec. 62-207. Determent of assaults by notifying guests of employee protections.

~~Beginning August 1, 2019, each hotel and hostel shall place a sign on the inside of each guest room door, written in a font size of no less than 14 points, that includes (i) the following heading: "City Law Protects Hotel and Hostel Housekeepers and Other Employees from Violent Assault and Sexual Harassment"; (ii) a reference to chapter 62, article VI of this Code; and (iii) a notice informing guests that the hotel or hostel is providing safety buttons or notification devices to its housekeepers, room servers, and other employees assigned to work in guest rooms or restrooms without other employees present, in compliance with this article.~~

Beginning August 1, 2019, each hotel and hostel shall place a plainly visible sign inside of each guest room, written in a font size of no less than 14 points, that states the following: "For the protection of our employees, this establishment provides safety buttons or notification devices to its room attendants, housekeeping attendants, minibar attendants, and room service servers, in compliance with Chapter 62, article VI of the Code of the City of Miami Beach."

Sec. 62-208. Enforcement; Penalties; Rights of violators.

- (a) *Enforcement.* The code compliance department shall enforce this article. This shall not preclude other law enforcement agencies from any action to assure compliance with this article and all applicable laws. If a violation of this section is observed, the enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is

liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(b) Penalties; fines.

The following civil fines shall be imposed for violations of this Article:

- (1) If the violation is the first offense, a person shall receive a written warning;
- (2) If the violation is the second violation within the preceding six months, a person shall receive a civil fine of \$500.00;
- (3) If the violation is the third violation within the preceding six months, a person shall receive a civil fine of \$1,000.00; and
- (4) If the violation is the fourth or subsequent violation within the preceding six months, a person shall receive a civil fine of \$2,000.00.

(c) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

- (1) A violator who has been served with a notice of violation must elect to either:
 - a. Pay the civil fine in the manner indicated on the notice of violation; or
 - b. Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
- (2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. A request for the administrative hearing must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- (3) If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

- (4) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (5) Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
- (6) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
- (7) The special master shall not have discretion to alter the penalties prescribed in subsection (c)(1) herein.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 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 5. EFFECTIVE DATE.

This Ordinance shall take effect on the 1st day of August, 2019.

PASSED AND ADOPTED this 25 day of July, 2018.

ATTEST:

78 8/6/18
Rafael E. Granado, City Clerk

[Signature]
Dan Gelber, Mayor

Underline denotes additions

~~Strike through~~ denotes deletions

Double underline denotes additions after First Reading

~~Double Strike through~~ denotes deletions after First Reading

(Sponsored by Commissioner Kristen Rosen Gonzalez)

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7/23/18
Date

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM Updated Memorandum

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul J. Aguila, City Attorney



DATE: July 25, 2018

SUBJECT: **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," BY CREATING ARTICLE VI THEREOF, TO BE ENTITLED "PROTECTION OF HOTEL AND HOSTEL EMPLOYEES FROM ASSAULT AND SEXUAL HARASSMENT," TO PROVIDE REGULATIONS REGARDING THE PERSONAL SAFETY OF CERTAIN HOTEL AND HOSTEL EMPLOYEES; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Pursuant to the request of Commissioner Kristen Rosen Gonzalez, the attached revised Ordinance is substituted for the Ordinance previously submitted for consideration by the Mayor and City Commission. The attached revised Ordinance amends the signage notification provisions in Section 62-207.

Attachment: Revised Ordinance

DT/mm

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, City Attorney
DATE: July 25, 2018

1:40 p.m. Second Reading Public Hearing

SUBJECT: 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," BY CREATING ARTICLE VI THEREOF, TO BE ENTITLED "PROTECTION OF HOTEL AND HOSTEL EMPLOYEES FROM ASSAULT AND SEXUAL HARASSMENT," TO PROVIDE REGULATIONS REGARDING THE PERSONAL SAFETY OF CERTAIN HOTEL AND HOSTEL EMPLOYEES; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

Pursuant to the request of Commissioner Kristen Rosen Gonzalez, and the recommendation of the Neighborhood/Community Affairs Committee (NCAC) at its meeting on June 20, 2018, a revised and streamlined Ordinance was submitted for consideration by the Mayor and City Commission on First Reading on June 27, 2018. The revised Ordinance also addressed comments previously expressed at the April 11, 2018 City Commission meeting, which resulted in this matter being referred back to the NCAC, where it had been initially discussed on February 21, 2018 following a prior City Commission referral.

The attached Ordinance includes additional revisions, approved at First Reading on June 27, 2018, which amend the reference to a "safety" instead of "panic" button, revised the type of employees to which safety buttons must be provided, and amended the effective date from January 1, 2019 to August 1, 2019 to allow additional time for compliance.

The Ordinance requires hotel and hostel employers to: a) provide a safety button or notification device to certain hotel or hostel employees; b) place a sign on the inside of each guest room door notifying guests that a safety button/notification device has been provided to such employees; and c) submit an affidavit with their annual BTR renewal stating that they are in compliance with the above requirements. Following an initial warning, penalties of \$500, \$1,000, and \$2,000 will be imposed, respectfully, for second, third, and fourth and subsequent violations within a preceding six (6) month period.

The Code Compliance Department has advised that existing resources will be utilized to enforce this Ordinance.

Legislative Tracking

Office of the City Attorney/Code Compliance

Sponsor

Commissioner Kristen Rosen Gonzalez

ATTACHMENTS:**Description**

- ▣ Protection of Hospitality Employee - 2nd Rdg