

# City of Detroit

## CITY COUNCIL


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**TO:** Detroit City Council

**FROM:** David Whitaker, Director  
Legislative Policy Division 

**DATE:** July 26, 2023

**RE:** **Proposed amendment to Human Rights Ordinance**

The Legislative Policy Division (LPD) received a request from Council President Mary Sheffield to draft an amendment to the City of Detroit's human rights ordinance to include hair-based discrimination in accordance with the recent changes to the Michigan Elliott-Larsen Civil Rights Act. LPD submits the attached draft ordinance amendment which may be referred to the Law Department for review and approval as to form.

If we can be of further assistance, feel free to call upon us.

## S U M M A R Y

This proposed ordinance amends Chapter 23 of the 2019 Detroit City Code, *Human Rights*; by amending Article I, *Generally*, Division 2, *Definitions* to define “race” as inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.

1 **BY COUNCIL PRESIDENT MARY SHEFFIELD:**

2 **AN ORDINANCE** to amend Chapter 23 of the 2019 Detroit City Code, *Human*  
3 *Rights*; by amending Article I, *Generally*, Division 2, *Definitions* to define “race” as inclusive of  
4 traits historically associated with race, including, but not limited to, hair texture and protective  
5 hairstyles.

6  
7 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**  
8 **THAT:**

9 **Section 1.** Amend Chapter 23 of the 2019 Detroit City Code, Human Rights; by  
10 amending Article I, *Generally*, Division 2, *Definitions*, to read as follows:

11 **CHAPTER 23, HUMAN RIGHTS**  
12 **ARTICLE I, GENERALLY**  
13 **DIVISION II, DEFINITIONS**

14 **Sec. 23-1-2. - Definitions**

15 The following words and phrases, when used in Articles I, II, III, IV, V, and VI of this  
16 chapter, shall have the meanings respectively ascribed to them by this section:

17 *Age* means chronological age except as otherwise provided by law.

18 *Bona fide* means made in good faith without fraud or deceit.

19 *Certification* means the designation given to a firm using standard review procedures  
20 where determined by the Human Rights Department that the firm applying for such designation  
21 meets or exceeds certain specified requirements for that category of business as determined by this  
22 division.

23 *Certification process* means the standard review process used to confer upon a firm the  
24 designation of certification as defined in this section.

1            *Certified Business Register* means a listing of businesses, which have applied for and  
2 received certification as a Detroit-Based Business, a Detroit-Based Small Business, a Detroit-  
3 Headquartered Business, a Detroit-Resident Business, a Minority-Owned Business Enterprise, or  
4 a Woman-Owned Business.

5            *Cohabitants* means any and all of the individuals who reside in and as part of the same  
6 household as that person.

7            *Commercial space* means any space in a building, structure, or portions thereof which is  
8 used or occupied or is intended, arranged, or designed to be used or occupied for the manufacture,  
9 sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of  
10 personal property, and any space which is used or occupied, or is intended, arranged or designed  
11 to be used or occupied as a separate business or professional unit or office in any building, structure  
12 or portion thereof.

13            *Detroit-Based Business* means a business which pays City income taxes on the business's  
14 net profits and pays City property taxes on a plant or office and equipment which are ordinarily  
15 required for the furnishing of the goods or the performance of the services required by the contract  
16 and referred to in the application for certification as a Detroit-Based Business, or other real or  
17 personal property in the City equivalent in value to such plant or office and equipment for not less  
18 than one taxable year immediately prior to the date of the application for certification as a Detroit-  
19 Based Business, which shall comply with the following requirements:

- 20            (1) Provide verification that the firm has the physical resources including, but not  
21            limited to, inventory, equipment, vehicles, and the like, as well as the ability to  
22            provide the services indicated in its application for certification at the City location;  
23            (2) Provide verification of the ability of the business to carry out the service or repair

1 the product to be sold to the City at the City site;

2 (3) Provide references, licenses, or other means of verification acceptable to the City  
3 that the services the firm offers to the City have been provided at the City site for  
4 at least one year prior to the date of application; and

5 (4) Provide verification that the business has or can procure an adequate number of  
6 employees based at its City site to perform services indicated in the application.

7 *Detroit-Based Small Business* means any business which meets the definitions of a Detroit-  
8 Based Business and a Small-Business Concern as defined within this section.

9 *Detroit-Headquartered Business* means a business which:

10 (1) Has received a certification as a Detroit-Based Business, as defined in this section;

11 (2) Has an office within the City that serves as the administrative center where the chief  
12 executive officer and highest level management staff perform at least 51 percent of  
13 their management functions; and

14 (3) Has received a certification as a Detroit-Headquartered Business.

15 *Detroit-Resident Business* means any business which employs a minimum of four  
16 employees at least 51 percent of which are City residents.

17 *Disability* means one or more of the following:

18 (1) A determinable physical or mental characteristic of an individual, which may result  
19 from disease, injury, congenital condition of birth, a functional disorder, if the  
20 characteristic:

21 a. For purposes of Article III of this chapter, is unrelated to the individual's ability  
22 to utilize and benefit from educational opportunities, programs, and facilities at  
23 an educational institution;

- 1           b. For purposes of Article IV of this chapter, substantially limits one or more of  
2           the major life activities of that individual and is unrelated to the individual's  
3           ability to perform the duties of a particular job or position or substantially limits  
4           one or more of the major life activities of that individual and is unrelated to the  
5           individual's qualifications for employment or promotion;
- 6           c. For purposes of Article V of this chapter, is unrelated to the individual's ability  
7           to utilize and benefit from a place of public accommodation or public service;  
8           and
- 9           d. For purposes of Article VI of this chapter, substantially limits one or more of  
10          that individual's major life activities and is unrelated to the individual's ability  
11          to acquire, rent, or maintain property.

12          (2) A history of a determinable physical or mental characteristic described in  
13          Subsection (1) of this definition.

14          (3) Being regarded as having a determinable physical or mental characteristic  
15          described in Subsection (1) of this definition, but does not mean either of the  
16          following:

- 17          a. A determinable physical or mental characteristic caused by the current illegal  
18          use of a controlled substance by that individual; or
- 19          b. A determinable physical or mental characteristic caused by the use of an  
20          alcoholic liquor by that individual, if that physical or mental characteristic  
21          prevents that individual from performing the duties of such individual's job.

22          *Discriminate against* means treating differently.

23          *Discrimination based on sex* means:

- 1 (1) To discriminate against a person based on that person's sex;
- 2 (2) To discriminate or to express or imply threats of discrimination against a person
- 3 because that person has not approved of, acquiesced in or reciprocated a physical
- 4 or verbal sexual advance, a request or demand for sexual interaction or behavior
- 5 from which the person may reasonably infer that sexual interaction is or will be
- 6 expected;
- 7 (3) To discriminate or to promise to discriminate in favor of a person because that
- 8 person has approved of, acquiesced in or reciprocated a physical or verbal sexual
- 9 advance, a request or demand for sexual interaction or behavior from which the
- 10 person may reasonably infer that sexual interaction is or will be expected; or
- 11 (4) To discriminate through sexual harassment as defined in this section.

12 *Educational institution* means a public or private institution, or a separate school or

13 department thereof, and includes an academy, college, elementary or secondary school, extension

14 course, kindergarten, nursery, local school system, university, or a business, nursing, professional,

15 secretarial, technical, or vocational school, and includes an agent of an educational institution.

16 *Employee* does not mean any individual employed by such individual's parents, spouse or

17 child.

18 *Employer* means a person who has one or more employees, or a person who is a contractor

19 or subcontractor with the City, and includes the agent of such person.

20 *Employment agency* means a person regularly undertaking with or without compensation

21 to procure, refer, recruit, or place an employee for an employer or to procure, refer, recruit, or

22 place for an employer or person the opportunity to work for an employer and includes an agent of

23 that person.

1           *Extraordinary circumstances* means circumstances which, due to the unavailability of  
2 information that is critical to disposition of a complaint by the Human Rights Department, have  
3 prevented the Department from completing its investigation.

4           *Gender identity or expression* means a gender-related identity, appearance, expression, or  
5 behavior of an individual, regardless of the designation of gender on one's birth certificate.

6           *Housing accommodation* means improved or unimproved real property, or a part thereof,  
7 which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the  
8 home or residence of one or more persons.

9           *Human Rights Department* means an Executive Branch department that was created under  
10 Chapter 10, Article 7, of the Charter and referred to in the Executive Organization Plan as the  
11 "Department of Civil Rights, Inclusion, and Opportunity."

12           *Labor organization* means:

13           (1) An organization of any kind, an agency or employee representation committee,  
14           group, association, or plan in which employees participate and which exists for the  
15           purpose, in whole or in part, of dealing with employers concerning grievances,  
16           labor disputes, wages, rates of pay, hours, or other terms or conditions of  
17           employment;

18           (2) A conference, general committee, joint or system board, or joint council which is  
19           subordinate to a national or international labor organization; and

20           (3) An agent of a labor organization.

21           *Medical-care facility* means any place where an individual can receive diagnosis or  
22 treatment pertaining to the physical or mental health of the individual.

23           *Micro-business concern* means a business which has average annual gross receipts of



1 \$1,000,000 or less and no more than 15 employees, but does not mean an affiliate or subsidiary of  
2 a micro-business concern.

3 *Minority* means a person who is African-American, Aleut, Asian-American, Hispanic, or  
4 Native-American.

5 *Multiple apartment dwelling* means any dwelling containing three or more units which is  
6 occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or  
7 hired out, to be occupied as the residence or home of individuals.

8 *National origin* means the national origin of an ancestor.

9 *Persons* means one or more individuals, partnerships, associations, departments,  
10 corporations, legal representatives, trustees, trustees in bankruptcy, receivers, labor unions,  
11 political subdivisions, educational institutions, or any other legal or commercial entity.

12 *Place of public accommodation, resort, or amusement* means a business, or an educational,  
13 refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind,  
14 whether licensed or not, whose goods, services, facilities, privileges, advantages, or  
15 accommodations are extended, offered, sold, or otherwise made available to the public and  
16 includes, but is are not limited to, the facilities of the following private clubs:

17 (1) A country club or golf club;

18 (2) A boating or yachting club;

19 (3) A sports or athletic club; and

20 (4) A dining club, except a dining club that in good faith limits its membership to the  
21 members of a particular religion for the purpose of furthering the teachings or  
22 principles of that religion and not for the purpose of excluding individuals of a  
23 particular gender, race, or color.

1           *Public benefit status* means the status of being a recipient of governmental benefits,  
2 including social security, unemployment compensation, public assistance, general assistance, food  
3 stamps, Medicaid, Medicare, veteran's benefits or other governmental subsidy or grant, but does  
4 not mean any restriction or action based upon the person's income level, negative credit history or,  
5 in the sale of real property, the amount of liability.

6           *Public service* means a public facility, department, agency, board or commission, owned,  
7 operated or managed by or on behalf of the City, or a tax exempt private agency established to  
8 provide service to the public.

9           **Race is inclusive of traits historically associated with race, including, but not limited**  
10 **to, hair texture and protective hairstyles. For the purposes of this definition, “protective**  
11 **hairstyles” includes, but is not limited to, such hairstyles as braids, locks, and twists.**

12           *Real estate broker or real estate salesperson* means a person, whether licensed or not, who:

- 13           (1) For or with the expectation of receiving a consideration, lists, sells, purchases,  
14           exchanges, rents, or leases real property;
- 15           (2) Negotiates or attempts to negotiate any of these activities;
- 16           (3) Negotiates or attempts to negotiate a loan secured or to be secured by mortgage or  
17           other encumbrance upon real property; or
- 18           (4) Is engaged in the business of listing real property in a publication, or a person  
19           employed by or acting on behalf of any of these persons.

20           *Real estate transaction* means the sale, exchange, mortgage, rental or lease of real property,  
21 or an interest therein.

22           *Real property* means a building, structure, mobile home, real estate, land, mobile home  
23 park, trailer park, tenement, leasehold or any interest in a real estate cooperative or condominium.

1           *Religion* means all aspects of religious observance and practice, as well as belief, unless an  
2 employer demonstrates that such employer is unable to reasonably accommodate to an employee's  
3 or prospective employee's religious observance or practice without undue hardship on the conduct  
4 of the employer's business.

5           *Sexual harassment* means unwelcome sexual advances, requests for sexual favors, and  
6 other verbal or physical conduct or communication of a sexual nature under the following  
7 conditions:

8           (1) Submission to the conduct or communication is made a term or condition either  
9           explicitly or implicitly to obtain employment, public accommodations or public  
10           services, education, or housing;

11           (2) Submission to or rejection of the conduct or communication by an individual is  
12           used as a factor in decisions affecting the individual's employment, public  
13           accommodations or public services, education, or housing; or

14           (3) The conduct or communication has the purpose or effect of substantially interfering  
15           with an individual's employment, public accommodations or public services,  
16           education, or housing, or creating an intimidating, hostile, or offensive  
17           employment, public accommodations, public services, educational, or housing  
18           environment.

19           *Sexual orientation* means a person's actual or perceived status as heterosexual,  
20 homosexual, or bisexual.

21           *Small-business concern* means a business which:

22           (1) Has been in existence and operating for at least one year prior to the date of  
23           application for certification as a Small-Business Concern; and

1 (2) Does not meet the definition of a Micro-Business Concern as defined in this  
2 division; and

3 (3) Is one of the following:

4 a. A manufacturing business which, for the three fiscal years preceding the date  
5 of application for certification, has provided full-time employment to not more  
6 than 500 persons;

7 b. A general construction business which, for the three fiscal years preceding the  
8 date of application for certification, has average annual gross receipts of not  
9 more than \$28,000,000.00;

10 c. A specialty construction business whose average annual gross receipts have not  
11 exceeded \$12,000,000.00 in the three fiscal years preceding the date of  
12 application for certification;

13 d. A wholesale business which, for the three fiscal year preceding the date of  
14 application for certification, has provided full-time employment to not more  
15 than 100 persons;

16 e. A retail business which, for the three fiscal years preceding the date of  
17 application for certification, has average annual gross receipts of not more than  
18 \$6,000,000.00;

19 f. A service business, other than professional, which for the three fiscal years  
20 preceding the date of application for certification, has average annual gross  
21 receipts of not more than \$6,000,000.00; or

22 g. A professional services business, which for the three fiscal years preceding the  
23 date of application for certification, has had average annual gross receipts of

1 not more than \$6,000,000.00.

2 A business which is an affiliate or subsidiary of an entity that is not eligible for certification  
3 as a Small-Business Concern shall not be certified as a small business concern.

4 *Solicitation* means the requesting, inviting, or inducing, with the effect of committing an  
5 unlawful real estate practice as defined in Section 23-6-1 of this Code, by any means, including,  
6 but not limited to:

7 (1) Going in or upon the property of the individual to be solicited, except when invited  
8 by such individual;

9 (2) Communicating with the individual to be solicited by mail, telephone, telegraph or  
10 messenger service, except when requested by such individual;

11 (3) Canvassing in streets or other public places;

12 (4) Distributing handbills, circulars, cards or other advertising matter;

13 (5) Using loudspeakers, sound trucks, or other voice-amplifying equipment; and

14 (6) Displaying signs, posters, or other advertising devices upon a real estate office  
15 except for the purposes and effect of identifying the occupants and services  
16 provided therein, but does not mean advertising in newspapers of general  
17 circulation, magazines, billboards, radio, television, or telephone directories.

18 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are  
19 repealed.

20 **Section 3.** This ordinance is declared necessary for the preservation of the public  
21 peace, health, safety, and welfare of the people of the City of Detroit.

22 **Section 4.** If this ordinance is passed by a two-thirds (2/3) majority of City Council  
23 members serving, it shall be given immediate effect and shall become effective upon

1 publication in accordance with Section 4-118 of the 2012 Detroit City Charter; if passed  
2 by less than a two-thirds (2/3) majority of City Council members serving, it shall become  
3 effective no later than thirty (30) days after publication in accordance with Section 4-118  
4 of the 2012 Detroit City Charter; if this ordinance specifies a certain date to become  
5 effective, it shall become effective in accordance with the date

6 Approved as to form:

7 \_\_\_\_\_  
8 Conrad L. Mallett, Jr.  
9 Corporation Counsel

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