

ORDINANCE NO. 3838-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA ("CITY"), AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, ENTITLED "HUMAN RELATIONS," BY ADDING AN ARTICLE III THERETO ENTITLED "REGISTERED DOMESTIC PARTNERSHIPS," WHICH PROVIDES FOR REGISTERED DOMESTIC PARTNERSHIPS AND SETS FORTH THE RIGHTS AND LEGAL EFFECTS OF SUCH PARTNERSHIPS; PROVIDING FOR A CODIFICATION CLAUSE, A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, it is in the best interest of the City to be responsible to the changing needs of society and to treat all persons fairly and equitably; and

WHEREAS, the City recognizes that long-term committed relationships foster economic stability and emotional and psychological bonds; and

WHEREAS, the City has adopted a human rights ordinance and seeks to comply with the full spirit of it; and

WHEREAS, the City, independent of the rights and benefits provided by Chapter 62 for City employees, wishes to afford persons the ability to become a Registered Domestic Partner with certain legal rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: Chapter 42 of the Code of Ordinances of the City of West Palm Beach is hereby amended by adding an Article III thereto, as follows:

ARTICLE III. REGISTERED DOMESTIC PARTNERSHIPS

Sec. 42-47. Definitions.

"Committed relationship" means a family relationship, intended to be of indefinite duration, between two individuals characterized by mutual caring and the sharing of a mutual residence.

"Mutual residence" means that the Registered Domestic Partners share the same place to live. It is not necessary that the legal right to possess the place of residence be in both of their names. Two people may share a mutual residence even if one or both have additional places to live. Registered Domestic Partners do not cease to share a mutual residence if one leaves the shared place but intends to return.

"Declaration of Registered Domestic Partnership" means the document that is filed with the City Clerk's office according to the procedures established in section 42-48.

A "dependent" is a person who resides within the household of a Registered Domestic Partnership and is:

1. a biological, adopted, or foster child of a Registered Domestic Partner; or
2. a dependent as defined under IRS regulations; or
3. a ward of a Registered Domestic Partner as determined in a guardianship or other legal proceeding.

"Registered Domestic Partnership" means committed relationship between two persons who consider themselves to be a member of each other's immediate family and have registered their partnership in accordance with section 42-48.

Sec. 42-48. Registration, amendment, termination and administration procedures.

(a) Registration.

(1) Declaration of Registered Domestic Partnership. A declaration of Registered Domestic Partnership shall be filed with the City Clerk's office and shall contain the names and addresses of the applicants who shall swear or affirm under penalty of perjury that each partner:

- a. Is at least 18 years old and competent to contract;
- b. Is not married to or a member of another Registered Domestic Partnership or civil union with anyone other than the co-applicant;
- c. Agrees to share the common necessities of life and to be responsible for each other's welfare;
- d. Shares his or her primary residence with the other;
- e. Considers himself or herself to be a member of the immediate family of the other partner; and
- f. Agrees to immediately notify the City Clerk's office, in writing, of any change in the status of the Registered Domestic Partnership.
- g. Agrees to mutually support the other by contributing in some fashion, not necessarily equally, to maintain and support the Registered Domestic Partnership.

(2) Each partner agrees to immediately notify the City Clerk's office, in

writing, if the terms of the Registered Domestic Partnership are no longer applicable or one of the domestic partners wishes to terminate the domestic partnership.

(b) Amendment.

A Registered Domestic Partner may amend a Registered Domestic Partnership previously filed with the City Clerk to show a change in his or her household address or to add or delete dependents. Amendments shall be signed by both members of the Registered Domestic Partnership under penalty of perjury.

(c) Termination.

(1) Termination statement. A Registered Domestic Partner may terminate the Registered Domestic Partnership by filing a termination statement with the City Clerk's office. The person filing the termination statement shall swear or affirm under penalty of perjury that:

- a. The Registered Domestic Partnership is to be terminated; and
- b. If the termination statement is not signed by both Registered Domestic Partners, a copy of the termination statement shall be served, by certified or registered mail, on the other Registered Domestic Partner, and proof of service shall be filed with the City Clerk's office.

(2) Effective date. The termination shall become effective on the date of filing of the termination statement signed by both Registered Domestic Partners or if the termination statement is not signed by both parties, on the date proof of service is filed with the City Clerk's office pursuant to subsection (c)(1)b. above.

(3) Automatic termination. A Registered Domestic Partnership shall automatically terminate upon the following events:

- a. One of the Domestic Partners marries;
- b. One of the Domestic Partners dies; or
- c. One of the Domestic Partners enters into a civil union with someone other than his or her Registered Domestic Partner.

(d) Administration.

(1) Forms. The City Clerk's office shall provide forms for the establishment, amendment, and termination of Registered Domestic Partnerships.

(2) Certificate of Registered Domestic Partnership. The City Clerk's office shall issue to the Registered Domestic Partners a certificate of Registered Domestic Partnership no later than ten business days after the declaration of Registered Domestic Partnership is filed.

(3) Maintain records. The City Clerk's office shall maintain copies of the declaration of Registered Domestic Partnerships, any and all amendments thereto, certificates of Registered Domestic Partnership, and termination statements filed by Registered Domestic Partners.

(4) Fees. The fee for registering the declaration of Registered Domestic Partnership shall be established by resolution of the City Commission, which shall cover all costs of registration. The fee for amending or terminating the declaration of Registered Domestic Partnership shall also be established by resolution of the City Commission, which shall cover all costs of amendment or termination of the Registered Domestic Partnership.

Sec. 42-49. Rights and Legal Effect of Registered Domestic Partnership

To the extent not superseded by federal, state, or county law or ordinance, Registered Domestic Partners shall have the following rights:

(a) Health care facility visitation.

The term "health care facility" includes, but is not limited to, hospitals, convalescent facilities, walk-in clinics, doctor's offices, mental health care facilities, and other short and long term facilities located within, or under the jurisdiction of, the City of West Palm Beach. All health care facilities operating within the City of West Palm Beach shall allow a Registered Domestic Partner the same visitation rights as a spouse (or parent, if the patient is a dependent of the Registered Domestic Partnership) of the patient. A dependent of a Registered Domestic Partner shall have the same visitation rights as a patient's child.

(b) Health care decisions.

This section pertains to decisions concerning both physical and mental health. If a patient lacks the capacity to make a health care decision, the patient's Registered Domestic Partner shall have the same authority as a spouse to make a health care decision for the incapacitated party to the extent allowed by Section 765.401, Florida Statutes.

(c) Funeral/Burial decisions.

Following the death of a Registered Domestic Partner, the surviving partner shall have the same rights to make decisions with regard to funeral/burial decisions and disposition of the decedent's body as a surviving spouse. The surviving partner shall retain these rights notwithstanding the automatic termination provision of Section 42-48(c)(3)b.

(d) Notification of family members.

In any situation providing for mandatory or permissible notification of family members, including, but not limited to, notification of family members in an emergency, or when permission is granted to inmates to contact family members, "notification of family" shall include Registered Domestic Partners.

e) Preneed guardian designation.

Any person who is registered as a Registered Domestic Partner pursuant to this Chapter shall have the same right as any other individual to be designated as a

preneed guardian pursuant to Section 744.3045, Florida Statutes, and to serve in such capacity in the event of his or her declarant Registered Domestic Partner's incapacity. A Registered Domestic Partner shall not be denied or otherwise be defeated in serving the plenary guardian of his or her Registered Domestic Partner or the partner's property, under the provisions of Chapter 744, Florida Statutes, to the extent that the incapacitated partner has not executed a valid preneed guardian designation, based solely upon his or her status as the domestic partner of the incapacitated partner.

Sec. 42-50. Limited effect.

(a) Nothing in this article shall be interpreted to alter, affect, or contravene county, state or federal law.

(b) Nothing in this article shall be construed as recognizing or treating a Registered Domestic Partnership as a marriage.

(c) All rights, privileges, and benefits extended to Registered Domestic Partnerships registered pursuant to this Chapter shall also be extended to all persons legally partnered in another jurisdiction.

(d) This Article is independent of Chapter 62 of the Code of Ordinances of the City of West Palm Beach and does not affect any rights or benefits of City employees.

(e) A Registered Domestic Partner may enforce the rights under Sec. 42-49 by filing a private action against a person or entity in any court of competent jurisdiction for declaratory relief, injunctive relief, or both.

SECTION 2: Specific authority is hereby granted to codify this ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole, or any other part thereof.

SECTION 5: This Ordinance shall take effect in accordance with law.

FIRST READING THIS 31ST DAY OF January, 2005.

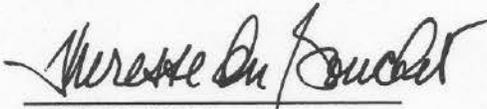
SECOND READING AND FINAL PASSAGE THIS 14TH DAY OF February, 2005.

(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION


PRESIDING OFFICER

ATTEST:


CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legal
sufficiency:

By: 
Date: 1/31/05