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ORDINANCE NO. 2011-54

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, ESTABLISHING A DOMESTIC PARTNERSHIP REGISTRY BY AMENDING CHAPTER 57 (DISCRIMINATION) OF THE CITY CODE TO ADD A NEW ARTICLE VI TITLED “DOMESTIC PARTNERSHIP REGISTRY” LAW; PROVIDING FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Orlando City Council finds that a significant number of Orlando residents establish and maintain important personal, emotional, and economic relationships with persons to whom they are not married under Florida law. Individuals forming such domestic partnerships often live in a committed family relationship. Domestic partners and their dependants may be denied certain rights for lack of a system that establishes recognition of such partnerships.

WHEREAS, the 2010 census indicates that over 12% of Americans (approximately 6,759,453 households) identified themselves as living in a domestic partnership, which is a 25% increase over the 2000 census numbers. As a result, employers and municipalities in Florida and throughout the United States have begun to provide domestic partner benefits to their employees and citizens.

WHEREAS, the Orlando City Council finds that the provision of domestic partner benefits promotes employee recruitment, employee retention, and employee loyalty. The existence of a Domestic Partnership Registry is attractive to companies that value diversity and can assist the City of Orlando in its economic development by attracting companies to locate and make capital investments in the City, and will promote the City’s reputation as a growing, vibrant and diverse community.

1 WHEREAS, the rules developed to implement the provisions of this ordinance shall be
2 construed to accomplish the policies and purposes of the ordinance. However, this ordinance
3 shall not be construed to supersede any federal, state, or other city laws or regulations, nor shall
4 this ordinance be interpreted in a manner as to bring it into conflict with federal, state, or other
5 city laws. Nothing in this ordinance shall be construed as recognizing or treating a domestic
6 partnership as a marriage.

7 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO,**
8 **FLORIDA:**

9 **SECTION 1. CHAPTER 57, AMENDED.** Chapter 57 of the City Code of the City of Orlando,
10 Florida, is hereby amended by the addition of a new Article VI “Domestic Partnership Registry,”
11 as follows:

12 **ARTICLE VI. DOMESTIC PARTNERSHIP REGISTRY**

13 Section 57.80. – Definitions.

14 For purposes of this Article:

15 (a) *Domestic Partners* means only two adults who are parties to a valid domestic
16 partnership relationship and who meet the requisites for a valid domestic partnership
17 relationship as established pursuant to Section 57.81.

18 (b) *Affidavit of Domestic Partnership* means a sworn form under penalty of perjury,
19 which certifies that two (2) Domestic Partners meet the requirements of a domestic partnership
20 relationship as described in Section 57.81.

21 (c) *Jointly responsible* means each Domestic Partner mutually agrees to provide for
22 the other partner’s basic needs while the domestic partnership relationship is in effect, except
23 that partners need not contribute equally or jointly to said basic needs such as food and shelter.

24 (d) *Health care facility* includes, but is not limited to, hospitals, nursing homes,
25 hospice care facilities, convalescent facilities, walk-in clinics, doctor’s offices, mental health care

1 facilities and any other short-term or long-term health care facilities located within the City of
2 Orlando.

3 (e) *Correctional facility* means holding cells, jails, and juvenile correction centers of
4 any kind, located within or under the jurisdiction of the City of Orlando.

5 (f) *Mutual residence* means a residence shared by the Registered Domestic
6 Partners; it is not necessary that the legal right to possess the place of residence be in both of
7 their names. Two people may share a mutual residence even if one or both have additional
8 places to live. Registered Domestic Partners do not cease to share a mutual residence if one
9 leaves the shared place but intends to return.

10 (g) *Dependent* is a person who resides within the household of a registered
11 domestic partnership and is:

- 12 1. A biological, adopted or foster child of a registered Domestic Partner; or
- 13 2. A dependent as defined under IRS regulations; or
- 14 3. A ward of a registered Domestic Partner as determined in a guardianship or
15 other legal proceeding.

16 (h) *City Clerk* means the City Clerk of the City of Orlando or such other person or
17 office approved by the City Council to administer the Domestic Partnership registry.

18
19 Section 57.81. – Registration of Domestic Partnerships.

20 (a) A valid domestic partnership relationship may be registered by any two (2)
21 persons by filing an affidavit of domestic partnership with the City of Orlando, which affidavit
22 shall comply with all requirements set forth in this ordinance for establishing such domestic
23 partnership. Upon payment of any required fees, the City Clerk shall file the affidavit of
24 domestic partnership and issue a certificate and laminated card reflecting the registration of the
25 domestic partnership relationships in the City of Orlando. The City Clerk shall not be responsible
for maintaining a record of any of the forms except the Domestic Partner Registry. The Clerk

1 shall maintain or arrange for maintenance of an online searchable database of the domestic
2 partnerships which have been registered with the City.

3 (b) An affidavit of domestic partnership shall contain the name and address of each
4 domestic partner, the signature of each partner, the signatures of two witnesses, and each
5 partner shall swear or affirm under penalty of perjury that:

6 (1) Each person is at least eighteen (18) years old and competent to
7 contract;

8 (2) Neither person is currently married under Florida law or is a partner in a
9 domestic partnership relationship or a member of civil union with anyone other than the co-
10 applicant;

11 (3) They are not related by blood as defined in Florida law;

12 (4) Each person considers himself or herself to be a member of the
13 immediate family of the other partner and to be jointly responsible for maintaining and
14 supporting the registered domestic partnership;

15 (5) The partners reside in a mutual residence; and

16 (6) Each person agrees to immediately notify the City Clerk, in writing, if the
17 terms of the Registered Domestic Partnership are no longer applicable or one (1) of the
18 domestic partners wishes to terminate the domestic partnership.

19 (7) Each person expressly declares their desire and intent to designate their
20 domestic partner as their healthcare surrogate and as their agent to direct the disposition of
21 their body for funeral and burial.

22 (c) Any partner to a domestic partnership may file an amendment to the domestic
23 partnership certificate issued by the City Clerk to reflect a change in his or her legal name or
24 address. Amendments shall be signed by both members of the registered domestic partnership
25 under oath.

Section 57.82. – Termination of Registered Domestic Partnership Relationship.

1 (a) Either partner to a registered domestic partnership relationship may terminate
2 such relationship by filing a notarized affidavit of termination of domestic partnership relationship
3 with the City Clerk. Upon the payment of the required fee, the City Clerk shall file the affidavit
4 and issue a certificate of termination of domestic partnership relationship to each partner of the
5 former relationship. The termination shall become effective ten (10) days from the date the
6 certificate of termination is issued.

7 (b) Automatic termination. A registered domestic partnership shall automatically
8 terminate upon notice to the City Clerk of the following events:

- 9 1. One (or both) of the domestic partners marries in Florida;
- 10 2. One of the domestic partners dies (provided however, the provisions relating to
11 funeral and burial decisions shall survive); or
- 12 3. One of the domestic partners registers with another partner.

13 The marrying, surviving or re-registering domestic partner(s) shall file a affidavit terminating the
14 domestic partnership relationship within ten (10) days of one of the occurrences listed in b.1-3
15 above.

16 Section 57.83. – Maintenance of Records; Filing Fees.

17 (a) At the Mayor's direction, the City Clerk shall prepare the form of all affidavits,
18 amendments, and certificates required to be filed under this Act. The City Clerk shall maintain a
19 record of all affidavits, amendments, and certificates filed pursuant to this ordinance.

20 (b) The City Clerk is authorized to establish fees for the filing of any affidavits,
21 amendments, and the issuance of any certificates required by this act, subject to the approval of
22 the Orlando City Council. Any fees established under this section shall be commensurate with
23 the actual costs of administering the provisions of this ordinance.

24 (c) The City Clerk is authorized and directed to take all actions necessary to
25 implement the provisions of this section within ninety (90) days after this ordinance is enacted.

1 (d) If Orange County, Florida establishes a domestic partnership registry law that is
2 substantially similar to the City of Orlando's Domestic Partnership registry code provisions, the
3 City Clerk shall collaborate with Orange County to determine whether a joint registration system
4 will most efficiently serve our citizens. The City Clerk will bring any recommendations for joint
5 administration to City Council for its consideration. If such a joint registry is established, the
6 references in to the City Clerk shall mean the filing officer for the joint registry approved by City
7 Council and Orange County.

8 Section 57.84. – Rights and Legal Effect of Registered Domestic Partnership.

9 To the extent not superseded by federal, state, or other city law or ordinance, or contrary
10 to rights conferred by contract or separate legal instrument, Registered Domestic Partners shall
11 have the following rights:

12 (a) Health Care Facility Visitation. All health care facilities operating within the City
13 of Orlando shall honor the Registered Domestic Partnership documentation
14 issued pursuant to this code as evidence of the relationship and shall allow a
15 Registered Domestic Partner visitation as provided under federal law. A
16 Dependent of a Registered Domestic Partner shall have the same visitation
17 rights as a patient's child.

18 (b) Health Care Decisions. This section pertains to decisions concerning both
19 physical and mental health. Registry as a domestic partner shall be considered
20 to be written direction by each partner designating the other to make health care
21 decisions for their incapacitated partner, and shall authorize each partner to act
22 as the other's healthcare surrogate as provided in Chapter 765, Florida Statutes,
23 and otherwise as provided by federal law. Further, no person designated as a
24 health care surrogate shall be denied or otherwise defeated in serving as a
25 health care surrogate based solely upon his or her status as the domestic partner
of the partner on whose behalf health care decisions are to be made. Upon

1 request, the City Clerk shall also assist the registrants by providing them with any
2 desired statutory forms such as a living will or health care surrogate designation
3 in the forms prescribed by Chapter 765, Florida Statutes. The City Clerk shall
4 not give advice relating to these forms, but shall simply assist by providing and, if
5 necessary, notarizing the forms upon request. Any such forms properly executed
6 after the date of registration which contain conflicting designations shall control
7 over the designations by virtue of the registration.

8 (c) Funeral/burial Decisions. Registry as a domestic partner shall be considered to
9 be written direction by the decedent of his or her intention to have his or her
10 domestic partner direct the disposition of the decedent's body for funeral and
11 burial purposes as provided in Chapter 497, Florida Statutes, unless the
12 decedent provides conflicting, written inter vivos authorization and directions that
13 are dated after the date of the registration, in which case the later dated
14 authorization and directions shall control.

15 (d) Correctional Facility Visitation Rights. Any person who is a party to a registered
16 domestic partnership relationship, pursuant to Section 57.81, shall be entitled to
17 visit his or her domestic partner, or other family member of the domestic partner,
18 who is an inmate at a correctional facility located within the City of Orlando, upon
19 the same terms and conditions under which visitation is afforded to spouses,
20 dependents, or parents of inmates. Visitation rights provided by this section shall
21 extend to any children of the domestic partners, and the domestic partners of an
22 inmate's parents or children.

23 (e) Notification of Family Members. In any situation providing for mandatory or
24 permissible notification of family members, including but not limited to notification
25 of family members in an emergency, or when permission is granted to

1 correctional facility inmates to contact family members, “notification of family”
2 shall include registered Domestic Partners.

3 (f) Preneed guardian designation. A person who is a party to a registered Domestic
4 Partnership relationship, pursuant to Section 57.81 above, shall have the same
5 right as any other individual to be designated as a preneed guardian pursuant to
6 Chapter 744, Florida Statutes and to serve in such capacity in the event of his or
7 her Domestic Partner’s incapacity. A Domestic Partner shall not be denied or
8 otherwise be defeated in serving as the plenary guardian or his or her Domestic
9 Partner or the partner’s property under the provisions of Chapter 744, Florida
10 Statutes, to the extent that the incapacitated partner has not executed a valid
11 preneed guardian designation, based solely upon his or her status as the
12 Domestic Partner of the incapacitated partner.

13 (g) Participation in Education. To the extent allowed by federal and state law, a
14 registered Domestic Partner shall have the same rights to participate in the
15 education of a dependent of the registered Domestic Partnership as a biological
16 parent to participate in the education of their child, in all educational facilities
17 located within or under the jurisdiction of the City. However, if a biological
18 parent of a minor dependent, whose parental rights have not been terminated,
19 objects to the participation of a non-biological registered Domestic Partner in
20 education conferences or other dissemination of educational information, only the
21 participation of the biological parents shall be allowed.

22 Section 57.85. – Limited Effect.

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

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

1 Section 57.86.-- Enforcement

2 A registered Domestic Partner may enforce the rights under Section 57.84 by filing a
3 private judicial action against a person or entity in any court of competent jurisdiction for
4 declaratory relief, injunctive relief, or both.

5 Any person violating the provisions of this Article of this chapter shall be subject to fines
6 as provided in Section 1.08 of this Code.

7 **SECTION 2. SEVERABILITY.** If any provision of this ordinance or its application to any person
8 or circumstance is held invalid, the invalidity does not affect other provisions or applications of
9 this ordinance which can be given effect without the invalid provision or application, and to this
10 end the provisions of this ordinance are severable.

11 **SECTION 3. REPEAL.** All ordinances or parts of ordinances previously adopted and in conflict
12 with this ordinance are hereby repealed.

13 **SECTION 4. CODIFICATION.** The City Clerk and the City Attorney shall cause the Code of the
14 City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-
15 letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of
16 the law.

17 **SECTION 5. SCRIVENER'S ERROR.** The City Attorney may correct scrivener's errors found in
18 this ordinance by filing a corrected copy of this ordinance with the City Clerk.

19 **SECTION 6. EFFECTIVE DATE.** This ordinance takes effect January 12, 2012.

20 **DONE, THE FIRST READING AND HEARING,** by the City Council of the City of Orlando,
21 Florida, at a regular meeting, this _____ day of December, 2011.

22 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City of Orlando,
23 Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of
24 _____, 2011.

25 **DONE, THE SECOND READING AND HEARING, AND ENACTED ON FINAL PASSAGE,** by
an affirmative vote of a majority of the members of the City Council of the City of Orlando,

1 Florida, at a regular meeting, this _____ day of _____, 2011.

2

3 BY THE MAYOR/MAYOR PRO TEMPORE
4 OF THE CITY OF ORLANDO, FLORIDA:

4

5 _____
6 Mayor / Mayor Pro Tempore

6

7 ATTEST, BY THE CLERK OF THE
8 CITY COUNCIL OF THE CITY OF
9 ORLANDO, FLORIDA:

8

9 _____
10 City Clerk

9

10 APPROVED AS TO FORM AND LEGALITY
11 FOR THE USE AND RELIANCE OF THE CITY OF ORLANDO,
12 FLORIDA, ONLY

11

12 _____
13 CITY ATTORNEY
14 DATE: _____

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