

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 38, "HUMAN RELATIONS", ARTICLE V "DOMESTIC PARTNERSHIPS" OF THE CODE OF ORDINANCES ENTITLED "HUMAN RELATIONS" BY ADDING SECTIONS 38-297, 38-298, 38-299 AND 38-300 TO PROVIDE FOR HEALTH CARE SURROGATE DESIGNATION, VISITATION TO LICENSED FACILITIES, PRENEED GUARDIAN DESIGNATION, AND NOTIFICATION OF FAMILY MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Key West City Commission finds that revisions to the Domestic Partnership ordinances would serve to promote the health, safety and welfare of the citizens of Key West;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 38-297 of Chapter 38 of the Code of Ordinances is hereby added as follows*:

Sec. 38-297 Health care surrogate designation.

Any person who is a party to a registered domestic partnership relationship, pursuant to section 38-292 of this act, shall have the same right as any other individual to be designated as health care surrogate of his or her domestic partner pursuant to Chapter 765, pt. II, F.S. (§

765.201, F.S. et seq.) and a person so designated shall have the right to make health care decisions on behalf of his or her domestic partner; to provide, withhold, or withdraw consent on behalf of his or her domestic partner; to apply for public benefits to defray the cost of health care; and to authorize the admission to, or transfer from, a health care facility. No person designated as a health care surrogate shall be denied or otherwise be defeated in serving as a 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.

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

Section 2: That Section 38-298 of Chapter 38 of the Code of Ordinances is hereby added as follows*:

Sec. 38-298 Visitation to licensed facilities.

(a) If a health care facility or any licensed residential facility restricts the visitors of a patient or resident, the facility shall permit the patient or resident to name those individuals whom he or she wishes to visit,

including any domestic partner, or any children or family member of such domestic partner, unless:

(1) No visitors are allowed; or

(2) The facility, in its sole discretion, decides that the presence of a particular individual named by the patient or resident would endanger the health or safety of a patient or a resident, or would endanger the primary operations of the facility.

(b) If a patient or resident has not made the designation provided for in paragraph (a), the facility shall permit the patient or resident's domestic partner, the children of the domestic partner, and any other family member of the patient or resident's domestic partner, to visit, unless one of the exceptions described in paragraph (a)(1) or (a)(2) applies.

Section 3: That Section 38-299 of Chapter 38 of the Code of Ordinances is hereby added as follows*:

Sec. 38-299. Preneed guardian designation.

Any person who is a party to a registered domestic partnership relationship, pursuant to section 38-292 of

this act, shall have the same right as any other individual to be designated as a preneed guardian pursuant to § 744.3045, F.S. and to serve in such capacity in the event of his or her declarant domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of his or her domestic partner or the partner's property, under the provisions of Chapter 744, F.S. 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.

Section 4: That Section 38-300 of Chapter 38 of the Code of Ordinances is hereby added as follows*:

Sec. 38-300. Notification of family members.

In any situation providing for mandatory or permissible notification of family members, including notification of family members in an emergency, or when permission is granted to inmates to contact family members, "notification of family" shall include domestic partners who are registered pursuant to section 38-292 of this act.

Section 5: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or

unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 6: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 7: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2012.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2012.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2012.

Filed with the Clerk _____, 2012.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK