



MAYOR & COUNCIL COMMUNICATION

September 15, 2003

Subject: Registration of Domestic Partnerships (City-Wide)

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Issue – On June 30, 2003, the Mayor and Council endorsed the concept of a Domestic Partner Registry and directed staff to move forward aggressively and work with members of the Commissions on Gay, Lesbian, Bisexual and Transgender issues to implement the registry as soon as possible. Attached is the “Domestic Partnership Ordinance” which accomplishes this direction.

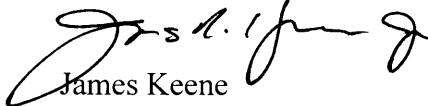
City Manager’s Recommendation – The City Manager recommends that the Mayor and Council adopt the attached ordinance. In order to ensure sufficient time for an orderly implementation of the process, staff and the Commission recommend that the Registry go into effect on December 1, 2003.

Background – Staff and representatives of the Commission have held several meetings since June 30 and have resolved operational and legal issues previously raised. Attached is a letter from the Commission indicating their concurrence with the process set forth in the Ordinance.

Legal Considerations - Should the Mayor and Council agree with the City Manager's recommendation, the City Attorney's Office has prepared the attached ordinance for adoption.

Financial Considerations – Section 17-75 of the Ordinances establishes a fee structure that is consistent with fees assessed in other communities providing for a Domestic Partnership Registry and provides for cost recovery of program costs.

Respectfully submitted,


 James Keene
 City Manager

JK:Kathleen S. Detrick:lr
 City Clerk’s Office
 SEPT15-03-505

- Attachments: 1. Letter from Commission on Gay, Lesbian, Bisexual and Transgender Issues
 2. Domestic Partnership Ordinance



CITY OF
TUCSON
COMMISSION ON
GLBT ISSUES
(GAY, LESBIAN,
BISEXUAL AND
TRANSGENDER)

September 5, 2003

VIA HAND DELIVERY

Kathleen Detrick, City Clerk

And

Mike Letcher, Deputy City Manager
City of Tucson
P.O. Box 27210
Tucson, AZ 85726

RE: Domestic Partner Registry Ordinance

Dear Kathy and Mike:

This is in follow up to our meeting of August 27, 2003 regarding the final language for the proposed Domestic Partner Registry Ordinance for the City of Tucson. Noel Matkin and myself met with city staff, including yourselves, Finance Director Scott Douthitt and Assistant City Attorney Merle Turchik. We reviewed the draft language of the ordinance prepared by Assistant City Attorney Merle Turchik, and we all agreed on some ordinance wording changes at this meeting.

The full Commission then had a special meeting on September 2, 2003, at which commissioners reviewed and discussed the draft as prepared by Assistant City Attorney Merle Turchik and revised at the August 27 meeting. This final draft was approved by a unanimous vote of the Commission. Thus, please communicate our support for the "Domestic Partnership Ordinance" to the Mayor and Council, including our support for an implementation date of December 1, 2003 for the ordinance.

We appreciate the courtesy of all city staff as we have worked together to bring this project to fruition.

Sincerely,

Nancy Robinett, J.D.
Co-Chair

Noel Matkin, Ph.D.
Co-Chair

ADOPTED BY THE
MAYOR AND COUNCIL

ORDINANCE NO. 9898

RELATING TO HUMAN RELATIONS; ADOPTING THE "DOMESTIC PARTNERSHIP ORDINANCE" BY AMENDING CHAPTER 17 OF THE TUCSON CODE TO ADD A NEW ARTICLE IX, REGISTERED DOMESTIC PARTNERSHIPS, (SECTIONS 17-70 THROUGH 17 -77); PROVIDING DEFINITIONS AND PROCEDURES FOR REGISTERING AND TERMINATING DOMESTIC PARTNERSHIPS; ESTABLISHING FEES FOR REGISTRATION AND TERMINATION; SETTING FORTH RIGHTS OF REGISTERED DOMESTIC PARTNERS; LIMITING LIABILITIES; DECLARING SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, its residents are the City of Tucson's most important asset; and

WHEREAS, the diverse composition of its residents is an important part of the social fabric of the Tucson community; and

WHEREAS, the residents' lives have evolved from the time when laws governing family relationships were first enacted; and

WHEREAS, the traditional definition of "family" excludes a significant segment of the Tucson population, deprives certain families of recognition and validation, and denies certain rights that should be afforded to persons who share their homes, their hearts, and their lives; and

WHEREAS, certain state and local laws and corporate policies already recognize domestic partnerships; and

WHEREAS, the City of Tucson is committed to nondiscrimination and fair treatment of its residents, visitors, and employees; and

WHEREAS, in order to protect the public health, safety and welfare, it is declared to be the policy of the City of Tucson to allow persons in committed relationships who meet the criteria established by the City of Tucson as constituting domestic partnerships

to register and obtain a certificate attesting to their status; and to provide certain rights of access for domestic partners;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. Chapter 17 of the Tucson Code is amended by adding a new Article IX, Registered Domestic Partnerships, (Sections 17-70 through 17-78 to read as follows:

Article IX. Registered Domestic Partnerships

Sec. 17-70. Title.

This article shall be known and may be cited as the “Tucson Domestic Partnership Ordinance.”

Sec. 17-71. Registered domestic partnership defined.

As used in this article, the term “registered domestic partnership” exists between two persons if one or more of the following is true:

- A. The persons who meet the criteria for domestic partnership have filed a statement of domestic partnership with the City’s Finance Department on the form provided by the City and paid the required fee.
- B. The persons have a valid certificate of domestic partnership issued by another jurisdiction and meet the criteria for domestic partnership set forth in this article.
- C. The persons are legally recognized as civil union spouses in another jurisdiction and meet the criteria for domestic partnership set forth in this article.

Sec. 17-72. Criteria for domestic partnership.

For purposes of this article, “domestic partners” are two persons:

- A. Not related by blood closer than would bar marriage in the State of Arizona;
- B. Neither of whom is in a marriage expressly recognized by the State of Arizona or in any domestic partnership and/or civil union with another person;
- C. Both of whom are 18 years of age or older;
- D. Both of whom are competent to enter into a contract;

- E. Both of whom declare that they are each other's sole domestic partner;
- F. Both of whom currently share a primary residence, are in a relationship of mutual support, and declare that they intend to remain in such for the indefinite future.

Sec. 17-73. Statement of domestic partnership.

- A. Domestic partners may make an official record of their domestic partnership by executing a "Domestic Partnership Registration Statement" on the form prescribed by the City.
- B. The statement must include a declaration that the persons are in a relationship of mutual support, caring and commitment and are responsible for each other's welfare. For these purposes, "mutual support" means that they contribute mutually to each other's maintenance and support.
- C. The statement must include a declaration that both persons agree to file a termination of partnership if there is a change in the status of their relationship such that they cease to meet the criteria for domestic partnership.
- D. The sworn statement shall include the date on which the domestic partnership was registered, and the mailing address(es) of both partners. The domestic partnership statement shall further state that the domestic partners meet the criteria for domestic partners set forth in Sec. 17-72.

Sec. 17-74. Termination of domestic partnership.

A domestic partnership shall terminate upon the occurrence of any one of the following:

- A. The death of one of the partners;
- B. The filing of a sworn termination statement with the City's Finance Department on the form prescribed by the City. The domestic partner filing the sworn termination statement shall declare that the domestic partnership is terminated and, if the termination statement has not been signed by both domestic partners, that the other domestic partner has been notified in writing of such termination at the last known address of such domestic partner;
- C. The marriage, expressly recognized by the State of Arizona, of either one of the partners.

Sec. 17-75. Fees.

- A. The fee for filing a domestic partnership statement shall be fifty dollars (\$50.00) which entitles the person filing the statement on behalf of a domestic partnership to two certified copies of the official statement.

- B. The fee for obtaining additional copies shall be ten dollars (\$10.00) per copy.
- C. The fee for filing a termination of domestic partnership statement shall be ten dollars (\$10.00).

Sec. 17-76. Rights of registered domestic partners.

A. Health care visitation

All health care facilities operating within the City shall allow the registered domestic partner of a patient to visit such patient unless no visitors are allowed or the patient expresses a desire that visitation by the domestic partner be restricted. As used in this section, "health care facility" means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice service agencies.

B. Use of and access to City facilities

All facilities owned or operated by the City, including but not limited to recreational facilities shall allow the registered domestic partner of a user to be included in any rights and privileges accorded a spouse for purposes of use of and access to City facilities.

Sec. 17-77. Limitation of liabilities.

- A. Nothing in this Article shall be interpreted to contravene the general laws of the State of Arizona.
- B. Nothing in this Article shall be construed to create additional legal liabilities greater than those already existing under law or to create new private causes of action.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Tucson Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. Section 1 of this ordinance shall become effective on December 1, 2003.

SECTION 5. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA _____.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:


CITY ATTORNEY


CITY MANAGER

MT
MJT:mjt
9/05/03