

DRAFT FOR DISCUSSION PURPOSES ONLY

Ordinance No.

Council Member Cimperman

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Chapter 109, Sections 109.01 through 109.07, relating to domestic partnership registry.

WHEREAS, all citizens are valued in the City of Cleveland; and

WHEREAS, the City of Cleveland seeks to promote economic development by attracting and retaining new businesses and industries to our community, and assisting businesses and universities in the recruitment of a talented and diverse workforce; and

WHEREAS, many unmarried residents of Cleveland have formed lasting, committed, caring, and faithful relationships with a person of the same sex or different sex; these couples live together, serve and participate together in the community, and rear children and care for family members together; and

WHEREAS, many public and private institutions voluntarily permit their employees, members, patrons and other individuals with whom they interact to include their partners as beneficiaries of various policies, including but not limited to, health insurance coverage, hospital visitation rights, family recreational memberships, and authorization to pick up children after school; and

WHEREAS, a registry for unmarried couples maintained by the City would remove the administrative burden on hospitals, universities, employers, and other businesses to define and verify the existence of these committed non-marital relationships; and

WHEREAS, a registry for these unmarried couples will acknowledge the existence of their committed relationships without affecting the definition of marriage and without creating or recognizing any legal status that intends to approximate marriage; and

WHEREAS, a registry for unmarried couples will make those couples and their families feel welcome and valued in this City; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Chapter 109, Sections 109.01 through 109.07, to read as follows:

Chapter 109

Domestic Partnership Registry

Section 109.01 Definitions

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As used in this Chapter:

(1) "Domestic partnership" refers to the non-marital intimate relationship of two adults of the same or different sex, who share a common residence and affirm that they share responsibility for each other's common welfare, and have signed and filed a Declaration of Domestic Partnership with the city.

(2) "Share a common residence" means that both domestic partners share the same residence. It is not necessary that both domestic partners have title to the property where they reside or the legal right to possess the common residence. Two people may share a common residence even if one or both have additional residences. Domestic partners do not cease to share a common residence if one leaves the common residence but intends to return.

(3) Domestic partners will be deemed to have an "intimate" relationship and to "share responsibility for one another's common welfare" if they execute a Declaration of Domestic Partnership affirming that such facts are true.

Section 109.02 Domestic Partnership Criteria

To establish a domestic partnership, both individuals must file a Declaration of Domestic Partnership with the City affirming that they meet all of the following qualifications:

- (1) Both individuals share a common residence;
- (2) Both individuals affirm that they have an intimate relationship and share responsibility for each other's common welfare;
- (3) Neither individual is married to any third party;
- (4) Neither individual is part of an existing domestic partnership with any third party;
- (5) Each individual is 18 years of age or older; and
- (6) The individuals are not related to one another by blood.

Section 109.03 Filing

(A) Filing Location. Two individuals seeking to become domestic partners must complete and file a Declaration of Domestic Partnership with the clerk of the Cleveland Municipal Court.

(B) Filing Prohibition. No individual who has previously filed a Declaration of Domestic Partnership in this City may file a new Declaration of Domestic Partnership until a Notice of Termination of Domestic Partnership has been filed with the City. However, this prohibition shall not apply if the previous domestic partnership ended because one of the domestic partners is deceased.

Section 109.04 Registration

(A) Registration Forms. The clerk of the Cleveland Municipal Court shall develop "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" forms, and shall not add to or alter the requirements listed in Section 109.02 of this Chapter.

(B) Registration Requirements. The "Declaration of Domestic Partnership" form shall require each registrant to:

- (1) Affirm that he or she meets the requirements of Section 109.02 of this Chapter;
- (2) Provide a mailing address;

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(3) Sign the form under penalty of perjury; and

(4) Have a notary public acknowledge his or her signature.

(C) Availability of Forms. The city shall have declaration and termination forms available at the clerk's office of the Cleveland Municipal Court.

(D) Administrative Fee. The city shall charge an administrative fee of \$25 to persons filing a Declaration of Domestic Partnership. No fee shall be charged for the filing of a Notice of Termination of Domestic Partnership.

(E) Partnership Registration. The city shall register the Declaration of Domestic Partnership in a registry and return a copy of the declaration form to the domestic partners at the address provided as their common residence.

(F) Termination Registration. The city shall register the Notice of Termination of Domestic Partnership pursuant to the requirements set forth in Section 109.05 of this Chapter.

Section 109.05 Termination

(A) Termination. A domestic partnership ends when:

(1) One of the domestic partners dies; or

(2) A Notice of Termination of Domestic Partnership has been filed by one or both domestic partners with the city.

(B) Notice of Termination. If the facts affirmed in the Declaration of Domestic Partnership cease to be true, one or both parties to a domestic partnership shall file a Notice of Termination of Domestic Partnership with the clerk's office of the Cleveland Municipal Court. Upon receipt, the city shall return a copy of the notice marked "filed" to each of the partners, if jointly filed; or two copies to the filing partner. Unless the partners jointly file the notice, the partner filing the notice shall, within five days, send a copy of the filed notice to the other partner's last known address. However, this requirement shall not apply if the termination is due to the death of one of the domestic partners.

(C) Effective Termination Date. Termination of a domestic partnership shall be effective upon filing of the Notice of Termination of Domestic Partnership with the City by one or both partners, or on the date of the death of one of the domestic partners.

(D) Notice to Third Parties. Following the termination of a domestic partnership, each former domestic partner who has received or qualified for any benefit or right based upon the existence of a domestic partnership and whose receipt of that benefit or enjoyment of that right has not otherwise terminated, shall give prompt notification to any third party who provides such benefit or right that the domestic partnership has terminated.

(E) Failure to Give Notice. Failure to provide notice to third parties as prescribed in this section shall not delay or prevent the termination of the domestic partnership.

Section 109.06 Legal Effect

(A) Registering as domestic partners by two individuals who are also married to one other, in this or in another state, shall under no circumstances, be considered as evidence, knowledge, awareness, or an admission that the partners are not lawfully married and it shall not be given any other legal effect, in this or any other state, with regard to whether the persons are lawfully married.

(B) Nothing in this Chapter shall be interpreted to alter or contravene county, state or federal law.

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(C) Nothing in this Chapter shall be construed as recognizing or treating a Declaration of Domestic Partnership as a marriage or a legal status that intends to approximate the design, qualities, significance or effect of marriage.

Section 109.07 Severability

If any section, subsection, clause or provision of this Chapter is held invalid, the remainder shall not be affected by such invalidity.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

JHO:jc
11-10-08

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and referred to **READ FIRST TIME** **REPORTS**

by the council _____ 2006

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by the council **READ SECOND TIME** _____ 2006

CITY CLERK

by the council **READ THIRD TIME** _____ 2006

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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