

ORDINANCE NO. 2010- 357

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING THE CITY CODE, CREATING A NEW CHAPTER ENTITLED “HUMAN RELATIONS”, TO PROVIDE RECOGNITION OF DOMESTIC PARTNERSHIPS AND BENEFITS” TO SET FORTH THE RIGHTS AND LEGAL EFFECTS OF SUCH PARTNERSHIPS; PROVIDING EMPLOYMENT BENEFITS TO CITY OF SUNNY ISLES BEACH EMPLOYEES AND THEIR DOMESTIC PARTNERS; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the City Commission wishes to support such long-term committed relationships by providing certain benefits to City employees and their domestic partners; and

WHEREAS, the City Commission finds that the provision of domestic partner benefits promotes employee recruitment, employee retention, and employee loyalty; and the provision of such benefits promotes fairness and serves to address the discriminatory effect of practices which deny such benefits solely upon the basis of an employee’s familial or marital status.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSISON OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. New Chapter. A Chapter of the Code of the City of Sunny Isles Beach entitles “Human Relations”, is added:

CHAPTER _____

HUMAN RELATIONS

ARTICLE I. DOMESTIC PARTNERSHIPS AND BENEFITS

Section 1. Legislative findings and purpose.

(a) The City of Sunny Isles Beach recognizes that a significant number of City of Sunny Isles Beach employees establish and maintain important personal, emotional, and economic relationships with persons to whom they are not married; that individuals forming such domestic partnerships live in a committed family relationship; and that City employees in domestic partner relationships should be granted employment benefits through a system for the City to provide benefits to domestic partners of City employees.

(b) The implementation of the provisions of this article shall be liberally construed to accomplish the policies and purposes of the article. However, no construction of this article shall supersede any federal, state, or city laws or regulations, nor be interpreted in a manner as to bring it into conflict with federal, state, or other city laws. Nothing in this article shall be construed as recognizing or treating a domestic partnership as a marriage or the substantial equivalent of a marriage.

ARTICLE I. DOMESTIC PARTNERSHIPS AND BENEFITS

Section 2. Definitions.

For the purpose of this article:

(a) City employee means any employee of the City of Sunny Isles Beach.

(b) Domestic partners means (1) adults who have registered their domestic partnership pursuant to Miami-Dade City Code section 11A-72 or (2) adults whose relationship has been formalized in another locality, state, or country through a marriage, civil union, domestic partnership, or the like, that is authorized by law in that jurisdiction but that is not recognized under Florida law.

Section 3. Extension of benefits to domestic partners of City employees.

(a) Any City employee who has a domestic partner shall be entitled to elect insurance coverage for his or her domestic partner or the children of such domestic partner in the same way any City employee may elect insurance coverage for his or her spouse or children. A City employee's right to elect insurance coverage for his or her domestic partner, or the partner's children, shall extend to all forms of insurance provided to the spouses and children of City employees, unless such coverage is prohibited by state or federal law or the terms of a collective bargaining agreement. All elections of coverage shall be made in accordance with the requirements of applicable city ordinances, administrative rules, city policies and applicable collective bargaining agreements. However, in no event may an employee make an election for coverage of a domestic partner more than two (2) times in a plan year.

(b) Any City employee who has a domestic partner shall be entitled to use all forms of leave provided by the City including, but not limited to, sick leave, annual leave, funeral leave and family leave to care for his or her domestic partner or the children or parents of the domestic partner, as applicable. The use of leave authorized in this section shall be consistent with the applicable requirements in city ordinances, administrative rules, and collective bargaining agreements.

(c) Unless prohibited by state or federal law or the terms of a collective bargaining agreement all other benefits available to the spouses and children of City employees shall be made available on the same basis to the domestic partner, or child of such domestic partner, of a City employee who has a domestic partner.

(d) Notwithstanding the benefits provided for in this article, all non-inconsistent provisions of applicable state, federal or other laws or policies shall apply.

(e) Any City employee who obtains or attempts to obtain benefits fraudulently or who fails to notify the City of Sunny Isles Beach of any termination of the Domestic Partnership under this provision shall be subject to:

(1) Recovery of any benefits improperly paid and:

(2) Disciplinary action which may include termination.

Further, the City of Sunny Isles Beach may bring a civil action against either or both of the parties to the Domestic Partnership to recover any losses, including attorneys fees, borne by the City as a result of fraudulent request for domestic partnership benefits or because of failure to notify of the termination of the domestic partnership.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Repeal of Conflicting Provisions. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed

Section 6. Inclusion In The Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Sunny Isles Beach Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. This Ordinance shall become effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on First Reading the 18th day of November 2010.

PASSED and ADOPTED on Second Reading this 16th day of December 2010.

Norman S. Edelcup, Mayor

ATTEST:

Jane A. Hines, CMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Hans Ottinot, City Attorney

Moved by: _____

Second by: _____

VOTE AS FOLLOWS:

Mayor Edelcup	() yes	() no
Vice Mayor Thaler	() yes	() no
Commissioner Brezin	() yes	() no
Commissioner Gatto	() yes	() no
Commissioner Scholl	() yes	() no