

#6

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA CREATING CHAPTER 15 ½ ARTICLE VI, DOMESTIC PARTNERSHIP AND FAMILY COVERAGE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with protecting and preserving the public health, safety and welfare of the residents and those coming into the Town of Bay Harbor Islands; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands wishes to recognize unmarried people who live with and consider their partners to be members of their immediate family; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands wishes to establish an ordinance whereby employees in domestic partnership relationships enjoy the same benefits already offered to employees with spouses;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS as follows:

Section 1. Chapter 15 1/2, Article IV

Sec. 15 1/2-1 - Name.

This ordinance shall be known as the "Domestic Partnership and Family Coverage."

Sec. 15 1/2-2 - Legislative findings and purpose.

- (a) The Town recognizes that a significant number of Town 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 Town employees in domestic partner relationships should be granted employment benefits through a system for the Town to provide benefits to domestic partners of Town 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 Town laws or regulations, nor be interpreted in a manner as to bring it into conflict with federal, state, or other Town 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.

Sec.15 1/2-3 - Definitions.

For the purpose of this article:

- (a) "employees" refers to active and retired employees of the Town that are eligible for benefits pursuant to state or municipal law, personnel rules and regulations, or collective bargaining agreements.
- (b) "domestic partners" means:
 - (1) adults who have registered their domestic partnership pursuant to Miami-Dade County Code section 11A-72, or

- (2) adults whose relationship has been formalized in another locality, state, or county through a marriage, civil union, domestic partnership, or the like, that is authorized by law in that jurisdiction but that is not recognized under state law.

Sec. 15 1/2-4 - Employment benefits.

- (a) The Town shall provide the same health (if, as, and when obtained through the Town group insurance provider) and other employment fringe benefits to employees with domestic partners as to employees with spouses.
- (b) In order to obtain benefits under this ordinance, an employee must demonstrate to the Town Manager that he or she is a domestic partner within the meaning of Sec. 15 1/2-3(b). Proof that satisfies this requirement includes but is not limited to a copy of the employee's Declaration of Domestic Partnership form filed with Miami-Dade County or a similar form validly filed and accepted in another jurisdiction. Upon providing such proof, employees shall agree to notify the Town promptly of any change in the status of their domestic partnership. Employees shall be responsible for reimbursing the Town and/or its benefit plan for any expense, including benefit payments, incurred as the result of any false or misleading statement contained in such documentary proof or the failure to promptly notify the Town Manager of loss of eligibility of a domestic partner or domestic partner's dependents. The Town shall withhold such expenses from any compensation owed to the employee by the Town. Notwithstanding the aforementioned, in the event an employee is found to have provided false, misleading, or incomplete information in order to obtain domestic partnership benefits to which they are otherwise not entitled, the employee shall be subject to discipline pursuant to the Town's personnel rules and regulations.
- (c) If, as, and when the Town procures health insurance benefits coverage that provides domestic partner coverage, the Town shall provide health insurance and benefits coverage to an employee's domestic partner as it does to an employee's spouse, and to the dependent(s) of an employee's domestic partnership as it does to an employee's child(ren). An employee may opt to decline health insurance coverage for his or her domestic partner, without foregoing the right to obtain health insurance coverage for his or her domestic partner at a later date.
- (d) Upon termination of a domestic partnership by an employee, the domestic partner may be covered by health insurance and benefits as may be provided in the Town's agreement with its health insurance provider and as provided by the Federal continuation of insurance coverage law (COBRA).
- (e) Upon termination of a domestic partnership by the death of an employee, the surviving domestic partner's health insurance, if any, and benefits coverage shall lapse as it would for the spouse of a married employee upon the death of that employee.
- (f) Employees shall be granted a leave of absence, with pay, for the death of a domestic partner or family member of a domestic partner to the same extent as for a spouse or family member of a spouse.
- (g) Employees shall be granted sick leave, as provided for in the Town's personnel rules and regulations, as amended, to care for a domestic partner to the same extent permitted to care for a spouse, and to care for a dependent of a domestic partner to the same extent permitted to care for a child.
- (h) Employees shall be entitled to take parental leave to take care of a child born to their domestic partner or a newly adopted child to the same extent as a married person.
- (i) An employee's right to receive health and life insurance benefits pursuant to this division is conditioned upon the Town's procurement of a group insurance program providing domestic partner benefits and collective bargaining agreements, as the case may be.

Sec. 15 1/2-5 - Additional regulations.

- (a) Nothing in this ordinance shall be interpreted to contravene the general laws of the State of Florida.
- (b) Nothing contained in this division shall be construed to impose liability or impose a private cause of action upon a domestic partner for the health or health expenses of his or her domestic partner.

- (c) When the term "spouse" or "married" or "marriage" is used in other Town ordinances and documents, it shall be interpreted to include a domestic partner. When the term "family" or "dependent" is used in other Town ordinances, it shall be interpreted to include domestic partnerships and dependents of domestic partnerships. When the term "divorce" or "legal separation" is used in other Town ordinances and documents, it shall be interpreted to mean termination of a domestic partnership.

Section 2. Penalties

Violation of this Ordinance shall be subject to the imposition of penalties as provided by Miami-Dade County, Florida, and under Section 1-8, including Section 15 1/2-4(b) above and any other penalty section(s) of the Code of the Town of Bay Harbor Islands.

Section 3. Severability

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code

It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Bay Harbor Islands; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or any other appropriate word.

Section 5. Effective Date

This Ordinance shall be effective immediately upon passage by the Town Council on second reading.

PASSED this 11th day of February, 2013 on first reading.

PASSED AND ADOPTED this _____ day of _____, 2013 on second reading.

Isaac Salver, MAYOR

ATTEST:

Marlene Marante, TOWN CLERK

WORDS WITH A LINE THROUGH THEM ARE DELETED

UNDERScoreD WORDS ARE ADDITIONS