

## Chapter 19

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\*Editor's note--Ord. No. 1131-95 repealed Chapter 19 previously titled "Solicitors and Peddlers" in its entirety, said Chapter being superseded by Ordinance 1129-95 (See Chapter 12 "Licenses").

Other References: See Ord. No. 697-82 <sec> 1 and Ord. No. 234-19.

Ord. No. 1783-14 amends Chapter 19 by the creation of a new Article 1 to be entitled "Domestic Partnership Registry"

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### Article I. Domestic Partnership Registry.

#### Section 19- 1. Definitions.

For purposes of this Article, the words and terms defined below shall have the following meaning:

- (a) Affidavit of Domestic Partnership means a sworn form under penalty of perjury, which certifies that two (2) Domestic Partners meet the requirements of a domestic partner relationship as described in this Section.
- (b) City Clerk means the Clerk of the City of Punta Gorda or such other person or office approved by the City Council to administer the Domestic Partnership Registry.
- (c) Dependent is a person who resides within the household of a registered domestic partnership and is:
  - (1) A biological, adopted or foster child of a registered Domestic Partner; or
  - (2) A dependent as defined under IRS regulations; or
  - (3) A ward of a registered Domestic Partner as determined in a guardianship or other legal proceeding.
- (d) Domestic Partners means only two (2) adults who are parties to a valid domestic partnership and who meet the requisites for a valid domestic partnership relationship as established pursuant to Section 19-2(a) through (c).
- (e) Health Care Facility includes, but is not limited to, hospitals, nursing homes, hospice care facilities, and any other short-term or long-term health care facilities located within the City of Punta Gorda.
- (f) Jointly Responsible means each Domestic Partner mutually agrees to provide for the other partner's basic needs while the domestic partnership relationship is in

effect, except that partners need not contribute equally or jointly to said basic needs such as food and/or shelter.

- (g) Mutual Residence means a residence shared by the Registered Domestic Partners; it is not necessary that the legal right to possess the place of residence be in both of their names. Two people may share a Mutual Residence even if one or both have additional places to live. Registered Domestic Partners do not cease to share a Mutual Residence if one leaves the shared place but intends to return.
- (h) Registered Domestic Partnership means a domestic partnership which has been registered with the City of Punta Gorda by its Domestic Partners, whereby the City Clerk has certified the Affidavit of Domestic Partnership and issued a laminated card evidencing the registration of such domestic partnership within the City of Punta Gorda.

## **Section 19- 2. Registration of Domestic Partnerships.**

- (a) A valid domestic partnership relationship may be registered by any two (2) persons by filing an Affidavit of Domestic Partnership with the City of Punta Gorda, which affidavit shall comply with all requirements set forth in this Article for establishing such domestic partnership. Upon payment of any required fees, the City Clerk shall certify and record the Affidavit of Domestic Partnership and issue a laminated card reflecting the registration of the domestic partnership relationship in the City of Punta Gorda. The City Clerk shall not be responsible for maintaining a record of any of the forms except the Domestic Partner Affidavit, any subsequent Amendments, and any Termination thereof. The City Clerk shall maintain or arrange for maintenance of an online searchable database of the domestic partnerships which have been registered with the City.
- (b) An Affidavit of Domestic Partnership shall contain the name of each Domestic Partner, the signature of each partner, the signature of two witnesses, and each partner shall swear or affirm under penalty of perjury that:
  - (1) Each person is at least eighteen (18) years old and competent to contract;
  - (2) Neither person is currently married under Florida law or is a partner in a domestic partnership relationship with someone other than the co-applicant or a member of a civil union with anyone other than the co-applicant;
  - (3) They are not related by blood as defined in Florida law;
  - (4) Each person considers himself or herself to be a member of the immediate family of the other partner and to be jointly responsible for maintaining and supporting the Registered Domestic Partnership; and
  - (5) The partners reside in a mutual residence; and
  - (6) Each person agrees to immediately notify the City Clerk, in writing, if the terms of the Registered Domestic Partnership are no longer applicable or one (1) of the Domestic Partners wishes to terminate the Domestic Partnership

- (7) Each person declares their desire and intent to designate their Domestic Partner as their healthcare surrogate and as their agent to direct the disposition their body for funeral and burial or cremation.
- (c) Any partner to a Registered Domestic Partnership may file an amendment to an Affidavit of Domestic Partnership certified by the City Clerk upon payment of the required fee, to reflect a change in his or her legal name or dependent information. Amendments shall be signed by both members of the Registered Domestic Partnership under oath.

**Section 19- 3. Termination of Registered Domestic Partnership Relationship.**

- (a) Voluntary termination. Either partner to a Registered Domestic Partnership may terminate such relationship by filing a notarized Affidavit of Termination of Domestic Partnership with the City Clerk. Upon payment of the required fee, the City Clerk shall certify the Affidavit of Termination and issue a copy to each partner. The termination shall become effective immediately upon the City Clerk recording the Affidavit of Termination with the County Clerk.
- (b) Automatic termination. A Registered Domestic Partnership shall automatically terminate upon any of the following events:
  - (1) One (or both) of the Domestic Partners marries in Florida;
  - (2) One of the Domestic Partners dies. (provided however, that the provisions relating to funeral and burial shall survive); or
  - (3) One of the Domestic Partners registers with another partner.

The marrying, surviving, or re-registering Domestic Partner (as indicated in (1)-(3) above) shall file an Affidavit of Termination of Domestic Partnership, including payment of the required fee, within ten (10) days of any of these occurrences.

**Section 19- 4. Maintenance of Records; Filing Fees.**

- (a) Subject to the approval of the City Council, the City Clerk shall prepare the form of all affidavits and amendments required to be filed under this Article. The City Clerk shall maintain a record of all affidavits and amendments filed pursuant to this Article. The City Clerk shall also record in the Official Records of Charlotte County all Affidavits of Domestic Partnership, Affidavits of Amendment to Domestic Partnership and Affidavits of Termination under this Article.
- (b) The City Council shall by resolution establish fees for the filing or recording of any affidavits and amendments required by this Article. Any fees established under this section shall be commensurate with the actual costs of administering the provisions of this Article and will include the fees for recording documents in the Official Records of Charlotte County, Florida.
- (c) The City Clerk is authorized and directed to take all actions necessary to implement the provisions of this Section within twenty (20) days after this Article is adopted.

- (d) If Charlotte County, Florida, establishes a domestic partnership registry law that is substantially similar to the City of Punta Gorda's Domestic Partner Registry code provisions, the City Clerk shall collaborate with Charlotte County to determine whether a joint registration system will most efficiently serve our citizens. The City Clerk will bring any recommendations for joint administration to the City Council for its consideration. If such a joint registry is established, the references in this Article to the City Clerk shall then mean the filing officer of the joint registry as agreed upon and approved by the City of Punta Gorda and Charlotte County jointly.
- (e) It shall not be the duty of the City Clerk or any agent or employee of the City of Punta Gorda to monitor or verify the continuing status of a Registered Domestic Partnership; the City Clerk shall only verify the Registration itself, and whether or not an Affidavit of Name Change, and/or Termination has been filed.

**Section 19- 5. Rights and Legal Effect of Registered Domestic Partnership.**

To the extent not superseded by federal, state, or other city law or ordinance, or contrary to rights conferred by contract or separate legal instrument, Domestic Partners in a Registered Domestic Partnership shall have the following rights within the City of Punta Gorda:

- (a) Health Care Facility Visitation. All Health Care Facilities operating within the City of Punta Gorda shall honor the Registered Domestic Partnership documentation issued pursuant to this code as evidence of the relationship and shall allow a Registered Domestic Partner visitation as provided under state and federal law. A dependent of a Registered Domestic Partner shall have the same visitation rights as a patient's child.
- (b) Health Care Decisions. This section pertains to decisions concerning both physical and mental health. Registration as a Domestic Partner shall be considered to be written direction by each partner designating the other to make health care decisions for their incapacitated partner, and shall authorize each partner to act as the other's surrogate as provided in Chapter 765, Florida Statutes, and otherwise as provided by Federal Law, including, as their personal representative (HIPAA).
- (c) Funeral and Burial or Cremation Decisions. Registration as a Domestic Partner shall be considered to be written direction by the decedent of his or her intention to have his or her Domestic Partner direct the disposition of the decedent's body for funeral and burial or cremation decisions as provided by Chapter 497, Florida Statutes, unless the decedent leaves conflicting, written, inter vivos authorization and directions that are dated after the date of the Domestic Partner Registration, in which case the later dated authorization and directions shall control.
- (d) Notification of Family Members. In any situation providing for mandatory or permissible notification of family members, including, but not limited to

notification of family members in an emergency, “notification of family” shall include registered Domestic Partners.

- (e) **Preneed Guardian Designation.** Any person who is a Domestic Partner in a Registered Domestic Partnership, pursuant this Article, shall have the same right as any other individual to be designated as a preneed guardian pursuant to Chapter 744, Florida Statutes, and to serve in such capacity in the event of his or her 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, Florida Statutes, 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.
- (f) **Participation in Education.** To the extent allowed by federal and state law, a registered Domestic Partner shall have the same rights to participate in the education of a Dependent of the registered Domestic Partnership as a biological parent in all educational facilities located within or under the jurisdiction of the City of Punta Gorda. However if a biological parent of such minor Dependent, whose parental rights have not been terminated, objects to this participation of a non-biological parent /Domestic Partner in parent/teacher conferences or other dissemination of educational information, only the participation of the biological parents shall be allowed.

**Section 19- 6. Reciprocity.**

All rights privileges and benefits extended to domestic partnerships registered pursuant to this article shall also be extended to domestic partners registered pursuant to domestic partnership laws in other jurisdictions to the extent allowed by law. If a conflict occurs between jurisdictions, this article shall govern.

**Section 19- 7. Limited Effect.**

- (a) Nothing in this article shall be interpreted to alter, affect, or contravene city, county, state or federal law.
- (b) Nothing in this article shall be construed as recognizing or treating a Registered Domestic Partnership as a marriage.

**Section 19- 8. Enforcement.**

A registered Domestic Partner may enforce the rights granted under Article by filing a private judicial action against a person or entity in any court of competent jurisdiction for declaratory relief, injunction or both.