

## CITY OF FLAGSTAFF STAFF SUMMARY REPORT



**To:** The Honorable Mayor and Council

**From:** Rosemary H. Rosales, City Attorney  
David Womochil, Senior Assistant City Attorney

**Date:** November 22, 2011

**Meeting Date:** December 6, 2011

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**TITLE:** Consideration of Ordinance No. 2011-25, An Ordinance of the City Council of the City of Flagstaff, Arizona, Amending the Flagstaff City Code, by Adding a New Title 14, Human Relations, Chapter 1, Domestic Partnership Registry; Renumbering Title 13, Special Ordinances, to Title 20, Special Ordinances; and Reserving Title 13, Title 15, Title 16, Title 17, Title 18, and Title 19 for Future Use.

### **RECOMMENDED ACTION:**

At the December 6, 2011 meeting, read Ordinance No. 2011-25 for the first time by title only.

At the December 20, 2011 meeting, read Ordinance No. 2011-25 for the second time by title only.

At the December 20, 2011 meeting, adopt Ordinance No. 2011-25.

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### **ACTION SUMMARY:**

- Policy Decision or Reason for Action:  
Enactment of Ordinance No. 2011-25 establishes a Domestic Partnership Registry, which will create a way to recognize committed relationships among members of the Flagstaff community.
  
- Financial Impact:  
There are no direct financial impacts associated with the adoption of Ordinance No. 2011-25. However, there will be additional costs associated with administering the Domestic Partnership Registry.
  
- Connection to Council Goal: Diversity
  
- Options:
  - Approve Ordinance No. 2011-25.
  - Do not approve Ordinance No. 2011-25.
  - Approve Ordinance No. 2011-25 with changes.
  
- Has there been a previous Council decision on this topic? No.

**ADDITIONAL INFORMATION:**

**Background/History:**

The City Council is developing a civil rights ordinance that will prohibit discrimination based on various factors. The topic was discussed in public meetings on 4/19/11 and 7/12/11. The Council has also requested that City staff first implement a Domestic Partnership Registry prior to adoption of the civil rights ordinance. Ordinance No. 2011-25 establishes a Domestic Partnership Registry to recognize committed relationships. Other cities in Arizona and in other states have adopted domestic partnership registries. The registry established by Ordinance No. 2011-25 is very similar to ones that have been implemented by Phoenix and Tucson. The Cities of Salt Lake City, Utah and Boulder, Colorado have also adopted similar domestic partnership registries.

The Domestic Partnership Registry will complement the City's civil rights ordinance that will be considered by the Council in 2012. To be included on the Domestic Partnership Registry, registrants must establish that they meet certain criteria. Registrants are required to share a common primary residence, be in a committed relationship, and share responsibility for each other's common welfare. Flagstaff residents who meet all of the criteria, and who file a Declaration of Domestic Partnership with the City Clerk's Office will be listed on the registry as domestic partners. Applicants shall submit a registration fee to cover the City's administrative costs. A registrant shall file a Termination of Domestic Partnership if the partnership ends.

Registration of domestic partnerships confers certain benefits. These include the following: 1) A registered domestic partner shall be included in any rights and privileges accorded a spouse for purposes of use and access to City facilities; 2) the domestic partnership registration can be used to demonstrate a domestic partnership to government agencies, employers, businesses, and other third parties; and 3) a registered domestic partner of a patient shall be allowed visitation privileges at a health care facility under the same terms as a spouse.

Ordinance No. 2011-25 does not alter existing county, state, or federal law. It also does not create any additional legal liabilities.

**Key Considerations:**

Establishment of a Domestic Partnership Registry will provide a way to recognize committed relationships among community members and will promote diversity in the City of Flagstaff.

**Community Benefits and Considerations:**

The Domestic Partnership Registry will promote diversity in the community by recognizing committed relationships.

**Community Involvement:**

The related civil rights ordinance has been discussed at previous City Council meetings.

**Financial Implications:**

There are no direct financial implications associated with the approval of Ordinance No. 2011-25. However, additional staff time will be needed to administer the Domestic Partnership Registry.

**Options and Alternatives:**

- Approve Ordinance No. 2011-25 as written.
- Do not approve Ordinance No. 2011-25.
- Approve Ordinance No. 2011-25 with changes.

**Attachments/Exhibits**

- Copy of Ordinance No. 2011-25

**Division Director** (*Acknowledgment that all reviews have been completed and required approvals initialed below.*)

INITIALS	RESPONSIBILITY	DATE	INITIALS	RESPONSIBILITY	DATE
	BIDS/PURCHASES			FINANCE/BUDGET	
	GRANTS			CONTRACTS	
<u>DW</u>	LEGAL	<u>11/22/11</u>		IGAS	
	Planning			Community Development	

DATE OF COUNCIL APPROVAL: \_\_\_\_\_

**ORDINANCE NO. 2011-25**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, BY ADDING A NEW TITLE 14, HUMAN RELATIONS, CHAPTER 1, DOMESTIC PARTNERSHIP REGISTRY; RENUMBERING TITLE 13, SPECIAL ORDINANCES TO TITLE 20, SPECIAL ORDINANCES; AND RESERVING TITLE 13, TITLE 15, TITLE 16, TITLE 17, TITLE 18, AND TITLE 19 FOR FUTURE USE.**

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

WHEREAS, the City of Flagstaff is comprised of diverse and varied groups, communities, and individuals; and

WHEREAS, the City Council supports and values diversity; and

WHEREAS, the diverse composition of its residents is an important part of the social fabric of the Flagstaff 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 Flagstaff 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, the City of Flagstaff is committed to nondiscrimination and fair treatment of its residents, visitors, and employees; and

WHEREAS, the City Council values the quality of life of Flagstaff's children and families; and

WHEREAS, the City Council intends to create a way to recognize committed relationships; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1: That Title 14, Human Relations is hereby added to Flagstaff City Code, as follows:

**Chapter 1  
Domestic Partnership Registry**

**Sections:**

14-01-001-0001	<b>Definition of Domestic Partnership</b>
14-01-001-0002	<b>Criteria for Domestic Partnership Registry</b>
14-01-001-0003	<b>City Clerk’s Office Records and Registration Fee</b>
14-01-001-0004	<b>Declaration of Domestic Partnership; Filing Location</b>
14-01-001-0005	<b>Termination of Domestic Partnership</b>
14-01-001-0006	<b>Rights of Domestic Partners</b>
14-01-001-0007	<b>Limitations and Liabilities</b>

**Section 14-01-001-0001 Definition of Domestic Partnership**

As used in this section, the term “domestic partnership” exists between any two persons, regardless of gender, if the persons who meet the criteria for domestic partnership in this Section have filed a Declaration of Domestic Partnership with the City Clerk’s Office on the form provided by the City, and have paid the required fee.

**Section 14-01-001-0002 Criteria for Domestic Partnership Registry**

- A. Both individuals reside within the City of Flagstaff;
- B. Both individuals are 18 years of age or older;
- C. Both individuals are competent to enter into a contract;
- D. Both individuals currently share a common primary residence;
- E. Both individuals are in a committed relationship and share responsibility for each other’s common welfare;
- F. The individuals are not related to one another by blood closer than would bar marriage in the State of Arizona;
- G. Neither individual is married to any third party; and
- H. Neither individual is part of an existing domestic partnership or civil union with any third party.

**Section 14-01-001-0003 City Clerk’s Office Records and Registration Fee**

- A. Each registrant shall:
  - 1. Affirm that the registrant meets the requirements of Section 14-01-001-0002 of this

chapter.

2. Show current photo identification issued by a government agency within the United States that verifies the Domestic Partnership age requirement.
  3. Sign the applicable form under the penalty of perjury.
  4. Have the registrant's signature notarized.
- B. The City shall have declaration and termination forms available at City Hall and on the City's website.
- C. The City shall keep a record of all Declarations of Domestic Partnership and all Notices of Termination.
- D. The City shall charge a nonrefundable administrative fee to persons who file a declaration of domestic partnership. The amount of the fee shall be set forth in the City's schedule of fees.
- E. The City shall register the Declaration of Domestic Partnership in a registry and provide a Certificate of Partnership to each of the domestic partners.

#### **Section 14-01-001-0004 Declaration of Domestic Partnership; Filing Location**

- A. The City Clerk's Office shall develop "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" forms, and shall not add to or alter the requirement listed in Section 14-01-001-0002 of this chapter.
- B. The Declaration of Domestic Partnership must include a statement 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 Certificate of Partnership shall include the date on which the domestic partnership was registered. The Certificate of Partnership shall further state that the domestic partnership meets the criteria for domestic partners set forth in this chapter.
- D. Two individuals seeking to become domestic partners must complete and file a Declaration of Domestic Partnership in person with the City.

#### **Section 14-01-001-0005 Termination of Domestic Partnership**

- A. A Domestic Partnership ends when:
1. One of the domestic partners dies; or
  2. Either one of the partners enters a marriage relationship expressly recognized by the State of Arizona; or

- 3. A Notice of Termination of Domestic Partnership has been filed with the City of Flagstaff by one or both domestic partners.
- B. If one or more of the facts affirmed in the Declaration of Domestic Partnership no longer exists, one or both parties to the domestic partnership shall file a notarized Notice of Termination of Domestic Partnership with the City Clerk's Office.
- C. It shall be the filing partner's responsibility to provide a copy of the Notice of Termination to the non-filing party. However, this notice requirement shall not apply if the termination is due to the death of one of the domestic partners.
- D. A registrant listed as a partner on an existing Certificate of Partnership on file with the City who wishes to file a subsequent Declaration of Domestic Partnership with a different partner, shall file a Notice of Termination of the existing partnership prior to submitting the new Declaration of Domestic Partnership.
- E. Termination of a domestic partnership shall be effective upon filing of a Notice of Termination of Domestic Partnership.

**Section 14-01-001-0006 Rights of Domestic Partners**

- A. All facilities owned or operated by the City, including but not limited to recreation facilities, shall allow the registered domestic partner of a user to be included in any rights and privileges accorded a spouse for the purposes of use of and access to City facilities.
- B. The domestic partnership registrations issued under this Chapter can be used to demonstrate a domestic partnership to government agencies, employers, businesses, and other third parties.
- C. All health care facilities operating within the City shall allow the domestic partner of a patient to visit such patient unless no visitors are allowed or the patient expresses a desire that the visitation by the domestic partner be restricted.

**Section 14-01-001-0007 Limitations and Liabilities**

- A. Nothing in this chapter shall be interpreted to alter or supersede county, state or federal law.
- B. Nothing in this chapter shall be construed to create additional legal liabilities greater than those already existing under law, or to create new private causes of action.

**Section 14-01-001-0008 Reciprocity**

A domestic partnership that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under this chapter, shall be recognized as a valid domestic partnership in the City of Flagstaff and shall be treated the same as a domestic partnership registered under this chapter.

SECTION 2: That Flagstaff City Code be amended by adding and reserving for future use Title 13, Title 15, Title 16, Title 17, Title 18, and Title 19 and renumbering existing Title 13, Special Ordinances, to Title 20, Special Ordinances.

SECTION 3. That the City Clerk be authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk be authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with the Flagstaff City Code.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY