

## TITLE V. - HUMAN RESOURCES AND CIVIL RIGHTS

### CHAPTERS

5-1.  
GENERAL PROVISIONS

5-2.  
DISCRIMINATION

5-3.  
DOMESTIC PARTNERSHIP REGISTRY

#### CHAPTER 5-1. GENERAL PROVISIONS

**(RESERVED)**

#### CHAPTER 5-2. DISCRIMINATION

##### ARTICLE I. - IN GENERAL

Secs. 5-2-1—5-2-15. - Reserved.

##### ARTICLE II. - FAIR HOUSING<sup>[1]</sup>

#### Footnotes:

--- (1) ---

**Cross reference—** Buildings and building regulations, Ch. 7-13; housing, § 7-13-241 et seq.; zoning, Ch. 12-2.

Sec. 5-2-16. - Declaration of policy.

It is hereby declared to be the policy of the city, in the exercise of its police power for the public safety, public health and general welfare, to ensure equal opportunity to obtain adequate housing by all persons, regardless of race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, ancestry, military status or ~~physical~~ disability and, to that end, to prohibit and eliminate discrimination in housing by any person.

(Code 1968, § 80-20)

Sec. 5-2-17. - Definitions.

For the purposes of this article, the following terms, phrases and words and their derivations shall have the meanings given herein:

**Commented [JW1]:** Suggest modification to conform to current scope of legal protection.

*Board.* The fair housing board established by this article.

*Director.* The fair housing director established by this article.

*Discrimination, discriminatory housing practice.* Any difference in the treatment of persons based on race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability.

*Housing, housing accommodations, dwelling.* Any building, mobile home or trailer, structure or portion thereof which is occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, mobile home or trailer, structure, or portion thereof, or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.

*Lending institution, financial institution.* Any person, as defined in Chapter 1-2, engaged in the business of lending money or guaranteeing loans.

*Mortgage broker.* An individual who is engaged in or performs the business or services of a mortgage broker as the same are defined by Florida Statutes.

*Real estate broker, real estate salesman.* Any individual who, for a fee, commission, salary or for other valuable consideration, who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities, or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan secured by a mortgage or other encumbrance upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

*To rent.* To lease, to sublease, to let and to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(Code 1968, § 80-21; Ord. No. 60-82, § 1, 5-2-782)

**Cross reference—** Definitions and rules of construction generally, Ch. 1-2.

Sec. 5-2-18. - Discrimination prohibited.

It shall be unlawful within the city for a person, owner, financial institution, real estate broker, or real estate salesman, or any representative of the above to:

- (1) Refuse to sell, purchase, rent or lease, or otherwise deny to or withhold any housing accommodation from a person, or to evict a person because of his race, color, religion, sex, national origin, place of birth, age (provided the

person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability;

- (2) Discriminate against a person in the terms, conditions of privileges of the sale, purchase, rental or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith;
- (3) Refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability;
- (4) Evict or to refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, ancestry or ~~physical~~ disability;
- (5) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease, when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability when such dwelling is in fact available to persons who are financially qualified;
- (6) Make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodations, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to discriminate;
- (7) Offer, solicit, accept or use a listing of any housing accommodations for sale, purchase, rental or lease knowing that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishings of facilities or services in connection therewith;
- (8) Induce or discourage, or attempt to induce or discourage the sale, purchase, rental, lease, or the listing for the sale, purchase, rental or leasing of any housing accommodations in an area, by means of causing panic, inciting unrest, or creating or playing upon fear, by representing that the presence or anticipated presence in that area of persons of any particular race, color, religion, ancestry, sex, place of birth, ~~physical handicap-disability, marital status~~, or national origin, will or may result in the lowering of property value in the area, the increase in criminal or antisocial behavior in the area, or a decline in the quality of the schools serving the area;
- (9) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole

or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to an applicant for a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability of such person or of any person associated with him in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given;

- (10) Deny any person who is otherwise professionally qualified by state law access to, or membership or participation in, any multiple listing service, real estate brokers' organizations, ~~or organizations,~~ or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or ~~physical~~ disability;
- (11) Make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce a listing or any of the above transactions;
- (12) Engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation;
- (13) Retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this article;
- (14) Aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article; to obstruct or prevent any person from complying with the provisions of this article or any order issued thereunder;
- (15) Resist, prevent, impede or interfere with the fair housing board, or any of its members or representatives in the lawful performance of its or their duty under this article;
- (16) By canvassing, commit any unlawful practices prohibited by this article;
- (17) Otherwise deny to or withhold any housing accommodation from a person because of his race, color, religion, sex, national origin, place of birth, age

(provided the person has the capacity to contract), marital status, military status, ancestry or ~~physical~~ disability.

(Code 1968, § 80-22; Ord. No. 60-82, § 2, 5-27-82)

Sec. 5-2-19. - Exemptions.

This article shall not apply to:

- (1) *Religious organizations.* A religious organization, association, society, or any nonprofit institution or organization operating, supervised or controlled by or in conjunction with a religious organization, association or society, which limits the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or which gives preference to the persons, unless membership in such religion is restricted on account of race, color, sex, national origin, age (provided the person has the capacity to contract), marital status, military status or ~~physical~~ disability;
- (2) *Private clubs.* A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of the lodgings to its members or gives preference to its members;
- (3) *Certain single-family houses.* Any single-family house sold or rented by an owner, provided that the private individual owner does not own more than three (3) single-family houses at any one time; provided further, that in the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this subsection shall apply only with respect to one sale within any twenty-four-month period; provided further, that the bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time; provided further the sale or rental of any single-family house shall be excepted from the application of this article only if the house is sold or rented:
  - (a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesman or person, and
  - (b) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code, Section 3604(c) or of section 5-2-18 of this article; but nothing in this provision shall prohibit the use of attorneys, escrow

agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

- (4) *Rooms in dwelling units occupied by no more than four families.* Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(Code 1968, § 80-23)

Sec. 5-2-20. - Fair housing director—Position created, appointment, staff, funding.

- (a) The office and position of fair housing director is hereby created and established.
- (b) The director shall be appointed by and serve at the will of the ~~Escambia-Pensacola Human Relations Commission~~Escambia County Human Relations Commission, Inc., doing business as the Escambia-Pensacola Human Relations Commission. The director shall be chosen by the Commission ~~Escambia-Pensacola Human Relations Commission~~ on the basis of qualifications and experience. The fair housing director shall serve under the supervision of the Commission ~~Escambia-Pensacola Human Relations Commission~~.
- (c) The Commission ~~Escambia-Pensacola Human Relations Commission~~ shall appoint assistants to the director as may be necessary, subject to budget limitations, and shall provide the director required administrative support.
- (d) This office shall be funded annually ~~with community development block grant funds~~ as approved by the Pensacola City Council.

**Commented [JW2]:** CDBG funds have not been used for many years to fund this office.

(Code 1968, § 80-24)

Sec. 5-2-21. - Same—Duties and powers.

Subject to the provisions of subsection 1-1-1(c), the duties, functions, powers and responsibilities of the fair housing director may include:

- (1) Implementing the provisions of this article and rules and regulations promulgated hereunder and all city ordinances, codes, rules and regulations pertaining to housing discrimination;
- (2) Investigating any and all complaints of unlawful practices in violation of this article, seeking conciliation between the complainant and the respondent, and if in the opinion of the director such conciliation is not reached within sixty (60) days of receipt of the complaint, reporting his findings and recommendations to the fair housing board and carrying out the directives of the board;
- (3) Providing assistance in all matters relating to equal housing opportunity within the city;
- (4) Publishing and disseminating public information and educational materials relating to housing discrimination;

- (5) Subject to the approval of the fair housing board, entering into written working agreements, as may be necessary to effectuate the purposes of this article, with federal, state and county agencies involved in reducing housing discrimination;
- (6) Keeping the fair housing board fully and currently informed of all complaints alleging violations of this article and actions taken thereon, and of other actions taken by the director under the provisions of this section; and attending all meetings of the fair housing board;
- (7) Implementing recommendations received from the fair housing board concerning this article and the carrying out of its purpose. When in the opinion of the director, effectuating any such recommendation would be undesirable or infeasible, he will promptly so report to the board, with his reasons; any differences of judgment not susceptible of agreement between board and director will be referred to the mayor for his determination, and the board may, if it feels the matter warrants, further carry any disagreement to the city council for decision;
- (8) Making semiannual reports to the city council, through the mayor and to the fair housing board concerning the status of housing discrimination in the city and the enforcement of the provisions of this article, and making recommendations concerning methods by which to reduce the discrimination.

(Code 1968, § 80-25; Ord. No. 60-82, § 3, 5-27-82; Ord. No. 16-10, § 58, 9-9-10)

Sec. 5-2-22. - Fair housing board—Created.

The city's fair housing board is hereby created and established. The Escambia County Human Relations Commission, Inc., doing business as the Escambia-Pensacola Human Relations Commission is hereby vested with the authority to act as the fair housing board. The qualifications of members, terms of office, organization of the board, and meetings of the board will coincide with those of the -Commission, Escambia-Pensacola Human Relations Commission.

(Code 1968, § 80-26)

Sec. 5-2-23. - Same—Duties, powers, functions.

The board shall have the following duties, powers, functions and responsibilities:

- (1) Making recommendations to the director for the enforcement of this article and the carrying out of its purpose;
- (2) Reviewing the director's actions and decisions on all complaints of housing discrimination received by or initiated by him or her;
- (3) Conducting public hearings and making determinations concerning the director's actions and decisions on the complaints upon appeal by either complainant or respondent, at the request of the director, or when the board deems it desirable, on its own initiative;

- (4) In carrying out the functions of subsections (2) and (3) above, the board shall have the power to uphold, rescind, reverse, or modify the actions, decisions, and recommendations of the director;
- (5) Administering oaths and compelling the attendance of witnesses and the production of evidence before it by subpoenas issued by the chairman of the board;
- (6) Reviewing and commenting on the director's semiannual report, forwarding each comment to the city council;
- (7) In coordination with the director, taking other informational, educational or persuasive actions to implement the purpose of this article.

(Code 1968, § 80-27)

REPEAL SECTION 5-2-24.

~~Sec. 5-2-24. Complaint procedure.~~

- ~~(a) Any person aggrieved by an unlawful practice prohibited by this article must file a written complaint with the director or his designated representative within forty five (45) days after the alleged unlawful practice occurs.~~
- ~~(b) Upon receipt of a complaint, the director shall serve upon the individual accused of committing a violation (hereinafter referred to as the respondent) the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a fair and full hearing on the matter before adjudication by the fair housing board. The service may be by personal service or by certified mail.~~
- ~~(c) The director shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the director shall file a written report with the board, with findings of fact.~~
- ~~(d) Copies of the director's report shall also be sent to the complainant and the respondent. Either may, within ten (10) days after the services, request a hearing before the board.~~
- ~~(e) When the director, the complainant or the respondent requests a hearing by the board, or when the board itself determines that a hearing is desirable, the board shall call and conduct the hearing in accordance with section 5-2-25.~~
- ~~(f) Where no board hearing is requested or directed, the board will expeditiously review the report of the director, and shall approve, rescind, reverse or modify the director's findings and determinations of action.~~
- ~~(g) The director shall carry into execution the actions specified in his report, as approved or altered by the board in its review, or, if a hearing is held, shall carry into execution the actions taken by the board in the hearing.~~
- ~~(h) The director in his report, as approved by the board, or the board after hearing may determine that:~~



- ~~(1) The complaint is not meritorious or evidence supporting the complaint is insufficient;~~
- ~~(2) The complaint has been adequately dealt with by conciliation of the parties or by voluntary compliance by the respondent(s); or~~
- ~~(3) The complaint is meritorious.~~
- ~~(i) If the director's report as approved by the board or if the board, after hearing, determines that the complaint is meritorious, then the director shall order the respondent to comply with this article within thirty (30) days. If the director finds that the respondent has not timely complied with this article, then the director may assist the complainant in prosecuting a civil action against the respondent for discriminatory housing practice or other violation of this article or file in the office of the state attorney an affidavit of criminal violation of this article, when authorized by the board. Any assistance provided to a complainant pursuant to this section shall be limited to gathering and presenting evidence or testimony or other technical assistance.~~
- ~~(j) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this article.~~
- ~~(k) All papers or pleadings required by this article to be served may be served by certified mail or in accordance with the provisions of Rule 1.080(b), Florida Rules of Civil Procedure.~~

~~(Code 1968, § 80-28)~~

#### REPEAL SECTION 5-2-25.

##### Sec. 5-2-25. Hearings.

- ~~(a) When a hearing is required before the fair housing board as specified in subsection 5-2-24(e), the board shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of the notice and of the director's written report.~~
- ~~(b) The parties, or their authorized counsel, may file statements with the board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the board in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The board shall not be bound by strict rules of evidence prevailing in courts of law or equity but due process shall be observed. The board shall keep a full record of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings the director shall furnish the party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.~~
- ~~(c) The board shall make a finding of fact, and a determination of action to be taken.~~

- ~~(d) The board may issue subpoenas to compel access to or the production or appearance of premises, records, documents, individuals and other evidence or possible sources of evidence relative to the complaint at issue.~~
- ~~(e) Upon written application to the board, a complainant or a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the board, to the same extent and subject to the same limitations as subpoenas issued by the board itself. Subpoenas issued at the request of a complainant or a respondent shall show on their face the name and address of the complainant or respondent and shall state that they were issued at his request.~~
- ~~(f) Witnesses summoned by subpoena of the board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the state courts of Florida. Fees payable to a witness summoned by a subpoena issued at the request of the complainant or respondent shall be paid by him, unless he is indigent in which case the city shall bear the cost of the fees.~~
- ~~(g) Within ten (10) days after service of a subpoena upon any persons, the person may petition the board to revoke or modify the subpoena. The board shall grant the petition if it finds that the subpoena requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.~~
- ~~(h) In case of refusal to obey a subpoena, the board or the person at whose request it was issued may petition for its enforcement in the appropriate court.~~

~~(Code 1968, § 80-29; Ord. No. 60-82, § 4, 5-27-82)~~

#### Sec. 5-2-26. - Other remedies.

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing of any complaint with any other agency or any court having proper jurisdiction.

(Code 1968, § 80-31)

#### Sec. 5-2-27. - Report to real estate commission.

If a real estate broker, a real estate ~~salesman~~sales agent, or an employee thereof, has been found to have committed an unlawful practice in violation of this article, or has failed to comply with an order issued by the director, the director shall, in addition to the other procedures and penalties set forth herein, report the facts to the real estate commission of the state.

(Code 1968, § 80-32)

### CHAPTER 5-3. DOMESTIC PARTNERSHIP REGISTRY

#### Sec. 5-3-1. - Definitions.

**Commented [JW3]:** Recommend consideration of repeal in light of U.S. Supreme Court case Obergefell v. Hodges (2015) or sunset

For purposes of this chapter:

*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 partnership relationship as described in section 5-3-2.

*City clerk* means the City Clerk of the City of Pensacola or such other person or office approved by the city council to administer the domestic partnership registry.

*Correctional facility* means holding cells, jails, and juvenile correction centers of any kind, located within or under the jurisdiction of the City of Pensacola.

*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.

*Domestic partners* means only two (2) adults who are parties to a valid domestic partnership relationship and who meet the requisites for a valid domestic partnership relationship as established pursuant to section 5-3-2.

*Health care facility* includes, but is not limited to, hospitals, nursing homes, hospice care facilities, convalescent facilities, walk-in clinics, doctors' offices, mental health care facilities, and any other short-term or long-term health care facilities located within the City of Pensacola.

*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 shelter.

*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 (2) 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.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-2. - Registration of domestic partnerships.

- (a) A domestic partnership may be registered by any two (2) persons by filing an affidavit of domestic partnership with the city, which affidavit shall comply with all requirements set forth in this chapter for establishing such domestic partnership. Upon payment of any required fees, the city clerk shall file the affidavit of domestic partnership and issue a certificate reflecting the registration of the domestic partnership in the city. The city clerk shall record the affidavit with the Escambia County Clerk of Court.

(b) An affidavit of domestic partnership shall contain the name and address of each domestic partner, the signature of each partner, and the signatures of two (2) witnesses for each partner's signature, 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 or a member of 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;
- (5) The partners reside together in a mutual residence;
- (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 if one of the domestic partners wishes to terminate the domestic partnership; and
- (7) Each person expressly declares their desire and intent to designate their domestic partner as their healthcare surrogate and as their agent to direct the disposition of their body for funeral and burial.

(c) Any partner to a domestic partnership may file an amendment to the domestic partnership certificate issued by the city clerk to reflect a change in his or her legal name or address. Amendments shall be signed by both members of the registered domestic partnership under oath.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-3. - Termination of registered domestic partnership relationship.

(a) Either partner to a registered domestic partnership relationship may terminate such relationship by filing a notarized affidavit of termination of domestic partnership relationship with the city clerk. Upon the payment of the required fee, the city clerk shall file the affidavit and issue a certificate of termination of domestic partnership relationship to each partner of the former relationship. The termination shall become effective ten (10) days from the date the certificate of termination is issued.

(b) Automatic termination. A registered domestic partnership shall automatically terminate upon notice to the city clerk of the following events:

- (1) One (or both) of the domestic partners marries in Florida;
- (2) One of the domestic partners dies, except that upon the occurrence of this event the provisions relating to funeral and burial decisions shall survive; or
- (3) One of the domestic partners registers with another partner.

The marrying, surviving, or re-registering domestic partner(s) shall file an affidavit terminating the domestic partnership relationship within ten (10) days of one of the occurrences listed in subsections (b)(1)—(3) above.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-4. - Maintenance of records; filing fees.

- (a) The city clerk shall prepare the form of all affidavits, amendments, and certificates required to be filed under this chapter and shall record the same with the Escambia County Clerk of Court. The city clerk shall maintain a record of all affidavits, amendments, and certificates filed pursuant to this chapter.
- (b) The city clerk is authorized to establish fees for the filing of any affidavits, amendments, and the issuance of any certificates required by this act, subject to the approval of the Pensacola City Council. Any fees established under this section shall be commensurate with the actual costs of administering the provisions of this chapter.
- (c) The city clerk is authorized and directed to take all actions necessary to implement the provisions of this section within ninety (90) days after this chapter is created.
- (d) If Escambia County, Florida establishes a domestic partnership registry law that is substantially similar to the City of Pensacola's domestic partnership registry provisions, the city clerk shall collaborate with Escambia 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 to the city clerk shall mean the filing officer for the joint registry approved by city council and Escambia County.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-5. - 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, registered domestic partners shall have the following rights:

- (a) *Health care facility visitation.* All health care facilities operating within the city 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 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. Registry 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 healthcare surrogate as provided in F.S. Ch.

765, and otherwise as provided by federal law. Further, no person designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon his or her status as the domestic partner of the partner on whose behalf health care decisions are to be made. Any statutory form, including but not limited to, a living will or health care surrogate designation in the form prescribed by F.S. Ch. 765, that is properly executed after the date of registration and that contains conflicting designations shall control over the designations by virtue of the registration.

- (c) *Funeral and burial decisions.* Registry 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 purposes as provided in F.S. Ch. 497, unless the decedent provides conflicting, written inter vivos authorization and directions that are dated after the date of the registration, in which case the later dated authorization and directions shall control.
- (d) *Correctional facility visitation rights.* Any person who is a party to a registered domestic partnership relationship pursuant to section 5-3-2 shall be entitled to visit his or her domestic partner, or other family member of the domestic partner, who is an inmate at a correctional facility located within the City of Pensacola, upon the same terms and conditions under which visitation is afforded to spouses, dependents, or parents of inmates. Visitation rights provided by this section shall extend to any children of the domestic partners, and the domestic partners of an inmate's parents or children.
- (e) *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, or when permission is granted to correctional facility inmates to contact family members, "notification of family" shall include registered domestic partners.
- (f) *Preneed guardian designation.* A person who is a party to a registered domestic partnership relationship, pursuant to section 5-3-2 above, shall have the same right as any other individual to be designated as a preneed guardian pursuant to F.S. Ch. 744, 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 preneed guardian of his or her domestic partner or the partner's property under the provisions of F.S. Ch. 744, 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.
- (g) *Participation in education.* To the extent allowed by federal and state law, and in a manner consistent with any applicable court orders or valid agreements or contracts, 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 has to participate in the education of their child, in all educational facilities located within or under the jurisdiction of the

city. However, if a biological parent of a minor dependent, whose parental rights have not been terminated, objects to the participation of a non-biological registered domestic partner in education conferences or other dissemination of educational information, only the participation of the biological parents shall be allowed.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-6. - Limited effect.

(a) Nothing in this article shall be interpreted to alter, affect, or contravene city, county, state, or federal law or impair any court order or contractual agreement.

(b) Nothing in this article shall be construed as recognizing or treating a registered domestic partnership as a marriage.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-7. - Enforcement.

A registered domestic partner may enforce the rights under section 5-3-5 by filing a private judicial action against a person or entity in any court of competent jurisdiction for declaratory relief, injunctive relief, or both.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-8. - Recognition of domestic partnerships registered in other jurisdictions.

All rights, privileges, and benefits extended to domestic partnerships registered pursuant to this chapter shall also be extended to domestic partnerships registered pursuant to domestic partnership laws in other jurisdictions, so long as the registry documents issued by other jurisdictions comply with all applicable state and federal requirements. If a conflict occurs between jurisdictions, this chapter shall govern in the city.

(Ord. No. 41-13, § 1, 12-12-13)