

CITY COUNCIL REGULAR SESSION

Ordinance amending Chapter 3.79 of the Bellevue City Code (Human Resources Code); amending Subsection 3.79.040(R) and Subsection 3.79.135(B); to (1) align the definition of “domestic partner” with the eligibility requirements under State law and (2) establish consistent requirements for declarations of marriage and domestic partnerships.

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EXECUTIVE SUMMARY

This Ordinance authorizes a change to the definition of “domestic partner” in the City’s Human Resources Code Chapter 3.79 to align with the eligibility requirements for a state registered domestic partnership under Chapter 26.60 RCW. It provides that employees in domestic partnerships are subject to the same requirements for declaring that they are in an eligible domestic partnership that married couples must satisfy in order to verify eligibility for City-provided benefits.

RECOMMENDATION

Move to adopt Ordinance No. 6520

BACKGROUND/ANALYSIS**History****1. State Establishes Domestic Partnership**

In 2007, the Washington State Legislature passed Substitute Senate Bill 5336, creating a state domestic partnership registry, establishing eligibility requirements to enter into a state registered domestic partnership, and extending certain powers and rights granted to spouses to registered domestic partners (e.g. health care facility visitation rights, ability to grant informed consent for health care, ability to authorize autopsies and request autopsy reports and records, right to control disposition of the remains of a deceased person). Individuals seeking to enter into a state registered domestic partnership under this law were required to:

- Share a common residence;
- Be at least 18 years of age;
- Not be married to, nor be in a state registered domestic partnership with, someone other than the person with whom they are entering into a domestic partnership;
- Be capable of consenting to the partnership;
- Not be nearer of kin than second cousins nor be a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and
- Be members of the same sex, or one of the persons must be at least 62 years of age.

When this law was passed in 2007, marriage between same-sex partners was prohibited. The creation of the state registered domestic partnership extended certain powers and rights that were only afforded to opposite-sex couples to same-sex couples as well.

2. City Establishes Domestic Partnership

After the state law establishing domestic partnerships was passed in 2007, the City Council established a definition of domestic partnership in the Bellevue City Code (BCC) and extended certain benefits to domestic partners of employees and their children. This action also followed a lawsuit filed on behalf of employees at the time seeking domestic partner benefits for their same-sex partners and dependent children.

On June 4, 2007, the City Council passed Ordinance No. 5744, which amended the BCC to add a definition of “domestic partner,” amended the definition of “immediate family” to provide certain benefits for employees’ domestic partners and their dependents, and added a new section to the BCC to provide for declarations of marriage and domestic partnership. Under this Ordinance, a “domestic partner” was defined as persons of the same or different sex who:

- Are not in a marriage legally recognized by the State of Washington;
- Are at least 18 years old;
- Are not related by blood to a degree of closeness that would prohibit legal marriage in Washington State; and
- Are jointly responsible for each other’s common welfare and shared financial obligations.

This broad definition of domestic partner applied to same and opposite sex domestic partners and reflected a common approach among other jurisdictions at the time. “Domestic partners” as defined by the City Code (BCC 3.79.040) and their dependents became eligible for medical, dental and vision coverage, life and accidental death coverage, the employee assistance program, the employee’s access to leave benefits and continuation of benefits rights upon termination under COBRA.

To establish eligibility for benefits, domestic partners are required to provide a signed declaration. They need to be able to provide at least three documents supporting their domestic partnership upon request (e.g. joint mortgage or lease, designation of domestic partner as beneficiary for life insurance, designation of domestic partner as beneficiary for retirement contract, joint checking or credit account, joint ownership of motor vehicle). Proof of Washington State registration as a domestic partnership is only one of a number of possible documents acceptable to verify the existence of a qualifying domestic partnership.

3. State Legalizes Same-Sex Marriage

In 2012 Washington State voters passed Referendum 74, which allowed same sex couples to marry.

As part of the law, all same-sex, state-registered domestic partnerships where neither party was at least 62 years old were automatically converted to marriage as of June 30, 2014.

In light of the new right of same-sex couples to marry, the State also narrowed the definition of a state registered domestic partner to require that couples have at least one individual who is 62 years of age or older.

The following local jurisdictions now have definitions of domestic partnership that align with the State of Washington definition: Redmond, Bothell, Issaquah, Renton, Kent, Auburn, Tacoma and Bellingham.

Since both same and opposite sex couples are now allowed to marry under State law, one policy interest in maintaining a broad definition of “domestic partner” in the City Code – equality for same-sex couples – is now addressed by State law.

Objective of Proposed City Code Change

The Bellevue City Code change will align the definition of “domestic partner” with the eligibility requirements under State law in Chapter 26.60 Revised Code of Washington (RCW) and will establish consistent requirements for declarations of marriage and domestic partnerships.

Implementation of New Definition

The definition change in domestic partner will require domestic partners to establish a state registered partnership as outlined by Chapter 26.60 RCW in order to continue to be eligible for City-provided benefits. Corresponding changes will follow to the Human Resources Policies and Procedures Manual (HRPPM) and affected benefits plans under the direction of the City Manager. Rather than allowing for a wide range of documentation to verify that a domestic partnership exists for purposes of eligibility for benefits, the proposed Ordinance will require that in the same way married employees must have and be able to provide proof of a marriage license if requested, employees in a domestic partnership must also have and be able to provide proof of a State registered domestic partnership if requested.

The implementation of the new domestic partner definition would be applied to employees in a phased approach from 2021 through 2023:

- Effective January 1, 2021 all new domestic partnerships must be registered in the State of Washington.
- All domestic partnerships that exist as of December 31, 2020 will be “grandfathered” for purposes of benefits eligibility for three calendar years (2021, 2022, 2023).
- As of January 1, 2024, only State registered domestic partners (and any of their dependents) of employees will be eligible for City provided benefits.

Current Status

For represented employees, as of June 2020, seven of the City’s ten collective bargaining agreements (CBA) have been revised so they are not in conflict with this change. The City will negotiate the remaining three CBA’s and will notify and bargain to varying extents the change with all groups.

There are currently 34 employees who have a domestic partner as approved with the city’s eligibility requirements. The phased implementation for existing domestic partners will allow sufficient time for employees to apply for the State of Washington domestic partner registration process, to get married, or to arrange to obtain other healthcare coverage for their domestic partner.

POLICY & FISCAL IMPACTS

Policy Impact

As in 2007 when the City first passed an ordinance adding domestic partners to the Bellevue City Code, equity is one of the City's guiding principles in the development of wage and benefit policies. The alignment of the City's definition of "domestic partner" with State law will allow the City to seek and obtain the same kind of documentation of all employees for purposes of administering its benefit plans. Moreover, this approach is consistent with the City's core value of stewardship, as it will enable the City to timely and effectively administer benefits plans in a manner that reduces the potential for error and/or fraud. It is fiscally responsible to be able to confirm, through independent means, whether a dependent of an employee is eligible to be covered by the City's policies and health and welfare programs. Because there is no standard manner to provide the City with verification of the domestic partner formation or dissolution outside of a City declaration form, the current definition for domestic partner may result in error and/or fraud in benefits plans administration, which impacts our claims experience and cost. By following the state registered domestic partnership process, all documents are verifiable.

Fiscal Impact

The precise fiscal impact of aligning the definition of "domestic partner" with the eligibility requirements under State law and establishing consistent requirements for declarations of marriage and domestic partnerships is not specifically known as costs vary per individual, depending on each person's health needs. Because one of the persons must be at least age 62 years of age, fewer individuals will meet the definition of domestic partner with potential costs savings, as fewer lives will be covered under health and welfare plans offered through the City of Bellevue.

OPTIONS

1. Adopt the Ordinance amending Chapter 3.79 of the Bellevue City Code (Human Resources Code); amending Subsection 3.79.040(R) and Subsection 3.79.135(B); to (1) align the definition of "domestic partner" with the eligibility requirements under State law and (2) establish consistent requirements for declarations of marriage and domestic partnerships.
2. Do not adopt the Ordinance and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

Proposed Ordinance No. 6520

AVAILABLE IN COUNCIL LIBRARY

N/A