

ORDINANCE NO. 13-

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA,
5 AMENDING CHAPTER 9 ENTITLED “HUMAN RIGHTS” OF
6 THE CODE OF LAWS OF LEON COUNTY, FLORIDA, BY
7 ENACTING A NEW ARTICLE V ENTITLED “DOMESTIC
8 PARTNERSHIP REGISTRY” PROVIDING FOR THE
9 ESTABLISHMENT OF A DOMESTIC PARTNERSHIP
10 REGISTRY; PROVIDING FOR REGISTRATION OF A
11 DOMESTIC PARTNERSHIP; PROVIDING FOR
12 TERMINATION OF A REGISTERED DOMESTIC
13 PARTNERSHIP; PROVIDING FOR ADMINISTRATION OF
14 THE DOMESTIC PARTNERSHIP REGISTRY; PROVIDING
15 FOR RIGHTS OF REGISTERED DOMESTIC PARTNERS;
16 PROVIDING FOR ENFORCEMENT; PROVIDING FOR
17 RECIPROCITY; PROVIDING FOR PURPOSE AND INTENT;
18 PROVIDING FOR SEVERABILITY; AND PROVIDING AN
19 EFFECTIVE DATE.
20

21 WHEREAS, it is in the best interest of Leon County to treat all individuals fairly and
22 equitably; and,

23 WHEREAS, the Leon County Board of County Commissioners (the “Board”) finds that
24 Leon County residents establish and maintain important personal, emotional, and economic
25 relationships with individuals to whom they are not married under Florida law; and

26 WHEREAS, the Board recognizes that long-term committed domestic relationships
27 foster economic stability and emotional and psychological bonds; and

28 WHEREAS, the Board has determined that the establishment of a domestic partnership
29 registry will provide public acknowledgment of such couples’ relationship status and serve the
30 needs of individuals living in committed domestic relationships.

31 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR**
32 **LEON COUNTY, FLORIDA, that:**

1 **Section 1.** Chapter 9, Article V entitled “Domestic Partnership Registry” of the Leon
2 County Code of Laws is hereby created to read as follows:

3 **ARTICLE V. DOMESTIC PARTNERSHIP REGISTRY.**

4 **Sec. 9-56. Purpose and Intent.**

5 (a) The general purpose of this Article V is to afford adult couples, who are
6 not currently married under Florida law, the ability to register their
7 committed domestic partnership relationship, and to be extended certain
8 legal rights with respect to healthcare decisions, funeral and burial
9 decisions, preneed guardian designations, participation in the education
10 of a child, notification in emergencies, and, where appropriate,
11 healthcare and correctional facilities visitations.

12 (b) The provisions of this Article V shall be liberally construed to promote
13 the public safety, health and general welfare of the residents of Leon
14 County and to further the general policies and purposes stated herein.
15 However, this Article V shall not be construed to supersede, alter, affect,
16 or contravene any federal or state laws or regulations. Nothing in this
17 Article V shall be construed as recognizing or treating a Registered
18 Domestic Partnership as a marriage.

19 **Sec. 9-57. Definitions.**

20 The following words, terms and phrases, when used in this Article V, shall have the following
21 meanings ascribed to them in this Section 9-57, except where the context clearly indicates a
22 different meaning:

1 Affidavit means a sworn affidavit, signed and sealed by the County Clerk or his or her
2 designee, unless otherwise provided herein, which requires the affiant to swear or affirm under
3 oath, with penalty of perjury, that the statements and information provided within the Affidavit
4 are true and correct.

5 Affidavit of Domestic Partnership means an Affidavit which certifies that the two
6 Domestic Partners meet the requirements of a Domestic Partnership relationship.

7 Certificate of Registration means the certificate provided by the County Clerk's office
8 recognizing a Registered Domestic Partnership.

9 Correctional Facility means holding cells, jails, and juvenile correction centers of any
10 kind, located within or under the jurisdiction of Leon County.

11 County Clerk means the Clerk of the Court of Leon County, or his or her designee.

12 Dependent means an Individual who resides within the household of a Registered
13 Domestic Partnership and is:

14 (1) A biological, adopted or foster child of a Registered Domestic Partner; or

15 (2) A dependent of a Registered Domestic Partner as defined under IRS
16 regulations; or

17 (3) A ward of a Registered Domestic Partner as determined in a
18 guardianship or other legal proceeding.

19 Domestic Partner means one of two Individuals who are parties to a Domestic
20 Partnership.

21 Domestic Partnership means a committed domestic relationship between two Individuals
22 that meets all of the criteria described in subparagraphs 1, 2, 3, 4, 5, 6, 7 and 8 of Section 9-59(b)
23 of this Article V.

1 Healthcare Facility includes, but is not limited to, hospitals, convalescent facilities,
2 nursing homes, walk-in clinics, doctor's offices, mental health care facilities and other short-
3 term and long-term facilities located within, or under the jurisdiction of, Leon County.

4 Individual means a single human being as distinguished from a group, class, partnership,
5 corporation, or association.

6 Jointly Responsible means each Domestic Partner mutually agrees to provide for the
7 other Domestic Partner's basic food, shelter, and common necessities of life while the Domestic
8 Partnership is in effect, except that such Domestic Partners need not contribute equally or jointly
9 to said basic food, shelter and common necessities of life.

10 Recording means having the County Clerk's Office's record a document in the Official
11 Records of Leon County, Florida.

12 Recorded means the County Clerk's Office has recorded a document in the Official
13 Records of Leon County, Florida.

14 Registered Domestic Partnership means a Domestic Partnership which has been
15 effectively registered in accordance with the provisions of this Article V; provided, however, that
16 upon termination of such Registered Domestic Partnership, pursuant to this Article V, the
17 Registered Domestic Partnership shall be deemed to be dissolved.

18 Registered Domestic Partner means one of two Domestic Partners who are parties to a
19 Registered Domestic Partnership.

20 **Sec. 9-58. Establishment of domestic partnership registry.**

21 There is hereby created in the Leon County a domestic partnership registry, which shall
22 be maintained by the County Clerk in accordance with the provisions of this Article V.

23

1 **Sec. 9-59. Registration of Domestic Partnership.**

2 (a) Registration. Domestic Partners may register their Domestic Partnership
3 by duly executing and Recording an Affidavit of Domestic Partnership.
4 The Affidavit of Domestic Partnership shall comply with all requirements
5 for establishing a Registered Domestic Partnership as described in this
6 Article V. Upon payment of any required fees, the County Clerk's office
7 shall record the Affidavit of Domestic Partnership as an Official Record of
8 Leon County, issue the Registered Domestic Partners a Certificate of
9 Registration and the original Recorded Affidavit of Domestic Partnership,
10 and issue each Registered Domestic Partner a laminated card recognizing
11 the Registered Domestic Partnership in Leon County.

12 (b) Affidavit. An Affidavit of Domestic Partnership shall contain the name
13 and address of each Domestic Partner, the signature of each Domestic
14 Partner, the signatures of two witnesses who are not related by blood to
15 either Domestic Partner, and each Domestic Partner shall swear or affirm,
16 in the presence of the County Clerk or his or her designee, under oath,
17 with penalty of perjury, that they:

18 (1) Are at least eighteen (18) years old and competent to contract;

19 (2) Are not currently married under Florida law;

20 (3) Are not currently a partner in a domestic partnership relationship
21 or a member of civil union with anyone other than the co-
22 applicant;

23 (4) Are not blood relatives where one Domestic Partner is the direct

1 ascendant or direct descendant of the other Domestic Partner (such
2 as son, daughter, parent, or grandparent), and are not blood
3 relatives where one Domestic Partner is a sister, brother, aunt,
4 uncle, niece or nephew of the other Domestic Partner;

5 (5) Consent to the Domestic Partnership and to registering the
6 Domestic Partnership with the County Clerk's office without force,
7 duress, or fraud;

8 (6) Agree to be Jointly Responsible in the support of the Domestic
9 Partnership as defined in this Article V;

10 (7) Expressly declare his or her desire and intent to designate their
11 Domestic Partner as their healthcare surrogate and as their agent to
12 direct the disposition of their body for funeral and burial; and

13 (8) Consider himself or herself to be in a committed domestic
14 relationship with the other Domestic Partner, and consider himself
15 or herself to be a member of the immediate family of the other
16 Domestic Partner.

17 (c) Documentation. As evidence of identity, each of the Domestic Partners
18 shall present one of the following documents for review by the County
19 Clerk or his or her designee, along with the Affidavit of Domestic
20 Partnership: a Florida driver's license, a Florida Identification Card, a
21 United States Passport, or any other document listed in the Florida
22 Governor's Reference Manual for Notaries as satisfactory evidence. The
23 County Clerk's office shall identify on the face of the Affidavits of

1 Domestic Partnership what types of documents were presented as evidence
2 of identity; however such documents of evidence of identify shall not be
3 Recorded.

4 (d) Affidavit of Amendment. Registered Domestic Partners may amend a
5 Registered Domestic Partnership to reflect a change in either Registered
6 Domestic Partner’s legal name by presenting a certified copy of the court
7 order granting the legal name change, for review by the County Clerk or
8 his or her designee, and Recording an Affidavit of Amendment of
9 Registered Domestic Partnership (“Affidavit of Amendment”) with the
10 County Clerk’s office; however such court order shall not be Recorded.
11 Affidavits of Amendment shall be signed by both Registered Domestic
12 Partners in the presence of the County Clerk or his or her designee, and
13 each Domestic Partner shall swear and affirm, in the presence of the County
14 Clerk or his or her designee, under oath, with penalty of perjury, that the
15 statements and information provided in the Affidavit of Amendment are
16 true and correct.

17 **Sec. 9-60. Termination of registered domestic partnership.**

18 (a) Obligation to notify County Clerk. Registered Domestic Partners shall be
19 required to notify the County Clerk’s office, by duly executing and
20 Recording an Affidavit of Termination of Registered Domestic
21 Partnership (“Affidavit of Termination”), if one or more of the Domestic
22 Partners wishes to terminate the Registered Domestic Partnership or if the
23 Registered Domestic Partnership automatically terminates pursuant to

1 Section 9-60(d).

2 (b) Affidavit of termination. Either Registered Domestic Partner may
3 terminate a Registered Domestic Partnership by duly executing and
4 Recording an Affidavit of Termination. Affidavits of Termination shall be
5 signed by one or both Registered Domestic Partners, in the presence of the
6 County Clerk or his or her designee, who shall swear or affirm, with
7 penalty of perjury, that:

- 8 (1) The Registered Domestic Partnership is to be terminated;
9 (2) That the statements and information provided in the Affidavit of
10 Termination are true and correct, and,
11 (3) If the Affidavit of Termination is not signed by both Registered
12 Domestic Partners, then the Registered Domestic Partner who is
13 duly executing and Recording the Affidavit of Termination shall
14 provide the County Clerk's office with their former domestic
15 partner's last known mailing address. The County Clerk's office
16 shall send a copy of the Certificate of Termination of Domestic
17 Partnership to the former domestic partner at the address provided.

18 (c) Effective date of termination. Unless automatically terminated, pursuant
19 to Section 9-60(d), the termination of the Registered Domestic
20 Partnership shall become effective on the date the Affidavit of
21 Termination was Recorded ("Date of Termination"). As of the Date of
22 Termination, the parties to the terminated Registered Domestic
23 Partnership shall no longer be considered Registered Domestic Partners,

1 and the Registered Domestic Partnership shall be deemed dissolved.

2 (d) Automatic termination. A Registered Domestic Partnership shall
3 automatically terminate in the event that:

4 (1) One (or both) of the Registered Domestic Partners becomes
5 married under Florida law;

6 (2) One of the Registered Domestic Partners dies; provided,
7 however, the provisions provided in this Article V relating to
8 funeral and burial decisions shall survive; or

9 (3) One of the Registered Domestic Partners enters into a civil
10 union or Registered Domestic Partnership with someone other
11 than his or her Registered Domestic Partner.

12 The marrying, surviving or re-registering partner(s) shall be responsible
13 for duly executing and Recording an Affidavit of Termination within ten
14 (10) days of one of the occurrences listed in (d) 1 – 3 above; provided,
15 however, the Date of Termination shall be deemed to be the date upon
16 which such occurrence occurred. It shall not be the duty of the County
17 Clerk, or any agent or employee of Leon County or of the County Clerk,
18 to monitor or verify the continuing legal validity of a Registered Domestic
19 Partnership.

20 **Sec. 9-61. Administration of the domestic partnership registry.**

21 (a) The County Clerk is authorized to collect the following fees, which may
22 be adjusted by resolution of the Board:

23 (1) For Recording and administering the Affidavits of Domestic

1 Partnership, for providing the Registered Domestic Partners with
2 a Certificate of Registration and the original Recorded Affidavit
3 of Domestic Partnership at the time of Recording, and for
4 providing each Registered Domestic Partner with a laminated
5 card recognizing the Registered Domestic Partnership in Leon
6 County - \$50.00

7 (2) For Recording and administering Affidavits of Amendment -
8 \$20.00

9 (3) For Recording and administering Affidavits of Termination, and
10 for sending the prior domestic partner a certificate of termination
11 of domestic partnership when only one Registered Domestic
12 Partner duly executes and has an Affidavit of Termination
13 Recorded - \$20.00

14 (4) For certified copies of an Affidavit of Domestic Partnership -
15 \$6.00

16 (5) For an additional copy of the Certificate of Registration, or an
17 additional laminated card recognizing the Registered Domestic
18 Partnership in Leon County - \$5.00.

19 (b) The County Clerk shall collect a fee in the amount established pursuant
20 to state public records law for copies of documents related to Domestic
21 Partnerships.

22 (c) The County Clerk shall keep and maintain, or arrange for the
23 maintenance of, an online searchable computer database record of all of

1 the Affidavits of Domestic Partnerships, Affidavits of Amendment, and
2 Affidavits of Termination which have been Recorded with Leon County.

- 3 (d) The County Clerk shall provide the forms for the Affidavit of Domestic
4 Partnership, Affidavit of Termination, and Affidavit of Amendment to
5 Individuals requesting them. This provision may be satisfied by posting
6 the forms online in a printable format.

7 **Sec. 9-62. Rights of registered domestic partners.**

8 To the extent not superseded or pre-empted by federal laws, state laws, or other Leon
9 County law or ordinance, or contrary to rights conferred by contract or separate legal
10 instrument, Registered Domestic Partners shall have the following rights:

- 11 (a) Healthcare Facility visitation. All Healthcare Facilities operating within
12 Leon County or under the jurisdiction of Leon County shall honor the
13 Registered Domestic Partnership documentation issued pursuant to this
14 Article V as evidence of the Registered Domestic Partnership and shall
15 allow visitation rights as provided under federal law to the following: a
16 patient's Registered Domestic Partner, and a patient's Registered
17 Domestic Partner's Dependents, sons and daughters.

- 18 (b) Healthcare decisions. This section pertains to decisions concerning
19 both physical and mental health. Registry as a Registered Domestic
20 Partner shall be considered to be written direction by each Registered
21 Domestic Partner designating the other to make health care decisions for
22 their incapacitated Registered Domestic Partner, and shall authorize
23 each Registered Domestic Partner to act as the other's healthcare

1 surrogate as provided in Chapter 765, Florida Statute, and otherwise as
2 provided by federal law. Further, no Individual designated as a health
3 care surrogate shall be denied or otherwise defeated in serving as a
4 health care surrogate based solely upon his or her status as the
5 Registered Domestic Partner of his or her incapacitated Registered
6 Domestic Partner on whose behalf health care decisions are to be made.
7 If any health care surrogate designation forms are properly executed
8 after the date the Domestic Partners' Affidavit of Domestic Partnership
9 was Recorded, and such forms contain conflicting designations, the later
10 dated authorization and direction shall control.

11 (c) Funeral and burial decisions. Registry as Registered Domestic
12 Partners shall be considered to be written direction by the decedent
13 Registered Domestic Partner ("Decedent") of his or her intention to
14 have his or her Registered Domestic Partner direct the disposition of the
15 Decedent's body for funeral and burial purposes as provided in Chapter
16 497, Florida Statutes, unless the Decedent provides conflicting, written
17 inter vivos authorization and directions that are dated after the date the
18 Domestic Partner's Affidavit of Domestic Partnership was Recorded, in
19 which case the later dated authorization and directions shall control.

20 (d) Notification of family members. In any situation providing for
21 mandatory or permissible notification of family members, including, but
22 not limited to, notification of family members in an emergency, or when
23 permission is granted to inmates to contact family members, such

1 notification shall include a Registered Domestic Partner.

2 (e) *Preneed guardian designation.* An Individual who is a Registered
3 Domestic Partner shall have the same right as any other Individual to be
4 designated as a preneed guardian pursuant to Chapter 744, Florida
5 Statutes and to serve in such capacity in the event of his or her
6 Registered Domestic Partner's incapacity. A Registered Domestic
7 Partner shall not be denied or otherwise be defeated in serving as the
8 plenary guardian of his or her Registered Domestic Partner or of his or
9 her Registered Domestic Partner's property under the provisions of
10 Chapter 744, Florida Statutes, to the extent that the incapacitated
11 Registered Domestic Partner has not executed a valid preneed guardian
12 designation, based solely upon his or her status as the Registered
13 Domestic Partner of his or her incapacitated Registered Domestic
14 Partner.

15 (f) *Correctional Facility visitation rights.* Any Registered Domestic
16 Partner shall be entitled to visit his or her Registered Domestic Partner,
17 or other family member of his or her Registered Domestic Partner, who
18 is an inmate at a Leon County Correctional Facility under the same
19 terms and conditions which such visitation is afforded to spouses, sons,
20 daughters, and parents of inmates. Visitation rights provided by this
21 section shall extend to an inmate's Registered Domestic Partner, and an
22 inmate's Registered Domestic Partner's Dependents, sons, daughters, and
23 parents. Leon County Correctional Facilities shall honor the Registered

1 Domestic Partnership documentation issued pursuant to this Article V as
2 evidence of Domestic Partnership.

3 (g) Participation in Education. All educational facilities operating within
4 Leon County or under the jurisdiction of Leon County shall honor the
5 Registered Domestic Partnership documentation issued pursuant to this
6 Article V as evidence of the Registered Domestic Partnership and shall
7 allow, to the extent allowed by federal and state law, a Registered
8 Domestic Partner to have the same rights to participate in the education of
9 a Dependent of the Registered Domestic Partnership as a biological parent
10 has to participate in the education of their child. However, if a biological
11 parent of a minor dependent (whose parental rights have not been
12 terminated) objects to a Registered Domestic Partner (who is not a
13 biological parent of such minor dependent) participating in education
14 conferences or other dissemination of education information, then only the
15 biological parents shall be allowed to participate.

16 **Sec. 9-63. Enforcement.**

17 For the purpose of enforcing the provisions of this Article V:

- 18 (a) A person, as defined in Article I, Section 9-2 of this chapter, who fails to
19 grant within Leon County, Florida the rights conferred in this Article V
20 shall be deemed to have committed a “discriminatory practice”, as defined
21 in Article I, Section 9-2 of this chapter; and
- 22 (b) An aggrieved Registered Domestic Partner who claims to have been
23 injured by such discriminatory practice within Leon County, Florida shall

1 be considered an “aggrieved individual”, as defined in Article I, Section 9-
2 2 of this chapter; and

3 (c) Such Registered Domestic Partner who is an aggrieved individual may
4 commence a civil action in a court of competent jurisdiction in Leon
5 County, Florida against the person alleged to have committed a
6 discriminatory practice, in accordance with Article I, Section 9-4, Private
7 cause of action; remedies; provided, however, that the venue for all
8 purposes shall be in Leon County, Florida.

9 **Sec. 9-64. Reciprocity.**

10 All rights, privileges and benefits extended to Registered Domestic Partnerships
11 registered pursuant to this chapter shall also be extended to all Individuals legally
12 registered as a domestic partner under other domestic partnership laws within the State
13 of Florida (“Registered Domestic Partnership in Other Jurisdiction”) to the extent
14 allowed by law; provided, however the extension of such rights, privileges and benefits
15 shall be:

16 (a) extended only for the time that such Individuals are physically located
17 within the geographical area of Leon County, Florida; and

18 (b) limited to only those rights, privileges and benefits provided in this Article
19 V under Section 9-62, Rights of registered domestic partners.

20 Further, any person who has been asked to extend rights, privileges or benefits
21 provided under Section 9-62 to an Individual under this Section may request the
22 Individual to provide evidence of Registered Domestic Partnership in Other Jurisdiction,
23 and may require such evidence in advance of their extending the rights, privileges or

1 benefits that have been sought, and an Individual's failure to provide such evidence of
2 Registered Domestic Partnership in Other Jurisdiction voids such Individual's claims
3 under this chapter. If a conflict occurs between jurisdictions, this chapter shall govern
4 in Leon County.

5 **Section 2. Conflicts.**

6 All ordinances or parts of ordinances in conflict with the provisions of this
7 Ordinance are hereby repealed to the extent of such conflict, except to the extent of any
8 conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended,
9 which provisions shall prevail over any parts of this Ordinance which are inconsistent,
10 either in whole or in part, with the said Comprehensive Plan.

11 **Section 3. Severability.**

12 If any provisions or portion of this Ordinance is declared by any court of
13 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining
14 provisions and portions of this Ordinance shall remain in full force and effect.

15 **Section 4. Effective Date.**

16 This Ordinance shall become effective and in full force on May 1, 2013.
17

1 **Section 5. Codification.**

2 It is the intention of the Board that the provisions of this Ordinance shall become
3 and be made a part of the Leon County Code of Laws; and that sections of this
4 Ordinance may be renumbered or re-lettered, and the word “ordinance” may be changed
5 to “section”, “article”, or other appropriate word or phrase in order to accomplish such
6 intentions.

7
8 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon

9
10 County, Florida this _____ day of , 2013.

11
12 LEON COUNTY, FLORIDA

13
14 By: _____
15 Nicholas Maddox, Chairman
16 Board of County Commissioners

17
18
19 ATTESTED BY:
20 BOB INZER, CLERK OF THE COURT
21 LEON COUNTY, FLORIDA

22
23 APPROVED AS TO FORM:
24 COUNTY ATTORNEY’S OFFICE
25 LEON COUNTY, FLORIDA

26 By: _____
27 Bob Inzer, Clerk of Court
 Leon County, Florida

 By: _____
 Herbert W. A. Thiele, Esq.
 County Attorney