

**Attached is Replacement of
Attachment #1 to Item #19**

**Request to Schedule the First and Only
Public Hearing to Consider Establishing a
Domestic Partnership Registry for
March 12, 2013 at 6:00 p.m.**

Please note: This replacement of the draft proposed Ordinance for the establishment of a Domestic Partnership Registry is in draft form.

Meeting of Tuesday, February 12, 2013

This document distributed October 11, 2011.

ORDINANCE NO. 13-

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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” PROVIDING FOR THE ESTABLISHMENT
9 OF A DOMESTIC PARTNERSHIP REGISTRY; PROVIDING
10 FOR REGISTRATION OF A DOMESTIC PARTNERSHIP;
11 PROVIDING FOR TERMINATION OF A REGISTERED
12 DOMESTIC PARTNERSHIP; PROVIDING FOR
13 ADMINISTRATION OF THE DOMESTIC PARTNERSHIP
14 REGISTRY; PROVIDING FOR RIGHTS OF REGISTERED
15 DOMESTIC PARTNERS; PROVIDING FOR ENFORCEMENT;
16 PROVIDING FOR RECIPROCITY; PROVIDING FOR
17 APPLICABILITY; PROVIDING FOR CONFLICTS;
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 persons fairly and
22 equitably; and,

23 WHEREAS, the Board of County Commissioners recognizes that long-term
24 committed domestic relationships result in strong emotional and psychological bonds; and,

25 WHEREAS, the Board of County Commissioners has determined that the
26 establishment of a domestic partnership registry will serve the needs of persons living in
27 committed domestic relationships.

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

30 **Section 1.** Chapter 9, Article V entitled “Domestic Partnership Registry” of the Leon
31 County Code of Laws is hereby created to read as follows:
32

1 **ARTICLE V. DOMESTIC PARTNERSHIP REGISTRY.**

2 **Sec. 9-56. Authority; Applicability; Purpose and Intent.**

3 (a) This article is adopted pursuant to Article VIII, Section 1(g), Florida
4 Constitution, F.S. ch. 125, as amended, and the county Home Rule
5 Charter (Laws of Fla. Ch. 70-966, as amended).

6 (b) *Applicability.* This article shall apply throughout the county, both
7 within incorporated municipalities and the unincorporated area.

8 (c) *Purpose and Intent.*

9 (1) The Board of County Commissioners finds that there are many
10 individuals who establish and maintain a significant personal and
11 economic relationship with another individual. Individuals
12 forming such domestic partnerships often live in a committed
13 domestic relationship. Domestic partners are often denied certain
14 benefits and rights because there is no established system for such
15 relationships to be registered or recognized.

16 (2) The provisions of this article shall be liberally construed to
17 promote the public safety, health and general welfare of the
18 residents of the county and to further the general policies and
19 purposes stated herein. However, this article shall not be
20 construed to supersede, alter, affect, or contravene any federal or
21 state laws or regulations. Nothing in this article shall be
22 construed as recognizing or treating a registered domestic
23 partnership as a marriage.

1 **Sec. 9-57. Definitions.**

2 *Affidavit of domestic partnership* means a sworn affidavit under penalty of perjury,
3 which certifies that said individuals meet the requirements of a registered domestic partnership
4 as provided in this article.

5 *Competent to contract* means the two domestic partners are mentally competent to
6 contract.

7 *Correctional facility* means holding cells, jails, and juvenile correction centers of any
8 kind, located within or under the jurisdiction of Leon County.

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

10 *Dependent* means a person who resides within the household of a registered domestic
11 partnership and is:

- 12 (1) A biological, adopted or foster child of a registered domestic partner; or
13 (2) A dependent as defined under IRS regulations; or
14 (3) A ward of a registered domestic partnership as determined in a
15 guardianship or other legal proceeding.

16 *Domestic partners* means two adults who are parties to a committed domestic
17 relationship and who meet the requisites for a valid domestic partnership relationship as
18 established in this article.

19 *Domestic relationship* means a relationship intended to be of indefinite duration
20 between two individuals.

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

1 *Jointly responsible* means each domestic partner mutually agrees to provide for the other
2 partner's basic food, shelter, and common necessities of life while the domestic partnership is in
3 effect, but does not require that partners contribute equally to said basic food, shelter and
4 common necessities of life.

5 *Registered domestic partnership* means a committed relationship between two persons in
6 a domestic relationship who have registered their domestic partnership with the County Clerk in
7 accordance with the provisions of this article.

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

9 There is hereby created in the Leon County a domestic partnership registry, which shall
10 be maintained by the County Clerk.

11 **Sec. 9-59. Registration of domestic partnership.**

12 (a) *Registration.* A valid domestic partnership may be registered by two
13 persons in a committed domestic relationship by filing an affidavit of
14 domestic partnership with the County Clerk's office. The affidavit must
15 be signed under oath and notarized in the presence of the County Clerk or
16 his or her designee. The affidavit shall comply with all requirements for
17 establishing a domestic partnership as described in this article. Upon
18 payment of any required fees, the County Clerk's office shall file the
19 affidavit of domestic partnership and issue a certificate and laminated
20 cards to each partner reflecting the registration of the affidavit in the
21 county registry.
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(b) *Affidavit*. An affidavit of domestic partnership shall contain the name and address of each domestic partner, the signature of each partner, the signatures of two witnesses, and each partner shall swear or affirm under penalty of perjury that each partner:

- (1) Is at least 18 years old and competent to contact;
- (2) Is not currently married under Florida law;
- (3) Is not currently a partner in a domestic partnership relationship or a member of civil union with anyone other than the co-applicant;
- (4) Is not related by blood to the other partner as defined in Florida law;
- (5) Consents to the domestic partnership without force, duress, or fraud;
- (6) Agrees to be jointly responsible in the support of a domestic partnership as defined in this article;
- (7) Expressly declares his or her 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;
- (8) Considers himself or herself to be in a committed domestic relationship with the other partner, under circumstances satisfying the definition of domestic relationship as defined in this chapter.

1 (c) *Documentation.* As evidence of identity, one of the following documents
2 must be presented by both partners for review by the County Clerk along
3 with the affidavit of domestic partnership: a Florida driver's license, a
4 Florida Identification Card, a United States Passport, or any other
5 document listed in the Governor's Reference Manual for Notaries as
6 satisfactory evidence.

7 (d) *Amendment.* Partners in a domestic partnership may file an amendment to
8 the domestic partnership certificate and laminated card issued by the
9 County Clerk to reflect a change in either partner's legal name.
10 Amendments shall be signed by both domestic partners under oath and
11 notarized in the presence of the County Clerk or his or her designee.

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

13 (a) *Obligation to notify County Clerk.* Domestic partners shall be required to
14 immediately notify the County Clerk's office, by filing an affidavit of
15 termination of domestic partnership, if the terms of the registered domestic
16 partnership are no longer applicable or one of the domestic partners wishes
17 to terminate the domestic partnership.

18 (b) *Affidavit of termination.* Either registered domestic partner may terminate
19 a registered domestic partnership by filing an affidavit of termination with
20 the office of the County Clerk. Affidavits of termination of domestic
21 partnership shall be signed under oath and notarized. The person filing the
22 affidavit of termination shall swear and affirm, under penalty of perjury,
23 that:

- 1 (1) The registered domestic partnership is to be terminated; and,
- 2 (2) If the affidavit of termination is not signed by both registered
- 3 domestic partners, then the affidavit of notification must be
- 4 executed at the time of filing the termination with the County
- 5 Clerk, affirming that a copy of the affidavit of termination was
- 6 sent to the absent partner via certified U.S. Mail.

7 (c) *Effective date of termination.* The termination shall become effective on
8 the date of filing the affidavit of termination and, as applicable, the
9 affidavit of notification.

10 (d) *Automatic termination.* A registered domestic partnership shall
11 automatically terminate in the event that:

- 12 (1) One (or both) of the domestic partners marries in Florida;
- 13 (2) One of the domestic partners dies (provided, however, the
- 14 provisions relating to funeral and burial decisions shall survive);

15 or

- 16 (3) One of the domestic partners enters into a civil union or
- 17 registered domestic partnership with someone other than his or
- 18 her registered domestic partner.

19 The marrying, surviving or re-registering domestic partner(s) shall file a
20 declaration terminating the domestic partnership relationship within ten
21 (10) days of one of the occurrences listed in (d) 1 – 3 above. It shall not
22 be the duty of the County Clerk or any agent or employee of Leon County
23 to monitor or verify the continuing legal validity of a registered domestic

1 partnership.

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

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

5 (1) For recording and administering the affidavits of domestic
6 partnership - \$50.00

7 (2) For recording and administering amended affidavits of domestic
8 partnership - \$20.00

9 (3) For recording terminations of domestic partnership - \$20.00

10 (4) For certified copies of the affidavit of domestic partnership -
11 \$6.00

12 (5) For an additional copy of the certificate of registration - \$5.00.

13 (b) The County Clerk shall collect a fee in the amount established pursuant
14 to state public records law for copies of the domestic partnership
15 documents.

16 (c) The County Clerk shall keep a computer record of all affidavits of
17 domestic partnership, amendments and affidavits of terminations of
18 domestic partnership.

19 (d) The County Clerk shall identify on the face of the affidavit of domestic
20 partnerships what types of documents were presented for further
21 documentation. Such documents shall not be kept on file with the
22 County Clerk.

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1 (e) Upon receipt of an affidavit of domestic partnership signed by both
2 domestic partners and the requisite filing fee, the County Clerk shall
3 issue a certificate of domestic partnership and a laminated card to each
4 partner evidencing the registered domestic partnership.

5 (f) The County Clerk shall provide the domestic partnership affidavit forms
6 to persons requesting them. This provision may be satisfied by posting
7 the forms online in a printable format.

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

9 To the extent not superseded by federal or state laws, registered domestic partners shall
10 have the following rights:

11 (a) *Healthcare facility visitation.* All healthcare facilities operating within
12 Leon County shall honor the registered domestic partnership
13 documentation issued pursuant to this code as evidence of the
14 relationship and shall allow a registered domestic partner visitation as
15 provided under federal law. A dependent of a registered domestic
16 partner shall have the same visitation rights as a patient's child.

17 (b) *Healthcare decisions.* This section pertains to decisions concerning
18 both physical and mental health. Registry as a domestic partner shall be
19 considered to be written direction by each partner designating the other
20 to make health care decisions for their incapacitated partner, and shall
21 authorize each partner to act as the other's healthcare surrogate as
22 provided in Chapter 765, Florida Statute, and otherwise as provided by
23 federal law. Further, no person designated as a health care surrogate

1 shall be denied or otherwise defeated in serving as a health care
2 surrogate based solely upon his or her status as the domestic partner of
3 the partner on whose behalf health care decisions are to be made. Upon
4 request, the County Clerk shall also assist the registrants by providing
5 them with any desired statutory forms such as a living wills or health
6 care surrogate designation in the forms prescribed by Chapter 765,
7 Florida Statutes. The County Clerk shall not give advice relating to
8 these forms, but shall simply assist by providing and, if necessary,
9 notarizing the forms upon request. Any such forms properly executed
10 after the date of registration which contain conflicting designations shall
11 control over the designations by virtue of the registration.

12 (c) *Funeral/burial decisions.* Registry as a domestic partner shall be
13 considered to be written direction by the decedent of his or her intention
14 to have his or her 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 of
18 the registration, in which *case* the later dated authorization and
19 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) *Pre-need guardian designation.* A person who is a party to a registered
3 domestic partnership relationship, pursuant to Section 9.59 above, shall
4 have the same right as any other individual to be designated as a preneed
5 guardian pursuant to Chapter 744, Florida Statutes and to serve in such
6 capacity in the event of his or her domestic partner's incapacity. A
7 domestic partner shall not be denied or otherwise be defeated in serving
8 as the plenary guardian or his or her domestic partner or the partner's
9 property under the provisions of Chapter 744, Florida Statutes, to the
10 extent that the incapacitated partner has not executed a valid preneed
11 guardian designation, based solely upon his or her status as the domestic
12 partner of the incapacitated partner.

13 (f) *Correctional facility visitation rights.* Any person who is a party to a
14 registered domestic partnership, pursuant to this section, shall be entitled
15 to visit his or her domestic partner, or other family member of the
16 domestic partner, who is an inmate at a county correctional facility under
17 the same terms and conditions which such visitation is afforded to
18 spouses, children or parents of inmates. Visitation rights provided by this
19 section shall extend to any children of the domestic partner, and the
20 domestic partner's parents and children.

21 (g) *Participation in Education.* To the extent allowed by federal and state
22 law, a registered domestic partner shall have the same rights to participate
23 in the education of a dependent of the registered domestic partnership as a

1 biological parent to participate in the education of their child, in all
2 educational facilities located within or under the jurisdiction of Leon
3 County. However, if a biological parent of a minor dependent, whose
4 parental rights have not been terminated, objects to the participation of a
5 non-biological registered domestic partner in education conferences or
6 other dissemination of education information, only the participation of the
7 biological parents shall be allowed.

8 **Sec. 9-63. Enforcement.**

9 A registered domestic partner may enforce the rights conferred herein by filing a
10 private action against a person or entity in any court of competent jurisdiction for
11 declaratory relief, injunctive relief or both.

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

13 All rights, privileges and benefits extended to registered domestic partnerships
14 registered pursuant to this section shall also be extended to all persons legally partnered
15 under a domestic partnership ordinance in another jurisdiction.

16 **Section 2. Conflicts.**

17 All ordinances or parts of ordinances in conflict with the provisions of this
18 ordinance are hereby repealed to the extent of such conflict, except to the extent of any
19 conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended,
20 which provisions shall prevail over any parts of this ordinance which are inconsistent,
21 either in whole or in part, with the said Comprehensive Plan.

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Section 3. Severability.

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

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida this ____ day of , 2013.

LEON COUNTY, FLORIDA

By: _____

Nicholas Maddox, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By: _____

Bob Inzer, Clerk of Court
Leon County, Florida

By: _____

Herbert W. A. Thiele, Esq.
County Attorney