

## ORDINANCE 2013-01

AN ORDINANCE CREATING ARTICLE VI OF CHAPTER TWO OF THE CITY OF TAVARES CODE OF ORDINANCES CREATING A DOMESTIC PARTNERSHIP REGISTRY; ESTABLISHING POLICIES AND PROCEDURES FOR THE REGISTRATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR TERMINATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR DEFINITIONS; PROVIDING FOR CERTAIN RIGHTS; ESTABLISHING FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAVARES,  
FLORIDA:

## DOMESTIC PARTNERSHIP REGISTRY

## Section 1. - Definitions.

(a) Domestic Partners - means only two 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 1.1.

(b) **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 1.1

(c) 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.

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

(e) Correctional facility - means holding cells, jails, and juvenile correction centers of any kind, located within or under the jurisdiction of the City of Tavares.

(f) 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

44 both of their names. Two people may share a mutual residence even if one or both  
45 have additional places to live. Registered Domestic Partners do not cease to share a  
46 mutual residence if one leaves the shared place but intends to return.

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48 (g) Dependent - is a person who resides within the household of a registered  
49 domestic partnership and is:

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51 1. A biological, adopted or foster child of a registered Domestic  
52 Partner; or

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54 2. A dependent as defined under IRS regulations; or

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56 3. A ward of a registered Domestic Partner as determined in a  
57 guardianship or other legal proceeding.

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59 (h) City Clerk - means the City Clerk of the City of Tavares.

60 **Section 1.1. - Registration of Domestic Partnerships.**

61 a) A valid domestic partnership relationship may be registered by any two (2)  
62 persons by filing an affidavit of domestic partnership with the City of Tavares, which  
63 affidavit shall comply with all requirements set forth in this ordinance for establishing  
64 such domestic partnership. Upon payment of any required fee of \$50.00 plus recording  
65 fees, the City Clerk shall file the affidavit of domestic partnership by having such  
66 affidavit recorded with the Lake County Clerk of Courts and issue a certificate and  
67 laminated card reflecting the registration of the domestic partnership relationships in the  
68 City of Tavares. The City Clerk shall not be responsible for maintaining a record of any  
69 of the forms except the Domestic Partner Registry. The Clerk shall establish a link to  
70 the Lake County Clerk of Courts on line official records where domestic partnerships  
71 registry affidavits, amendments, and terminations will be recorded.

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73 (b) An affidavit of domestic partnership shall contain the name and address of  
74 each domestic partner, the signature of each partner, the signatures of two witnesses,  
75 and each partner shall swear or affirm under penalty of perjury that:

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77 (1) Each person is at least eighteen (18) years old and competent to  
78 contract;

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80 (2) Neither person is currently married under Florida law or is a partner  
81 in a domestic partnership relationship or a member of civil union with anyone other than  
82 the co-applicant;

(3) 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;

(4) The partners reside in a mutual residence; and

(5) Each person agrees to immediately notify the City Clerk, in writing, if the terms of the Registered Domestic Partnership are no longer applicable or one (1) of the domestic partners wishes to terminate the domestic partnership.

(6) 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. The fee will be \$20.00 plus recording costs for any amendments.

## **Section 1.2. - 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.
- (b) If a termination statement is not signed by both registered domestic partners then the partner requesting termination must provide proof of notification to the other partner by certified mail to the City Clerk or must sign an affidavit indicating that they have made a good effort to contact the partner.
- (c) Upon payment of the required fee of \$20.00, receipt of the affidavit with a copy of certified mail, or affidavit indicating an effort to contact the partner, the City Clerk shall file the affidavit, have it recorded at the Lake County Clerk of Courts, 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:

123           1. One (or both) of the domestic partners marries in Florida;

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125           2. One of the domestic partners dies (provided however, the

126 provisions relating to funeral and burial decisions shall survive); or

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128           3. One of the domestic partners registers with another partner.

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130           The marrying, surviving or re-registering domestic partner(s) shall file an affidavit

131 terminating the domestic partnership relationship within ten (10) days of one of the

132 occurrences listed in subsections (b)1-3 above.

133           **Section 1.3. - Maintenance of Records; Filing Fees.**

134           (a) The City Clerk shall prepare the form of all affidavits, amendments, and

135 certificates required to be filed under this Act. The City Clerk shall maintain a record of

136 all affidavits, amendments, and certificates filed pursuant to this ordinance.

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138           (b) The City Clerk is authorized to establish fees for the filing of any affidavits,

139 amendments, and the issuance of any certificates required by this act. Any fees

140 established under this section shall be commensurate with the actual costs of

141 administering the provisions of this ordinance.

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143           (c) The City Clerk is authorized and directed to take all actions necessary to

144 implement the provisions of this section within ninety (90) days after this ordinance is

145 enacted.

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147           (d) If Lake County, Florida establishes a domestic partnership registry law

148 that is substantially similar to the City of Tavares' Domestic Partnership registry code

149 provisions, the City Clerk shall collaborate with Lake County to determine whether a

150 joint registration system will most efficiently serve our citizens. The City Clerk will bring

151 any recommendations for joint administration to City Council for its consideration. If

152 such a joint registry is established, the references in the ordinance to the City Clerk

153 shall mean the filing officer for the joint registry approved by City Council and Lake

154 County.

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156           **Section 1.4. - Rights and Legal Effect of Registered Domestic Partnership.**

157           To the extent not superseded by federal, state, or other city law or ordinance, or

158 contrary to rights conferred by contract or separate legal instrument, Registered

159 Domestic Partners shall have the following rights:

166 (b) Health Care Decisions. - This section pertains to decisions concerning  
167 both physical and mental health. Registry as a domestic partner shall be considered to  
168 be written direction by each partner designating the other to make health care decisions  
169 for their incapacitated partner, and shall authorize each partner to act as the other's  
170 healthcare surrogate as provided in Chapter 765, Florida Statutes, and otherwise as  
171 provided by federal law. Further, no person designated as a health care surrogate shall  
172 be denied or otherwise defeated in serving as a health care surrogate based solely  
173 upon his or her status as the domestic partner of the partner on whose behalf health  
174 care decisions are to be made.

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176 (c) Funeral/burial Decisions. - Registry as a domestic partner shall be  
177 considered to be written direction by the decedent of his or her intention to have his or  
178 her domestic partner direct the disposition of the decedent's body for funeral and burial  
179 purposes as provided in Chapter 497, Florida Statutes, unless the decedent provides  
180 conflicting, written inter vivos authorization and directions that are dated after the date of  
181 the registration, in which case the later dated authorization and directions shall control.

191 (e) Notification of Family Members. - In any situation providing for mandatory  
192 or permissible notification of family members, including but not limited to notification of  
193 family members in an emergency, or when permission is granted to correctional facility  
194 inmates to contact family members, "notification of family" shall include registered  
195 Domestic Partners.

197 (f) Preneed guardian designation. - A person who is a party to a registered  
198 Domestic Partnership relationship, pursuant to Section 1.1 above, shall have the same  
199 right as any other individual to be designated as a preneed guardian pursuant to  
200 Chapter 744, Florida Statutes and to serve in such capacity in the event of his or her

201 Domestic Partner's incapacity. A Domestic Partner shall not be denied or otherwise be  
202 defeated in serving as the plenary guardian or his or her Domestic Partner or the  
203 partner's property under the provisions of Chapter 744, Florida Statutes, to the extent  
204 that the incapacitated partner has not executed a valid preneed guardian designation,  
205 based solely upon his or her status as the Domestic Partner of the incapacitated  
206 partner.

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208 (g) Participation in Education. - To the extent allowed by federal and state  
209 law, a registered Domestic Partner shall have the same rights to participate in the  
210 education of a dependent of the registered Domestic Partnership as a biological parent  
211 to participate in the education of their child, in all educational facilities located within or  
212 under the jurisdiction of the City. However, if a biological parent of a minor dependent,  
213 whose parental rights have not been terminated, objects to the participation of a non-  
214 biological registered Domestic Partner in education conferences or other dissemination  
215 of educational information, only the participation of the biological parents shall be  
216 allowed.

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218 **Section 1.5. - Limited Effect.**

219 (a) Nothing in this article shall be interpreted to alter, affect, or contravene  
220 city, county, state or federal law.

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222 (b) Nothing in this article shall be construed as recognizing or treating a  
223 registered Domestic Partnership as a marriage.

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225 **Section 1.6. - Enforcement.**

226 A registered Domestic Partner may enforce the rights under Section 1.4 by filing  
227 a private judicial action against a person or entity in any court of competent jurisdiction  
228 for declaratory relief, injunctive relief, or both.

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231 This ordinance shall take effect immediately upon its final adoption by the  
232 Tavares City Council.

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235 PASSED AND ORDAINED this 16<sup>th</sup> day of February, 2013,  
236 by the City Council of the City of Tavares, Florida.

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244 ATTEST:

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John Drury  
City Administrator

  
Robert Wolfe, Mayor  
Tavares City Council

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253 First Reading: January 16, 2013

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256 Passed Second Reading: February 6, 2013

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259  
260 Approved as to form:  
261 Robert Q. Williams  
262 City Attorney