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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

both of their names. Two 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.

(g) 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.

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

Section 1.1. - Registration of Domestic Partnerships.

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

(b) 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:

(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) 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:

1. One (or both) of the domestic partners marries in Florida;
2. One of the domestic partners dies (provided however, 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.

Section 1.3. - 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 Act. The City Clerk shall maintain a record of all affidavits, amendments, and certificates filed pursuant to this ordinance.

(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. Any fees established under this section shall be commensurate with the actual costs of administering the provisions of this ordinance.

(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 ordinance is enacted.

(d) If Lake County, Florida establishes a domestic partnership registry law that is substantially similar to the City of Tavares' Domestic Partnership registry code provisions, the City Clerk shall collaborate with Lake 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 City Council for its consideration. If such a joint registry is established, the references in the ordinance to the City Clerk shall mean the filing officer for the joint registry approved by City Council and Lake County.

Section 1.4. - 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 of Tavares 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 Chapter 765, Florida Statutes, 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.

(c) Funeral/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 Chapter 497, Florida Statutes, 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 1.1, 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 Tavares, 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 1.1 above, shall have the same right as any other individual to be designated as a preneed guardian pursuant to Chapter 744, Florida Statutes 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 plenary guardian or his or her Domestic Partner or the partner's property under the provisions of Chapter 744, Florida Statutes, 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, 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 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.

Section 1.5. - Limited Effect.

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

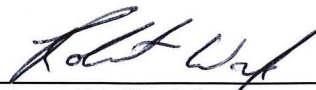
(b) Nothing in this article shall be construed as recognizing or treating a registered Domestic Partnership as a marriage.

Section 1.6. - Enforcement.

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

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

PASSED AND ORDAINED this 6th day of February, 2013,
by the City Council of the City of Tavares, Florida.



Robert Wolfe, Mayor
Tavares City Council

ATTEST:


John Drury
City Administrator

First Reading: January 16, 2013

Passed Second Reading: February 6, 2013


Approved as to form:
Robert Q. Williams
City Attorney