

**BOARD OF COUNTY COMMISSIONERS**

**DATE:** January 15, 2012

**AGENDA ITEM NO.** /

**Consent Agenda** ☐

**Regular Agenda** ☐

**Public Hearing** ☒

**County Administrator's Signature:**

**Subject:**

Proposed Ordinance Amending Chapter 70 of the Pinellas County Code Relating to Human Rights Creating a Domestic Partnership Registry, and Investing Registered Persons with Certain Rights within Pinellas County.

**Department:**

Office of Human Rights

**Staff Member Responsible:**

Paul Valenti, Director

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) RECEIVE PUBLIC COMMENT AND ADOPT THE PROPOSED ORDINANCE AMENDING CHAPTER 70 OF THE PINELLAS COUNTY CODE RELATING TO HUMAN RIGHTS TO: 1) CREATE A DOMESTIC PARTNERSHIP REGISTRY; AND 2) INVEST PERSONS REGISTERED WITHIN CERTAIN RIGHTS WITHIN PINELLAS COUNTY.

**Summary Explanation/Background:**

The proposed ordinance creates a Domestic Partnership Registry to which two adults, regardless of sex and with certain limitations, can register to invest each other with certain basic rights relating to their health and welfare within Pinellas County, including; visiting their domestic partner in health care facilities; participating in discussions relating to the health care of their domestic partner, and acting as their domestic partner's healthcare surrogate as defined by Florida law; making funeral and burial decisions relating to their domestic partner; receiving notifications, including emergency notifications, relating to their domestic partner in instances where family members would receive such notifications; acting as a pre-need guardian designate as defined under Florida law upon the incapacity of their domestic partner; and participating in the education of a dependent of their domestic partner within Pinellas County consistent with state and federal law, and the policies of the School Board of Pinellas County. The ordinance is to be read consistent with state and federal law, and does not equate domestic partnerships with marriage.

**Fiscal Impact/Cost/Revenue Summary:**

Minimal fiscal impact is anticipated. The proposed fees of the Clerk, to be approved by the Board, include a \$50 initial fee which will include the filing and processing of the Affidavit of Domestic Partnership, creation of a Certificate of Domestic Partnership, and filing for termination. This initial fee will be offset by a credit for persons who registered on a municipal registry in Pinellas County prior to the adoption of this Ordinance. Additional fees associated with the proposed registry include \$25.00 for the filing of any amendments, as well as copy charges of \$1.00/page for non-certified copies and \$2.00 for certification of copies. These proposed fees are calculated to cover the cost of implementation (estimated by BTS to be approximately \$11,000- \$15,000) and administration of this registry.

**Exhibits/Attachments Attached:**

Memorandum from Director of Human Rights  
Proposed Ordinance



## Pinellas County Office of Human Rights

400 S. Fort Harrison Ave  
5<sup>th</sup> Floor  
Clearwater, FL 33756  
(727) 464-4880  
Fax: (727) 464-4157  
Text Phone/TDD: (727) 464-4062


### Memorandum

from

### Office of Human Rights

To: Board of County Commissioners

Through: Robert LaSala, County Administrator

From: Paul Valenti, Director of Human Rights 

CC: The Honorable Ken Burke, Clerk of the Circuit Court  
The Honorable J. Thomas McGrady, Chief Judge, Sixth Judicial Circuit  
Administrative Office of the Courts, Sixth Judicial Circuit  
Pinellas County School Board  
Jim Bennett, Pinellas County Attorney  
Christina LeBlanc, Sr. Assistant County Attorney

Date: January 2, 2013

Re: Proposed Ordinance Creating Domestic Partnership Registry

#### **Background:**

This proposed ordinance first came before the Board during a workshop on December 16, 2012. At that time, the Board directed staff to consider several revisions, and asked several questions, relating to the proposed ordinance. This memorandum, along with the attachments hereto and the final draft of the proposed ordinance, addresses those concerns discussed on December 16<sup>th</sup>.

#### **Changes to Proposed Ordinance:**

Attached as Exhibit A is a "marked-up" version of the proposed ordinance which reflects two (2) changes as directed by the Board, or in response to questions by the Board.

Staff has added a "whereas" clause to underscore that records received pursuant to the proposed ordinance are public records as defined by Florida Statutes. In response to concerns expressed by the Board, however, materials provided to persons who wish to register as domestic partners will contain information relating to exemptions from public records for certain persons as enumerated in Florida Statutes 119.071(4). The onus for claiming and establishing such an exemption shall remain with the person(s) registering under this ordinance.

Please address reply to:  
Pinellas County Office of Human Rights  
315 Court St.  
Clearwater, FL 33756

[www.pinellascounty.org/humanrights](http://www.pinellascounty.org/humanrights)

Additionally, Section 70-239(b) of the proposed ordinance has been amended to provide a credit towards filing fees under this ordinance to those persons who registered pursuant to a like municipal ordinance within Pinellas County prior to the adoption of this proposed ordinance.

**Response from Municipalities with a Substantially Similar Ordinance**

The Board also asked staff to canvass municipalities within Pinellas County with substantially similar ordinances to assess their response to the proposed ordinance.

The City of Largo has not yet passed a substantially similar ordinance, however, on December 18, 2012, the City of Largo passed a resolution supporting the adoption of a countywide Domestic Partnership Registry (a copy of the City of Largo's Resolution, No. 2084, is attached hereto as Exhibit B).

In a meeting with the City Manager and City Clerk of the City of Gulfport on December 13, 2012, the City of Gulfport indicated that if the proposed ordinance is adopted, they would direct persons within Gulfport wishing to register as domestic partners to the Clerk of Court for registration under this proposed ordinance.

The ordinance passed by the City of Clearwater specifically calls for the City Clerk to work in collaboration with Pinellas County to determine whether a joint registry will most efficiently serve its citizens (a highlighted copy of this provision of the City of Clearwater's Ordinance is attached as Exhibit C). Staff with the City Clerk's Office has indicated that their likely practice will be to refer their citizens to the Clerk of Court for registration under the proposed ordinance.

As of the date of this memo, I have not received a reply from the City of St. Petersburg. Should I obtain a response from the City of St. Petersburg prior to the Public Hearing on January 15, 2013, I will advise the Board.

I remain available to answer any questions you may have.

**ORDINANCE NO. 12 -**

AN ORDINANCE OF THE COUNTY OF PINELLAS; ADDING ARTICLE III OF CHAPTER 70 OF THE PINELLAS COUNTY CODE; CREATING SECTIONS 70-236 THROUGH 70-243; PROVIDING TITLE TO BE NAMED "DOMESTIC PARTNERSHIP REGISTRY"; PROVIDING FOR DEFINITION OF TERMS USED IN THE ORDINANCE; PROVIDING FOR REGISTRATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR TERMINATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR MAINTENANCE OF RECORDS; PROVIDING FOR FILING FEES; PROVIDING FOR LEGAL EFFECT OF DOMESTIC PARTNERSHIP; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW FOR THE ORDINANCE AT THE PUBLIC HEARINGS AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the Pinellas County Board of County Commissioners finds that County residents establish and maintain important personal, emotional, and economic relationships with persons to whom they are not married under Florida law; and

WHEREAS, individuals forming such domestic partnerships often live in a committed relationships as domestic partners; and

WHEREAS, providing the opportunity for such partnerships to register will provide public acknowledgment of their relationship status within the County; and

WHEREAS, consistent with Florida Public Records Law, Section 119.01 et. seq. Florida Statutes, all records received pursuant to this ordinance shall be maintained as public documents unless otherwise exempted by law, and

WHEREAS, this Ordinance shall not be construed to supersede any federal or state law or regulation, nor shall this Ordinance be interpreted in a manner as to bring it into conflict with federal or state law; and

WHEREAS, nothing in this Ordinance shall be construed as recognizing or treating a domestic partnership as a marriage.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY THAT:

Section 1. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**ARTICLE III. DOMESTIC PARTNERSHIP REGISTRATION**

Section 2. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-236. Definitions:**

(a) *Affidavit of Domestic Partnership* means a sworn form, under penalty of perjury, that is created by the Board of County Commissioners, which certifies that two (2) domestic partners meet the registration requirements as described in Section 70-237.

(b) *Affidavit of Termination of Domestic Partnership* means a sworn form, under penalty of perjury, which certifies that two (2) domestic partners have terminated the domestic partnership and all rights and duties included therein as described in this Article.

(c) *Clerk* means the Clerk of the Circuit Court, Pinellas County, Florida.

(d) *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; or

(4) A person supported in whole or in part by their partner's earnings and relies on such support.

(e) *Certificate of Domestic Partnership* means the certificate received from the Clerk after registration as Domestic Partners under this Article.

(f) *Domestic Partnership Registry* means a public record maintained by the Clerk which includes those persons who have met the domestic partnership requirements set forth in this Article and have registered with the Clerk.

(g) *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 Pinellas County.

(h) *Jointly responsible* means each domestic partner mutually agrees to provide for the other partner's basic needs while the domestic partnership is in effect, except that partners need not contribute equally or jointly to said basic needs such as food and shelter.

(i) *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 names. Registered Domestic Partners do not cease to share a mutual residence if one leaves the shared place but intends to return.

(j) *Registered Domestic Partners* means two (2) adults who are parties to a domestic partnership and who meet the requisites for a domestic partnership as established pursuant to the registration requirements of this Article and who have registered as a domestic partnership under this Article.

Section 3. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-237. Registration of Domestic Partnerships**

(a) A domestic partnership may be registered by any two (2) persons by filing an Affidavit of Domestic Partnership with the Clerk which Affidavit shall comply with all requirements set forth in this Article for establishing such domestic partnership.

(b) Upon payment of any required fees, the Clerk shall file the Affidavit of Domestic Partnership electronically and issue a Certificate of Domestic Partnership reflecting the registration of the domestic partnership in the County.

(c) The Clerk shall maintain a Domestic Partnership Registry which shall be an online searchable database of the domestic partnerships which have been registered with the County.

(d) A notarized Affidavit of Domestic Partnership, on such form as created by the County, shall be presented to the Clerk by both partners, physically present, who shall provide proof of identification; and shall contain the name and address of each domestic partner, the signature of each partner, the signatures of two (2) 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 or a member of civil union with anyone other than the co-applicant;
- (3) Neither person is related by blood as defined in Florida law;
- (4) Each person considers themselves 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;
- (5) The partners reside together in a mutual residence;
- (6) Each person expressly declares their desire and intent to designate their Registered Domestic Partner as their healthcare surrogate and as their agent to direct the disposition of their body after death.

(7) Each person agrees to be jointly responsible for each other's basic food and shelter.

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

(e) Any partner to a domestic partnership may file an amendment with the Clerk to the Domestic Partnership Registry, on the form created by the County, to reflect a change in their legal name or address. Amendments shall be signed by both members of the Registered Domestic Partnership under oath and must be accompanied by the applicable fee as determined by the Clerk.

Section 4. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-238. Termination of Registered Domestic Partnership**

(a) Either partner to a Registered Domestic Partnership may terminate such registration by filing, in person, a notarized Affidavit of Termination of Domestic Partnership with the Clerk which shall become effective on the date of filing.

(b) The Clerk shall file the Affidavit of Termination and update the online registry to remove the domestic partnership.

(c) A Registered Domestic Partnership will terminate by operation of law upon occurrence of the following events:

- (1) One of the domestic partners marries in Florida;
- (2) One of the domestic partners dies; or
- (3) One of the domestic partners registers with another partner.

(d) The marrying, surviving, or re-registering Domestic Partner(s) shall file an Affidavit with the Clerk terminating the domestic partnership within ten (10) days of one of the occurrences listed in (c) above.

(e) The surviving domestic partner, pursuant to subsection (c)(2) of this section, shall retain funeral and burial decision rights as provided for in Section 70-240(c).

Section 5. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-239. Maintenance of Records; Filing Fees**

(a) The County shall prepare the form of all affidavits, amendments, and certificates required to be filed under this Article. The Clerk shall maintain electronic copies. Domestic

Partnerships which have properly registered, and have not been terminated, will appear on the online registry. Records regarding a terminated registration can be requested from the Clerk.

(b) The Clerk shall establish fees for the filing of any affidavits, amendments, the issuance of any certificates required by this Article, or for the provision of copies of documents subject to the approval by the Board of County Commissioners. Any fees established under this section shall be reasonable and commensurate with the actual costs of administering the provisions of this Article. A person who registered in a municipality located in Pinellas County prior to the date of enactment of this Article, shall receive a credit in the amount of the the cost of the municipal registration for domestic partnership against fees relating to their registration under this Article.

(c) The Clerk is authorized and directed to take all actions necessary to implement the provisions of this section within ninety (90) days after this Article is enacted.

Section 6. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-240. 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 County shall honor the Registered Domestic Partnership documentation issued pursuant to this Article as evidence of the partnership and shall allow a Registered Domestic Partner or dependant visitation rights as provided for under 42 CFR 482 and 485.

(b) **Health Care Decisions.** 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 for in Chapter 765, Florida Statutes. No person designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon their status as the Domestic Partner of the partner on whose behalf health care decisions are to be made. Any statutory form, including, but not limited to, a living will or health care surrogate designation in forms provided for in Chapter 765, Florida Statutes, that is properly executed after the date of registration which contain conflicting designations shall control over the designations made pursuant to domestic partnership registration in Pinellas County.

(c) **Funeral/Burial Decisions.** Registry as a domestic partner shall be considered to be written direction by the decedent of their intention to have their domestic partner direct the disposition of the decedent's body for funeral and burial purposes as provided in Chapter 497, Florida Statutes, unless, prior to death, the decedent creates written authorization and direction

providing conflicting terms of disposition. Where such conflict exists, the later dated document shall control.

(d) **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, "notification of family members" shall include Registered Domestic Partners.

(e) **Pre-need Guardian Designation.** A person who is a party to a Registered Domestic Partnership, pursuant to this Article, shall have the same right as any other individual to be designated as a pre-need guardian pursuant to Chapter 744, Florida Statutes, and to serve in such capacity in the event of their domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of their 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 pre-need guardian designation, based solely upon their status as the domestic partner of the incapacitated partner.

(f) **Participation in Education.** To the extent allowed by federal and state law, and subject to the policies of the School Board of Pinellas County, Florida, as amended from time to time, as well as any applicable court orders, agreements, or contracts, a domestic partner of a domestic partnership registered in this County shall have the same rights as the parent partner to participate in the education of a dependent of the Registered Domestic Partnership in the County. Any right to participate in the education of a dependent of the Registered Domestic Partnership shall be exercised consistently with applicable policies and procedures of the School Board of Pinellas County, Florida.

Section 7. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-241 Limited Effect**

(a) Nothing in this Article shall be interpreted to alter, affect, or contravene city, county, state, or federal law or to impair any court order or contractual agreement.

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

Section 8. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-242. Enforcement; Legal Remedy; and Limitation of Liability**

(a) A Registered Domestic Partner may enforce rights provided for under this Article by filing a private judicial action in the Sixth Judicial Circuit Court for declaratory relief, injunctive relief, or both, or for any other available legal remedy;

(b) The Clerk acts in a purely ministerial capacity and has no authority or responsibility for the resolution of disputes arising from the domestic partnership registry. Any

disputes as to registration or legal effect under this Article shall be filed with the Sixth Judicial Circuit Court.

(c) The Clerk shall not be liable for any act taken within the scope of its authority provided pursuant to this Article.

Section 9. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-243. Reciprocity**

All rights, privileges and benefits extended to Registered Domestic Partnerships as provided for in this Article shall also be extended to all persons who can provide proof of their registration as domestic partners in any other jurisdiction. In the event of a conflict between this Article and the domestic partnership laws of another jurisdiction, the provisions of this Article shall prevail.

**Section 10. Severability**

In the event that any court having jurisdiction over any case arising under this Article determines that any subsection or other provision of this Article is invalid for any reason, the remaining subsections or other provisions shall continue to be in full force and effect, and towards that end the Board of County Commissioners declares this Article and its subsections and other provisions to be severable.

**Section 11. Effective Date**

Pursuant to Section 125.66(2), Florida Statutes, a certified copy of this Ordinance shall be filed with the Clerk of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

**Section 12. Areas Embraced**

This Ordinance shall be effective in the incorporated and unincorporated area of the County.

**Section 13. Codification**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code; and that the sections of this Ordinance may be renumbered or re-lettered, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

RESOLUTION NO. 2084

**A RESOLUTION OF THE CITY OF LARGO, FLORIDA SUPPORTING  
PINELLAS COUNTY'S ADOPTION OF A DOMESTIC PARTNERSHIP  
REGISTRY FOR RESIDENTS OF PINELLAS COUNTY; PROVIDING AN  
EFFECTIVE DATE.**

WHEREAS, there are a significant number of residents within Pinellas County, and specifically within the City of Largo, who maintain important personal, emotional and economic relationships with persons to whom they are not married; and

WHEREAS, the 2010 census indicates that over 12% of Americans (approximately 6,759,453 households) identified themselves as living in a domestic partnership, representing a 25% increase over the 2000 census numbers; and

WHEREAS, individuals forming such domestic partnerships often live in a committed, family relationship but may be denied certain rights for themselves or their dependents due to the lack of a system that recognizes these types of relationships; and

WHEREAS, on January 15, 2013 the Pinellas County Board of County Commissioners will take under consideration an ordinance providing for the implementation of a Domestic Partnership Registry ("Registry"); and

WHEREAS, the City of Largo supports the adoption of a countywide Registry that would extend certain rights, privileges and benefits normally exercised by married couples to domestic partners and their dependents.

NOW, THEREFORE, THE CITY OF LARGO CITY COMMISSION HEREBY RESOLVES:

Section 1. That the City of Largo supports the Pinellas County Board of County Commissioners' adoption of an ordinance establishing a Domestic Partnership Registry to be applied countywide.

Section 2. That the City Clerk is directed to forward a copy of this resolution to the Chair of the Board of County Commissioners.

Section 3. That this resolution shall take effect immediately upon its adoption.

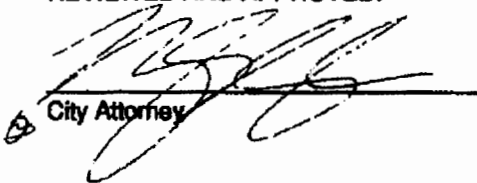
PASSED AND ADOPTED ON THIS 17th DAY OF December 2012.

CITY OF LARGO, FLORIDA

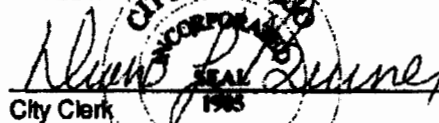


Patricia Gerard, Mayor

REVIEWED AND APPROVED:

  
City Attorney

ATTEST:

  
City Clerk

**CITY OF CLEARWATER CITY CODE:****Sec. 13.4. - 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 ordinance. 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 ordinance, subject to the approval by resolution of the Clearwater City Council. Any fees established under this section shall be reasonable and 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 90 days after this ordinance is enacted.

(d)

If Pinellas County, Florida establishes a domestic partnership registry law that is substantially similar to the City of Clearwater's Domestic Partnership registry code provisions, the city clerk shall collaborate with Pinellas 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 herein to the city clerk shall then mean the filing officer for the joint registry approved by City Council and Pinellas County.

## **ORDINANCE NO. 12 -**

AN ORDINANCE OF THE COUNTY OF PINELLAS; ADDING ARTICLE III OF CHAPTER 70 OF THE PINELLAS COUNTY CODE; CREATING SECTIONS 70-236 THROUGH 70-243; PROVIDING TITLE TO BE NAMED "DOMESTIC PARTNERSHIP REGISTRY"; PROVIDING FOR DEFINITION OF TERMS USED IN THE ORDINANCE; PROVIDING FOR REGISTRATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR TERMINATION OF DOMESTIC PARTNERSHIPS; PROVIDING FOR MAINTENANCE OF RECORDS; PROVIDING FOR FILING FEES; PROVIDING FOR LEGAL EFFECT OF DOMESTIC PARTNERSHIP; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW FOR THE ORDINANCE AT THE PUBLIC HEARINGS AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the Pinellas County Board of County Commissioners finds that County residents establish and maintain important personal, emotional, and economic relationships with persons to whom they are not married under Florida law; and

WHEREAS, individuals forming such domestic partnerships often live in a committed relationships as domestic partners; and

WHEREAS, providing the opportunity for such partnerships to register will provide public acknowledgment of their relationship status within the County; and

WHEREAS, consistent with Florida Public Records Law, Section 119.01 et. seq. Florida Statutes, all records received pursuant to this ordinance shall be maintained as public documents unless otherwise exempted by law; and

WHEREAS, this Ordinance shall not be construed to supersede any federal or state law or regulation, nor shall this Ordinance be interpreted in a manner as to bring it into conflict with federal or state law; and

WHEREAS, nothing in this Ordinance shall be construed as recognizing or treating a domestic partnership as a marriage.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY THAT:

Section 1. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

### **ARTICLE III. DOMESTIC PARTNERSHIP REGISTRATION**

Section 2. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-236. Definitions:**

(a) *Affidavit of Domestic Partnership* means a sworn form, under penalty of perjury, that is created by the Board of County Commissioners, which certifies that two (2) domestic partners meet the registration requirements as described in Section 70-237.

(b) *Affidavit of Termination of Domestic Partnership* means a sworn form, under penalty of perjury, which certifies that two (2) domestic partners have terminated the domestic partnership and all rights and duties included therein as described in this Article.

(c) *Clerk* means the Clerk of the Circuit Court, Pinellas County, Florida.

(d) *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; or

(4) A person supported in whole or in part by their partner's earnings and relies on such support.

(e) *Certificate of Domestic Partnership* means the certificate received from the Clerk after registration as Domestic Partners under this Article.

(f) *Domestic Partnership Registry* means a public record maintained by the Clerk which includes those persons who have met the domestic partnership requirements set forth in this Article and have registered with the Clerk.

(g) *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 Pinellas County.

(h) *Jointly responsible* means each domestic partner mutually agrees to provide for the other partner's basic needs while the domestic partnership is in effect, except that partners need not contribute equally or jointly to said basic needs such as food and shelter.

(i) *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 names. Registered Domestic Partners do not cease to share a mutual residence if one leaves the shared place but intends to return.

(j) *Registered Domestic Partners* means two (2) adults who are parties to a domestic partnership and who meet the requisites for a domestic partnership as established pursuant to the registration requirements of this Article and who have registered as a domestic partnership under this Article.

Section 3. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-237. Registration of Domestic Partnerships**

(a) A domestic partnership may be registered by any two (2) persons by filing an Affidavit of Domestic Partnership with the Clerk which Affidavit shall comply with all requirements set forth in this Article for establishing such domestic partnership.

(b) Upon payment of any required fees, the Clerk shall file the Affidavit of Domestic Partnership electronically and issue a Certificate of Domestic Partnership reflecting the registration of the domestic partnership in the County.

(c) The Clerk shall maintain a Domestic Partnership Registry which shall be an online searchable database of the domestic partnerships which have been registered with the County.

(d) A notarized Affidavit of Domestic Partnership, on such form as created by the County, shall be presented to the Clerk by both partners, physically present, who shall provide proof of identification; and shall contain the name and address of each domestic partner, the signature of each partner, the signatures of two (2) 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 or a member of civil union with anyone other than the co-applicant;
- (3) Neither person is related by blood as defined in Florida law;
- (4) Each person considers themselves 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;
- (5) The partners reside together in a mutual residence;
- (6) Each person expressly declares their desire and intent to designate their Registered Domestic Partner as their healthcare surrogate and as their agent to direct the disposition of their body after death.

(7) Each person agrees to be jointly responsible for each other's basic food and shelter.

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

(e) Any partner to a domestic partnership may file an amendment with the Clerk to the Domestic Partnership Registry, on the form created by the County, to reflect a change in their legal name or address. Amendments shall be signed by both members of the Registered Domestic Partnership under oath and must be accompanied by the applicable fee as determined by the Clerk.

Section 4. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-238. Termination of Registered Domestic Partnership**

(a) Either partner to a Registered Domestic Partnership may terminate such registration by filing, in person, a notarized Affidavit of Termination of Domestic Partnership with the Clerk which shall become effective on the date of filing.

(b) The Clerk shall file the Affidavit of Termination and update the online registry to remove the domestic partnership.

(c) A Registered Domestic Partnership will terminate by operation of law upon occurrence of the following events:

- (1) One of the domestic partners marries in Florida;
- (2) One of the domestic partners dies; or
- (3) One of the domestic partners registers with another partner.

(d) The marrying, surviving, or re-registering Domestic Partner(s) shall file an Affidavit with the Clerk terminating the domestic partnership within ten (10) days of one of the occurrences listed in (c) above.

(e) The surviving domestic partner, pursuant to subsection (c)(2) of this section, shall retain funeral and burial decision rights as provided for in Section 70-240(c).

Section 5. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-239. Maintenance of Records; Filing Fees**

(a) The County shall prepare the form of all affidavits, amendments, and certificates required to be filed under this Article. The Clerk shall maintain electronic copies. Domestic

Partnerships which have properly registered, and have not been terminated, will appear on the online registry. Records regarding a terminated registration can be requested from the Clerk.

(b) The Clerk shall establish fees for the filing of any affidavits, amendments, the issuance of any certificates required by this Article, or for the provision of copies of documents subject to the approval by the Board of County Commissioners. Any fees established under this section shall be reasonable and commensurate with the actual costs of administering the provisions of this Article. A discount in the amount of the difference between the cost of municipal registration for domestic partnership and that of the County registration for domestic partnership shall be provided to those persons who are registered in a municipality located in Pinellas County prior to the date of enactment of this Article.

(c) The Clerk is authorized and directed to take all actions necessary to implement the provisions of this section within ninety (90) days after this Article is enacted.

Section 6. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-240. 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 County shall honor the Registered Domestic Partnership documentation issued pursuant to this Article as evidence of the partnership and shall allow a Registered Domestic Partner or dependant visitation rights as provided for under 42 CFR 482 and 485.

(b) Health Care Decisions. 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 for in Chapter 765, Florida Statutes. No person designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon their status as the Domestic Partner of the partner on whose behalf health care decisions are to be made. Any statutory form, including, but not limited to, a living will or health care surrogate designation in forms provided for in Chapter 765, Florida Statutes, that is properly executed after the date of registration which contain conflicting designations shall control over the designations made pursuant to domestic partnership registration in Pinellas County.

(c) Funeral/Burial Decisions. Registry as a domestic partner shall be considered to be written direction by the decedent of their intention to have their domestic partner direct the disposition of the decedent's body for funeral and burial purposes as provided in Chapter 497, Florida Statutes, unless, prior to death, the decedent creates written authorization and direction

providing conflicting terms of disposition. Where such conflict exists, the later dated document shall control.

(d) 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, "notification of family members" shall include Registered Domestic Partners.

(e) Pre-need Guardian Designation. A person who is a party to a Registered Domestic Partnership, pursuant to this Article, shall have the same right as any other individual to be designated as a pre-need guardian pursuant to Chapter 744, Florida Statutes, and to serve in such capacity in the event of their domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of their 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 pre-need guardian designation, based solely upon their status as the domestic partner of the incapacitated partner.

(f) Participation in Education. To the extent allowed by federal and state law, and subject to the policies of the School Board of Pinellas County, Florida, as amended from time to time, as well as any applicable court orders, agreements, or contracts, a domestic partner of a domestic partnership registered in this County shall have the same rights as the parent partner to participate in the education of a dependent of the Registered Domestic Partnership in the County. Any right to participate in the education of a dependent of the Registered Domestic Partnership shall be exercised consistently with applicable policies and procedures of the School Board of Pinellas County, Florida.

Section 7. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-241 Limited Effect**

(a) Nothing in this Article shall be interpreted to alter, affect, or contravene city, county, state, or federal law or to impair any court order or contractual agreement.

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

Section 8. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-242. Enforcement; Legal Remedy; and Limitation of Liability**

(a) A Registered Domestic Partner may enforce rights provided for under this Article by filing a private judicial action in the Sixth Judicial Circuit Court for declaratory relief, injunctive relief, or both, or for any other available legal remedy;

(b) The Clerk acts in a purely ministerial capacity and has no authority or responsibility for the resolution of disputes arising from the domestic partnership registry. Any

disputes as to registration or legal effect under this Article shall be filed with the Sixth Judicial Circuit Court.

(c) The Clerk shall not be liable for any act taken within the scope of its authority provided pursuant to this Article.

Section 9. Article III of Chapter 70 of the Pinellas County Code is created to read as follows:

**Section 70-243. Reciprocity**

All rights, privileges and benefits extended to Registered Domestic Partnerships as provided for in this Article shall also be extended to all persons who can provide proof of their registration as domestic partners in any other jurisdiction. In the event of a conflict between this Article and the domestic partnership laws of another jurisdiction, the provisions of this Article shall prevail.

Section 10. Severability

In the event that any court having jurisdiction over any case arising under this Article determines that any subsection or other provision of this Article is invalid for any reason, the remaining subsections or other provisions shall continue to be in full force and effect, and towards that end the Board of County Commissioners declares this Article and its subsections and other provisions to be severable.

Section 11. Effective Date

Pursuant to Section 125.66(2), Florida Statutes, a certified copy of this Ordinance shall be filed with the Clerk of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

Section 12. Areas Embraced

This Ordinance shall be effective in the incorporated and unincorporated area of the County.

Section 13. Codification

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code; and that the sections of this Ordinance may be renumbered or re-lettered, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By   
Attorney