

1 **SECTION I:** Chapter 41, Code of Ordinances of the County of Volusia, to be
2 titled "Domestic Partnership," is hereby created to read as follows:

3 **ARTICLE I. DOMESTIC PARTNERSHIP REGISTRY**

4 **Sec. 41-1. Authority; applicability; purpose and intent.**

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

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

10 (c) *Purpose and Intent.*

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

18 (2) The provisions of this article shall be liberally construed to promote
19 the public safety, health and general welfare of the residents of the
20 county and to further the general policies and purposes stated
21 herein. However, this article shall not be construed to supersede,
22 alter, affect or contravene any federal or state laws or regulations.

1 Nothing in this article shall be construed as recognizing or treating
2 a registered domestic partnership as a marriage.

3 **Sec. 41-2. Definitions.**

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

7 Competent to contract means the two domestic partners are mentally competent
8 to contract.

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

11 County clerk means the county manager of the County of Volusia, or his or her
12 designee, pursuant to Article IV, Section 403 of the Volusia County Charter.

13 Dependent means a person who resides within the household of a registered
14 domestic partnership and is:

15 (1) A biological, adopted or foster child of a registered domestic partner; or

16 (2) A dependent as defined under IRS regulations; or

17 (3) A ward of a registered domestic partnership as determined in a
18 guardianship or other legal proceeding.

19 Domestic partners means two adults who are parties to a committed domestic
20 relationship and who meet the requisites for a valid domestic partnership relationship as
21 established in this article.

22 Domestic relationship means a relationship intended to be of indefinite duration
23 between two individuals.

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

5 Jointly responsible means each domestic partner mutually agrees to provide for
6 the other partner's basic food, shelter and common necessities of life while the
7 domestic partnership relationship is in effect, but does not require that partners
8 contribute equally to said basic food, shelter and common necessities of life.

9 Registered domestic partnership means a committed relationship between two
10 persons in a domestic relationship who have registered their domestic partnership with
11 the county clerk in accordance with the provisions of this article.

12
13 **Sec. 41-3. Establishment of domestic partnership registry.**

14 There is hereby created in the county a domestic partnership registry, which shall
15 be maintained by the county clerk.

16
17 **Sec. 41-4. Registration of a domestic partnership.**

18 (a) Registration. A valid domestic partnership may be registered by two
19 persons in a committed domestic relationship by filing an affidavit of domestic
20 partnership with the county clerk's office. The affidavit must be signed under oath and
21 notarized in the presence of the county clerk or his or her designee. The affidavit shall
22 comply with all requirements for establishing a domestic partnership as described in this
23 article. Upon payment of any required fees, the county clerk's office shall file the

1 affidavit of domestic partnership and issue a certificate and laminated card reflecting
2 the registration of the affidavit in the county registry.

3 (b) Affidavit. An affidavit of domestic partnership shall contain the name and
4 address of each domestic partner, the signature of each partner, the signatures of two
5 witnesses, and each partner shall swear or affirm under penalty of perjury that each
6 partner:

7 (1) Is at least 18 years old and competent to contract;

8 (2) Is not married;

9 (3) Is the sole domestic partner of the other person as the term
10 domestic partner is defined in this article;

11 (4) Is not related by blood to the other partner as defined in Florida
12 law;

13 (5) Consents to the domestic partnership without force, duress or
14 fraud;

15 (6) Agrees to be jointly responsible in the support of a domestic
16 partnership as defined in this article;

17 (7) Designates his or her domestic partner as his or her healthcare
18 surrogate, his or her agent to direct the disposition of remains for
19 funeral, cremation or burial, and his or her pre-need guardian, by
20 initialing the face of the affidavit in the specified location;

21 (8) Considers himself or herself to be in a committed domestic
22 relationship with the other partner, under circumstances satisfying
23 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 with the
3 affidavit of domestic partnership: a Florida driver's license, a Florida Identification Card,
4 a United States Passport, or any other document listed in the Governor's Reference
5 Manual for Notaries as satisfactory evidence.

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

11
12 **Sec. 41-5. Termination of a 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 termination of
15 domestic partnership, if the terms of the registered domestic partnership are no longer
16 applicable or one of the domestic partners wishes to terminate the domestic
17 partnership.

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

23 (1) The registered domestic partnership is to be terminated; and

1 (2) If the affidavit of termination is not signed by both registered
2 domestic partners, then an affidavit of notification must be
3 executed at the time of filing the termination with the county clerk,
4 affirming that a copy of the affidavit of termination was sent to the
5 absent partner via certified U.S. mail.

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

8 (d) Automatic termination. A registered domestic partnership shall
9 automatically terminate in the event that one of the domestic partners dies, marries, or
10 enters into a civil union or registered domestic partnership with someone other than his
11 or her registered domestic partner. It shall not be the duty of the county clerk or any
12 agent or employee of the county to monitor or verify the continuing legal validity of a
13 registered domestic partnership.

14
15 **Sec. 41-6. Administration of the domestic partnership registry.**

16 (a) The county clerk shall collect a fee for filing and administering the affidavits
17 of domestic partnership in the amount of fifty dollars (\$50.00). There will be no charge
18 for filing an affidavit of termination of domestic partnership. Amendments to the
19 domestic partnership registration affidavit will be free for the first amendment and any
20 amendments thereafter will be twenty dollars (\$20.00). The filing fee may be adjusted
21 by resolution of the county council.

1 (b) The county clerk shall collect a fee in the amount the clerk has established
2 pursuant to state public records law for copies of the original domestic partnership
3 documents.

4 (c) The county clerk shall keep a record of all affidavits of domestic partnership,
5 amendments and affidavits of terminations of domestic partnership. The county clerk
6 shall post a list of domestic partners on the county's website and shall update this list
7 every thirty days, except that if the thirtieth day falls on a weekend or recognized
8 holiday, the update shall occur on the next business day. Residential addresses shall
9 not be included as part of the posted domestic partner list.

10 (d) The county clerk shall identify on the face of the affidavit of domestic
11 partnership what types of documents were presented for further documentation. Such
12 documents shall not be kept on file with the county clerk.

13 (e) Upon receipt of an affidavit of domestic partnership signed by both domestic
14 partners and the requisite filing fee, the county clerk shall issue a certificate of domestic
15 partnership and a laminated card to each partner evidencing the registered domestic
16 partnership.

17 (f) The county clerk shall provide the domestic partnership affidavit form to
18 persons requesting it. This provision may be satisfied by posting the affidavit online in a
19 printable format.

20
21 **Sec. 41-7. Rights of registered domestic partners.**

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

1 (a) Health care facility visitation. All health care facilities operating within the
2 county shall honor the registered domestic partnership documentation issued pursuant
3 to this code as evidence of the relationship and shall allow a registered domestic
4 partner visitation as provided under federal law. A dependent of a registered domestic
5 partner shall have the same visitation rights as a patient's child.

6 (b) Health care decisions. This section pertains to decisions concerning both
7 physical and mental health. If the domestic partners specifically elect the health care
8 surrogate option on the affidavit of domestic partnership registry as a domestic partner
9 shall be considered to be written direction by each partner designating the other to
10 make health care decisions for their incapacitated partner, and shall authorize each
11 partner to act as the other's healthcare surrogate as provided in Chapter 765, Florida
12 Statutes, and otherwise as provided by federal law. Further, no person designated as a
13 health care surrogate shall be denied or otherwise defeated in serving as a health care
14 surrogate based solely upon his or her status as the domestic partner of the partner on
15 whose behalf health care decisions are to be made.

16 (c) Funeral/burial decisions. Registry as a domestic partner shall be considered
17 to be written inter vivos authorization and direction by the decedent to have his or her
18 domestic partner direct the disposition of the decedent's body for funeral, burial or
19 cremation purposes as a legally authorized person pursuant to Chapter 497, Florida
20 Statutes, if the decedent specifically elected to grant such authority on the affidavit of
21 domestic partnership. If the decedent provides conflicting written inter vivos
22 authorization and directions that are dated after the affidavit of domestic partnership,
23 the later dated authorization and directions shall control.

1 (d) Notification of family members. In any situation providing for mandatory or
2 permissible notification of family members, including, but not limited to, notification of
3 family members in an emergency, or when permission is granted to inmates to contact
4 family members, such notification shall include a registered domestic partner.

5 (e) Pre-need guardian designation. If specific election is made for pre-need
6 guardianship on the affidavit of domestic partnership, any person who is registered as a
7 domestic partner pursuant to this article shall have the same right as any other
8 individual to be designated as a pre-need guardian pursuant to Section 744.3045,
9 Florida Statutes, as amended, and to serve in such capacity, unless otherwise provided
10 by law. In the event one registered domestic partner becomes incapacitated and has
11 not executed a valid pre-need guardian designation, the other registered domestic
12 partner shall not be denied the opportunity to serve as the plenary guardian, as that
13 term is defined in Chapter 744, Florida Statutes, of his or her domestic partner or the
14 partner's property, based solely upon his or her status as a registered domestic partner.

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

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

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

7
8 **Sec. 41-8. 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
13 **Sec. 41-9. Reciprocity.**

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

17
18 **SECTION II:** Chapter 41, Article I, Sections 10-31, Code of Ordinances of the
19 County of Volusia are hereby placed in reserve.

20
21 **SECTION III:** Except as amended herein, the provisions of the Code of
22 Ordinances of the County of Volusia remain in full force and effect.

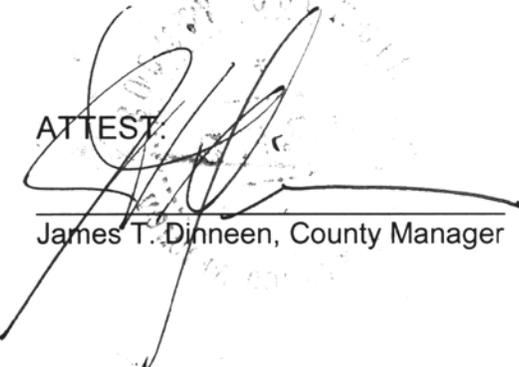
1 **SECTION IV: SEVERABILITY** - Should any section or provision of this
2 Ordinance, or application of any provision of this Ordinance, be declared to be
3 unconstitutional, invalid, or inconsistent with state or federal law, such declaration shall
4 not affect the validity of the remainder of this Ordinance.

5
6 **SECTION V: AUTHORIZING INCLUSION IN CODE** - The provisions of this
7 ordinance shall be included and incorporated into the Code of Ordinances of the
8 County of Volusia, as additions or amendments thereto, and shall be appropriately
9 renumbered to conform to the uniform numbering system of the code.

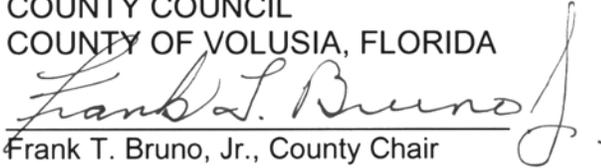
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11 **SECTION VI: EFFECTIVE DATE** - A certified copy of this Ordinance shall be
12 filed with the Department of State by the County Manager within ten (10) days after
13 enactment by the County Council. The effective date of this ordinance shall be July 1,
14 2012.

15
16 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**
17 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**
18 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**
19 **AVENUE, DELAND, FLORIDA, THIS 17th DAY OF MAY A.D., 2012.**

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21
22
23 ATTEST

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25
26 
James T. Dinneen, County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA


Frank T. Bruno, Jr., County Chair