

DRAFT

6-25-07

ORDINANCE NO. _____
0-07-46

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4 **An ordinance of the City of Gainesville, Florida, amending the**
5 **Code of Ordinances of the City of Gainesville, by creating and**
6 **adding an Article VII, under Chapter 2 of the Code, entitled**
7 **“Registered Domestic Partnerships,” providing for registered**
8 **domestic partnerships and setting forth the rights and legal**
9 **effects of such partnerships; amending Appendix “A” by**
10 **creating and adding a section entitled “Registered Domestic**
11 **Partnerships,” setting forth fees; providing directions to the**
12 **codifier; providing a severability clause; providing a repealing**
13 **clause; and providing an immediate effective date.**
14

15 **WHEREAS**, it is in the best interest of the City of Gainesville (“City”) to be responsible
16 to the changing needs of society and to treat all persons fairly and equitably; and

17 **WHEREAS**, the City recognizes that long-term committed relationships foster economic
18 stability and emotional and psychological bonds; and

19 **WHEREAS**, many Fortune 500 and leading technology companies provide employment
20 incentives for Domestic Partners; and

21 **WHEREAS**, the existence of a domestic partner registry in the City may encourage
22 companies to locate in or around the City, and assist in efforts to recruit employees and workers
23 to move to the Gainesville area; and

24 **WHEREAS**, the existence of a domestic partner registry and the rights conferred
25 therewith may encourage residents, both within and without the City limits, including
26 telecommuters whose home office may be outside the City limits, to patronize and utilize
27 facilities subject to the rights conferred by the domestic partner registry; and

28 **WHEREAS**, evidence indicates that the existence of a domestic partner registry will
29 promote the City’s reputation as a growing, vibrant and diverse community, and encourage
30 participation in and use of community resources by residents and visitors alike; and

31 **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper

1 of general circulation notifying the public of this proposed ordinance and of a Public Hearing in
2 the Auditorium of City Hall in the City of Gainesville; and

3 WHEREAS, the Public Hearings were held pursuant to the published notice described at
4 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
5 heard; and

6 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
7 CITY OF GAINESVILLE, FLORIDA:

8 Section 1. Article VIII of Chapter 2, Code of Ordinances of the City of Gainesville,
9 consisting of sections 2-610 through 2-613, is hereby created and added to read as follows:

10 ARTICLE VIII. REGISTERED DOMESTIC PARTNERSHIPS

11 Sec. 2-610. Definitions

12 Committed relationship means a family relationship, intended to be of indefinite duration,
13 between two individuals characterized by mutual caring and the sharing of a mutual residence.

14 Declaration of Registered Domestic Partnership means the document that is filed with the Clerk
15 of the Commission’s office according to the procedures established in section 2-611.

16 Dependent is a person who resides within the household of a Registered Domestic Partnership
17 and is:

- 18 1. a biological, adopted, or foster child of a Registered Domestic Partner; or
- 19 2. a dependent as defined under IRS regulations; or
- 20 3. a ward of a Registered Domestic Partner as determined in a guardianship or other
21 legal proceeding.

22 Mutual residence means a residence shared by the Registered Domestic Partners; it is not
23 necessary that the legal right to possess the place of residence be in both of their names. Two
24 people may share a mutual residence even if one or both have additional places to live.

1 Registered Domestic Partners do not cease to share a mutual residence if one leaves the shared
2 place but intends to return.

3 Registered Domestic Partnership means a committed relationship between two persons who
4 consider themselves to be a member of each other's immediate family and have registered their
5 partnership in accordance with section 2-611.

6 **Sec. 2-611. Registration, amendment, termination and administration procedures.**

7 (a) Registration.

8 (1) Declaration of Registered Domestic Partnership. A declaration of Registered
9 Domestic Partnership shall be filed with the Clerk of the Commission and shall contain
10 the names and addresses of the applicants who shall swear or affirm under penalty of
11 perjury that each partner:

12 a. is at least 18 years old and competent to contract;

13 b. is not married to, or a member of another Registered Domestic Partnership
14 or civil union, with anyone other than the co-applicant.

15 c. agrees to share the common necessities of life and to be responsible for
16 each other's welfare.

17 d. considers the mutual residence to be his or her primary residence.

18 e. considers himself or herself to be a member of the immediate family of the
19 other partner; and

20 f. agrees to mutually support the other by contributing in some fashion, not
21 necessarily equally, to maintain and support the Registered Domestic Partnership.

22 (2) Each partner agrees to immediately notify the Clerk of the Commission, in
23 writing, if the terms of the Registered Domestic Partnership are no longer applicable or
24 one of the domestic partners wishes to terminate the domestic partnership.

1 (b) Amendment.

2 Registered Domestic Partners may amend a Registered Domestic Partnership previously filed
3 with the Clerk of the Commission to show a change in his or her household address or to add or
4 delete dependents. Amendments shall be signed by both members of the Registered Domestic
5 Partnership under penalty of perjury.

6 (c) Termination.

7 (1) Termination statement. A Registered Domestic Partner may terminate the
8 Registered Domestic Partnership by filing a termination statement with the Clerk of the
9 Commission. The person filing the termination statement shall swear or affirm under
10 penalty of perjury that:

11 (a) The Registered Domestic Partnership is to be terminated; and

12 (b) If the termination statement is not signed by both Registered Domestic
13 Partners, a copy of the termination statement shall be served, by certified or
14 registered mail, on the other Registered Domestic Partner, and proof of service
15 shall be filed with the Clerk of the Commission, and/or other good faith efforts
16 are made to notify the other Registered Domestic Partner, as described in an
17 affidavit filed with the Clerk of the Commission.

18 (2) Effective date. The termination shall become effective on the date of filing of the
19 termination statement signed by both Registered Domestic Partners or if the termination
20 statement is not signed by both parties, on the date proof of service or a good faith efforts
21 affidavit is filed with the Clerk of the Commission pursuant to subsection (c)(1)(b).
22 above.

23 (3) Automatic termination. A Registered Domestic Partnership shall automatically
24 terminate upon the following events:

- 1 a. One of the Domestic Partners marries;
- 2 b. One of the Domestic Partners dies; or
- 3 c. One of the Domestic Partners enters into a civil union with someone other
- 4 than his or her Registered Domestic Partner.
- 5 d. Registers with another Domestic Partner.

6 (d) Administration

7 (1) Forms. The Clerk of the Commission shall provide forms for the establishment,
8 amendment, and termination of Registered Domestic Partnerships, and otherwise be
9 responsible for implementing and interpreting the provisions of this article.

10 (2) Certificate of Registered Domestic Partnership. The Clerk of the Commission
11 shall issue to the Registered Domestic Partners a certificate of Registered Domestic
12 Partner no later than 10 business days after the declaration of Registered Domestic
13 Partnership is filed.

14 (3) Maintain records. The Clerk of the Commission shall maintain copies of the
15 declaration of Registered Domestic Partnerships, any and all amendments thereto,
16 certificates of Registered Domestic Partnership, and termination statements filed by
17 Registered Domestic Partners.

18 **Sec. 2-612. Rights and Legal Effect of Registered Domestic Partnership.**

19 To the extent not superseded or preempted by federal, state, or county law of ordinance, or
20 contrary to rights conferred by contract or separate legal instrument, Registered Domestic
21 Partners shall have the following rights:

22 (a) Health care facility visitation.

23 The term “health care facility” includes, but is not limited to, hospitals, convalescent facilities,
24 walk-in clinics, doctor’s offices, mental health care facilities, and other short and long term

1 facilities located within, or under the jurisdiction of, the City. All health care facilities operating
2 within the City shall allow a Registered Domestic Partner the same visitation rights as a spouse
3 (or parent, if the patient is a dependent of the Registered Domestic Partnership) of the patient. A
4 dependent of a Registered Domestic Partner shall have the same visitation rights as a patient's
5 child.

6 (b) Funeral/Burial decisions.

7 Following the death of a Registered Domestic Partner, the surviving partner shall have the same
8 rights to make decisions with regard to funeral/burial decisions and disposition of the decedent's
9 body as a surviving spouse. The surviving partner shall retain these rights notwithstanding the
10 automatic termination provision of section 2-611(c)(3)b.

11 (c) Notification of family members.

12 In any situation providing for mandatory or permissible notification of family members,
13 including, but not limited to, notification of family members in an emergency, or when
14 permission is granted to inmates to contact family members, "notification of family" shall
15 include Registered Domestic Partners, provided the domestic partner has notified the person,
16 entity or agency of such request..

17 (d) Preneed guardian designation.

18 Any person who is registered as a Registered Domestic Partner pursuant to this Article shall
19 have the same right as any other individual to be designated as a pre need guardian pursuant to
20 section 744.3045, Florida Statutes, and to serve in such capacity in the event of his or her
21 Declarant Registered Domestic Partner's incapacity. A Registered Domestic Partner shall not be
22 denied or otherwise be defeated in serving as the plenary guardian of his or her Registered
23 Domestic Partner or the partner's property, under the provisions of Chapter 744, Florida Statutes,

1 to the extent that the incapacitated partner has not executed a valid preneed guardian designation,
2 based solely upon his or her status as the domestic partner of the incapacitated partner.

3 (e) Correctional facility visitation rights.

4 The term “correctional facility” includes, but is not limited to, holding cells, jails, and juvenile
5 correction centers of any kind, located within or under the jurisdiction of the City. A Registered
6 Domestic Partner shall have the same visitation rights at all correctional facilities operating
7 within the City as a spouse (or parent, if the person in custody is a dependent of the Registered
8 Domestic Partnership) of a person in custody. A dependent shall have the same visitation rights
9 afforded to the child of a person in custody.

10 (f) Participation in education.

11 A Registered Domestic Partner shall have the same rights to participate in the education of a
12 dependent of the Registered Domestic Partnership as a parent to participate in the education of
13 their child, in all educational facilities located within or under the jurisdiction of the City. This
14 includes the right of a Registered Domestic Partner to participate in the home schooling of a
15 dependent in accordance with Florida law.

16 **Sec. 2-613. Rights and Legal Effect of Registered Domestic Partnership.**

17 (a) Nothing in this article shall be interpreted to alter, affect, or contravene county, state, or
18 federal law, or apply to county, state, or federal agencies, or officers or employees thereof, when
19 acting in their official capacities.

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

22 (c) All rights, privileges, and benefits extended to Registered Domestic Partnerships
23 registered pursuant to this article shall also be extended to all persons legally partnered in
24 another jurisdiction.

1 (d) A Registered Domestic Partner may enforce the rights under sec. 2-612 by filing a private
2 action against a person or entity in any court of competent jurisdiction for declaratory relief,
3 injunctive relief, or both.

4 **Section 2.** Registered Domestic Partnerships of Appendix A of the Code of Ordinances
5 of the City of Gainesville, is hereby created and added to read as follows:

6 REGISTERED DOMESTIC PARTNERSHIPS

7 Filing fee for Declaration of Registered Domestic Partnership

8 City Residents \$10.00

9 Non-City Residents \$20.00

10 Fee for amending or terminating the Declaration of Registered Domestic Partnership

11 City Residents \$10.00

12 Non-City Residents \$20.00

13 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
14 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of
15 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
16 or relettered in order to accomplish such intentions.

17 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be
18 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
19 way affect the validity of the remaining portions of this ordinance.

20 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
21 such conflict hereby repealed.

22 **Section 6.** This ordinance shall become effective immediately upon final adoption.

23 **PASSED AND ADOPTED** this ____ day of _____, 2007.

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D R A F T

6-25-07

PEGEEN HANRAHAN, MAYOR

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ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of _____, 2007.

This Ordinance passed on second reading this ____ day of _____, 2007.