

**ORDINANCE NO. 14-32**

**AN ORDINANCE CREATING HILLSBOROUGH COUNTY CODE OF ORDINANCES AND LAWS CHAPTER 30, ARTICLE III, EXPANDING ON A COUNTYWIDE BASIS THE CITY OF TAMPA'S DOMESTIC PARTNERSHIP REGISTRY; PROVIDING A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE RECOGNITION AND ESTABLISHMENT OF REGISTERED DOMESTIC PARTNERSHIPS THROUGHOUT HILLSBOROUGH COUNTY; PROVIDING FOR RIGHTS AND DUTIES OF SUPPORT PERSONS; PROVIDING FOR ALTERNATIVE MEANS OF DESIGNATING SUPPORT PERSONS; PROVIDING FOR TERMINATION OR REVOCATION OF DESIGNATION OF SUPPORT PERSON; PROVIDING FOR MAINTENANCE OF RECORDS AND FILING FEES; PROVIDING FOR LIMITED EFFECT; PROVIDING FOR ENFORCEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Hillsborough County Board of County Commissioners ("BOCC") acknowledges that the City of Tampa, Florida has adopted and enacted an Ordinance entitled "Domestic Partnership Registry," at Chapter 12, Article V (Sections 12-120 through 12-127); and

**WHEREAS**, it is the intent of the BOCC in enacting this Ordinance, to recognize, protect, safeguard and facilitate the right of all adult persons to designate persons to make, if necessary, healthcare decisions, funeral/burial decisions, preneed guardian designations, and to designate persons to participate in the education of a minor child and to designate persons to be notified in emergencies; and

**WHEREAS**, the BOCC also intends to recognize, protect, safeguard and facilitate the right of all adult persons to designate persons who should be allowed visitation rights, where appropriate, in healthcare and correctional facilities; and

**WHEREAS**, the BOCC intends to recognize, protect, safeguard and facilitate the abovementioned rights to all adult persons regardless of whether they choose to register under the Domestic Partnership Registry; and

**WHEREAS**, the BOCC intends to afford judicial remedies for all adult persons who are denied the rights set forth herein; and

**WHEREAS**, the BOCC does not intend to supersede any federal, state, or other county laws or regulations, or any existing contractual right, in enacting this Ordinance,

and the BOCC does not intend that this Ordinance be construed as recognizing or treating domestic partnerships, as defined in the Domestic Partnership Registry, as a marriage.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:**

There is hereby created Chapter 30, Article III of the Hillsborough County Code of Ordinances and Laws, which shall be included as follows:

**SECTION 1.           SHORT TITLE.**

This Ordinance shall be known and may be cited as the “Hillsborough Health, Education, and Life Planning (“H.E.L.P.”) Ordinance and Advanced Directives and Domestic Partnership Registry.”

**SECTION 2.           DEFINITIONS.**

For purposes of this Ordinance, the terms below shall have the following meaning:

(A)   DESIGNATING PERSON – means an adult person who has chosen to designate another person to make healthcare decisions, funeral/burial decisions, and/or educational decisions, and/or to have visitation rights in healthcare and/or correctional facilities, and to be notified in case of emergency, or any combination thereof, concerning the Designating Person and/or the Designating Person’s legal dependents.

(B)   SUPPORT PERSON – means the adult person designated by the Designating Person to make healthcare decisions, funeral/burial decisions, and/or educational decisions, and/or to have visitation rights in healthcare and/or correctional facilities, and to be notified in case of emergency, or any combination thereof, concerning the Designating Person and/or the Designating Person’s dependents. Only one person can be designated as a Support Person.

(C)   HEALTH CARE FACILITY – includes, but is not limited to, hospitals, nursing homes, hospice care facilities, convalescent facilities, walk-in clinics, doctors’ offices, mental health care facilities and any other short-term or long-term health care facilities located within Hillsborough County, Florida.

(D)   CORRECTIONAL FACILITY – means holding cells and jails of any kind, located within or under the jurisdiction of Hillsborough County, Florida.

(E)   CITY OF TAMPA DOMESTIC PARTNERSHIP REGISTRY ORDINANCE – shall mean and refer to Chapter 12, Article V, Sections 12-120 through 12-127 inclusive, originally enacted by the Tampa City Council in 2012.

(F) DOMESTIC PARTNERSHIP REGISTRY – shall refer to the Domestic Partnership Registry established by the City of Tampa in facilitation of the City of Tampa Domestic Partnership Registry Ordinance.

(G) REGISTERED DOMESTIC PARTNERSHIP – shall refer to the relationship created by compliance with the City of Tampa Domestic Partnership Registry Ordinance, except that registration may be accomplished directly through the Hillsborough County Clerk of the Circuit Court.

(H) REGISTERED DOMESTIC PARTNERS – shall refer to each and both applicants who register effectively with the Domestic Partnership Registry.

(I) CLERK – shall mean the Hillsborough County Clerk of the Circuit Court.

**SECTION 3. RECOGNITION AND ESTABLISHMENT OF REGISTERED DOMESTIC PARTNERSHIPS THROUGHOUT HILLSBOROUGH COUNTY.**

To the extent not superseded by federal, state or other county law or ordinance, and to the extent not contrary to rights conferred by contract or separate legal instrument, Registered Domestic Partners shall be recognized throughout Hillsborough County, Florida as being in a Registered Domestic Partnership and shall have any and all rights recognized and established between Registered Domestic Partners under the City of Tampa Domestic Partnership Ordinance.

**SECTION 4. RIGHTS AND DUTIES OF SUPPORT PERSONS.**

To the extent not superseded by federal, state or other county law or ordinance, and to the extent not contrary to rights conferred by contract or separate legal instrument, a Designating Person who has designated a Support Person in accordance with Section 5, below, shall be deemed to have conferred upon the Support Person the following rights with respect to the Designating Person, unless the Designating Person indicates otherwise under Section 5.B., below:

(A) HEALTH CARE FACILITY VISITATION.

1. All Health Care Facilities operating within Hillsborough County, Florida shall allow the Support Person visitation as provided under federal law.
2. All Health Care Facilities operating within Hillsborough County, Florida shall also allow visitation as provided under federal law to dependents of those Support Persons who are also Registered Domestic Partners.

(B) HEALTH CARE DECISIONS. This Section pertains to decisions concerning both physical and mental health. A Designating Person's designation of a Support Person shall be considered written direction by the Designating Person designating the Support Person to make health care decisions for the incapacitated Designating Person, and is sufficient to recognize the Support Person as the Designating Person's health care surrogate as provided in Chapter 765, Florida Statutes, and otherwise as provided by federal law. Further, no Support 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 a Support Person of the Designated Person 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 the form prescribed by Chapter 765, Florida Statutes, that is properly executed after the date of registration which contains conflicting designations shall control over the designations by virtue of the registration.

(C) FUNERAL/BURIAL DECISIONS. A Designating Person's designation of a Support Person under this Ordinance shall be considered to be the written inter vivos authorization and direction to have his or her Support Person direct the disposition of the Designating Person's body for funeral and burial purposes as provided in Chapters 406, 497 and 732, Florida Statutes, unless the Designating Person had otherwise provided conflicting written inter vivos authorization and directions that are dated after the date of the designation by the Designating Person of the Support Person pursuant to this Ordinance, in which case the later dated authorization and direction shall control.

(D) CORRECTIONAL FACILITY VISITATION RIGHTS.

1. Any Support Person designated by a Designating Person under this Ordinance shall be entitled to visit the Designating Person, if the Designating Person is an inmate of a correctional facility located within Hillsborough County, Florida, upon the same terms and conditions under which visitation is afforded to any person.
2. Support Persons and Designating Persons who are also Registered Domestic Partners will also be entitled to visit or be visited by family members of the Support Person or Designating Person upon the same terms and conditions under which visitation is afforded to any person.

(E) EMERGENCY NOTIFICATION. 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 Support Persons, so long as adequate contact information for the Support Person is provided by the Designating Person.

(F) PRENEED GUARDIAN DESIGNATION. The person who has been designated as a Support Person pursuant to this Ordinance 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 the Designating Person's incapacity. A Support Person shall not be denied or otherwise be defeated in serving as the plenary guardian of the Designating Person or the Designating Person's property under the provisions of Chapter 744, Florida Statutes, to the extent that the incapacitated Designating Person has not executed a valid preneed guardian designation, based solely upon his or her status as the Support Person of the incapacitated Designated Person.

(G) PARTICIPATION IN EDUCATION. To the extent allowed by and in a manner consistent with federal and state law and any applicable court orders, valid agreements or contracts, a Support Person as defined by this Ordinance shall have the right to participate in the education of a minor child or children who are the dependents of the Designating Person in all educational facilities located within or under the jurisdiction of Hillsborough County, Florida. Any right to participate in the education of a dependent of a Designating Person shall be exercised consistent with applicable policies and procedures of the Hillsborough County School District.

**SECTION 5. ALTERNATIVE METHODS OF DESIGNATING SUPPORT PERSONS.**

(A) Any adult person may choose to use the registration provisions of the City of Tampa Domestic Partnership Registry Ordinance. Any adult person who is registered under the Domestic Partnership Registry will be a Registered Domestic Partner in a Registered Domestic Partnership as of the Effective Date hereof. As to each of any pair of persons who submit or have submitted an affidavit together and who register or have registered under the Domestic Partnership Registry, each person is a Registered Domestic Partner, and if necessary, a Support Person, under this Ordinance, in relation to the other affiant, who will also be deemed the Designating Person under this Ordinance.

(B) Alternatively, any adult person who chooses not to register under the City of Tampa Domestic Partnership Registry may nevertheless designate a Support Person by executing and filing a written document, provided by the Clerk, designating the Support Person, and the Designating Person shall indicate the express functions and rights which the Support Person will have with respect to the Designating Person, identifying healthcare surrogate status, healthcare facility visitation rights, authority to make funeral/burial decisions, correctional facility visitation rights, right to notification in the event of an emergency, preneed guardian designation, and/or the right to participate in the education of a minor child who is the Designating Person's dependent. The written designation shall be signed by the Designating Person in the presence of two subscribing adult witnesses, at least one of whom shall be neither the Designating Person's spouse nor blood relative. If the Designating Person is unable to sign the instrument, the Designating Person, in the presence of two adult witnesses, one of which shall be neither of the Designating Person's spouse nor blood relative, may direct that another person sign the

Designating Person's name. The Designating Person shall provide an exact copy of the instrument to the Support Person.

**SECTION 6. TERMINATION OR REVOCATION OF DESIGNATION OF SUPPORT PERSON UNDER THIS ORDINANCE.**

In addition to any other laws or regulations or contract rights providing for termination or revocation of rights concerning Registered Domestic Partners and the relationship between Registered Domestic Partners or between a Designating Person and a Support Person, and to the extent not inconsistent with any such other law, regulation or contract, a Registered Domestic Partner or a Designating Person may terminate or revoke the Registered Domestic Partnership or the designation of a Support Person by executing and filing a Notice of Termination and Revocation of Designation as prepared by the Clerk. However, to the extent a Registered Domestic Partnership or the relationship between the Designating Person and the Support Person has been terminated without the provision of a Notice of Termination and Revocation as provided for in this Section, no person relying upon the information established and recorded by this Ordinance shall be liable under this Ordinance by relying upon the information maintained by the Clerk in the public records pursuant to this Ordinance.

**SECTION 7. MAINTENANCE OF RECORDS; FILING FEES.**

(A) The Clerk shall prepare all forms necessary for the implementation of this Ordinance, including all forms to be completed by Support Persons and Designating Persons. The Clerk shall maintain a record of all forms filed pursuant to this Ordinance.

(B) The Clerk shall collect appropriate fees as allowed by law for the filing of any forms required by this Ordinance. Any fees under this Section shall be commensurate with the actual costs of administering the provisions of this Ordinance.

(C) The Clerk is authorized and requested to take all actions necessary to implement the provisions of this Section within ninety (90) days after this Ordinance is enacted.

(D) The Clerk may collaborate with the City Clerk of the City of Tampa to coordinate the maintenance of records between Hillsborough County, Florida, and the City of Tampa regarding this Ordinance and the City of Tampa's Domestic Partnership Registry Ordinance.

**SECTION 8. LIMITED EFFECT.**

(A) Nothing in this Ordinance shall be interpreted to alter, affect, or contravene county, state, or federal law, or any existing contract or legal right.

(B) Nothing in this Ordinance shall be construed as recognizing or treating the relationship between a Designating Person and a Support Person, or a Registered Domestic Partnership under the Domestic Partnership Registry Ordinance, as a marriage.

(C) No other rights are created nor implied under this Ordinance, and no private right of action is created unless specified herein.

**SECTION 9. ENFORCEMENT.**

Any Registered Domestic Partner or Designating Person or Support Person may enforce their rights by filing a private judicial action against any person or entity denying those rights in any court of competent jurisdiction for declaratory relief, injunctive relief, damages, interest and costs, or any other relief a court may deem appropriate.

**SECTION 10. APPLICABILITY.**

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all of the unincorporated areas of Hillsborough County, Florida, and to all incorporated areas of Hillsborough County where there is no existing conflict of law or municipal ordinance.

**SECTION 11. SEVERABILITY.**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by and any Court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 12. RESOLUTION OF CONFLICT OF LAWS.**

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida Law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

**SECTION 13. INCLUSION IN THE HILLSBOROUGH COUNTY CODE.**

The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code of Ordinances and Laws, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code.

**SECTION 14.           FILING OF ORDINANCE.**

In accordance with the provisions of Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Florida Department of State.

**SECTION 15.           EFFECTIVE DATE.**

This Ordinance shall become effective upon filing with the Florida Department of State.

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**STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH**

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners at its meeting of October 15, 2014, as the same appears of record in Minute Book 461, of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 16th day of October 2014.

PAT FRANK  
CLERK OF CIRCUIT COURT

By: Miaou K. Dai  
Deputy Clerk

Approved by County Attorney  
as to Form and Legal Sufficiency

By: Cynthia S. Oster  
Cynthia S. Oster  
Sr. Assistant County Attorney

