



DeKalb County Government

Manuel J. Maloof Center
1300 Commerce Drive
Decatur, Georgia 30030

Agenda Item

File ID: 2021-3338

Substitute

12/ /2021

Public Hearing: YES ☐ NO ☒

Department: Board of Commissioners - District 6

SUBJECT: Amendment to the Domestic Partnership Ordinance

Commission District(s): All Districts

To Amend Chapter 20, Article X concerning domestic partnerships.

Information Contact: Commissioner Ted Terry

Phone Number: 404-371-4909

PURPOSE:

To amend Chapter 20, Article X concerning domestic partnerships by removing the requirement that domestic partners be persons of the same gender.

NEED/IMPACT:

Approval of the attached code amendment will make domestic partnership insurance benefits available to all couples, regardless of gender, provided they meet the remaining qualifications for domestic partnership currently set forth under DeKalb County Code Sec. 20-200.

FISCAL IMPACT:

None.

RECOMMENDATION:

To approve the attached ordinance amending Code Section 20-200.

Sec. 20-200. – Definitions.

[The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:]

Declaration of domestic partnership means a form provided by the county finance department in which two (2) people ~~of the same gender~~ agree to be jointly responsible for the necessities of life incurred during the domestic partnership and that all qualifications for domestic partnership are met when the declaration is signed. The form will require both partners to provide reasonable proof of their primary, regular, and permanent residence address. The form must be signed under penalty of perjury and must be witnessed and notarized.

Domestic partnership means two (2) people ~~of the same gender~~ who live together in a single home and have signed a declaration of domestic partnership in which they attest that:

- 1) They share the same primary, regular, and permanent residence and have lived together for the previous twelve (12) months (documentation must be submitted verifying joint residency);
- 2) They have a committed personal relationship with each other that is intended to be lifelong;
- 3) The employee's partner is a dependent of the employee under Georgia law;
- 4) They are not married as recognized by Georgia law to anyone or legally separated from anyone;
- 5) They have only one current domestic partner;
- 6) They are eighteen (18) years of age or older;
- 7) They are competent to enter into a contract;
- 8) They are not related by blood closer than would bar marriage in the state;
- 9) They are each other's sole domestic partner;
- 10) They agree to file a termination of domestic partnership within ten (10) days if any of the facts set out in this definition change;
- 11) Any prior domestic partnership declared under this section, in which their domestic partner participated with a third party, was terminated not less than twelve (12) months prior to the date of such affidavit and, that notice of termination was provided to the county in writing to the finance department;
- 12) They agree that the county employee shall have the sole and exclusive right to make all benefit elections on behalf of the domestic partner;

- 13) They agree that the county employee shall be responsible for any and all tax liability associated with any benefits provided to the domestic partner, including imputed taxable income and be subject to tax withholding or other tax treatment;
- 14) They agree under penalty of perjury under the laws of Georgia that all information in the declaration of domestic partnership is true and correct.

Live(d) together means that the two (2) people claiming domestic partnership status share the same primary, regular, and permanent residence. It is not necessary that the legal right to possess the residence be in both names. Domestic partners do not cease to live together if one leaves the shared residence for a period not to exceed six (6) months, but intends to return. Whether the relationship between these two (2) people is or is not sexual is in no way relevant for the purposes of determining eligibility under this article.

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA,
AS REVISED 1988, CHAPTER 20, ARTICLE X PERTAINING
TO DOMESTIC PARTNERSHIPS, AND FOR OTHER PURPOSES.**

WHEREAS, in April 2001, the DeKalb County Governing Authority enacted a Domestic Partnerships ordinance for the purpose of extending insurance benefits coverage to same-sex couples who were legally prohibited from marrying; and

WHEREAS, on June 26, 2015, the United States Supreme Court struck down state bans on same-sex marriage and legalized the same in all fifty states; and

WHEREAS, because of the foregoing legal advancements, there no longer exists a compelling justification for limiting domestic partnerships to same-sex couples only; and

WHEREAS, the DeKalb County Governing Authority finds it fair and equitable to make any domestic partnership benefits available to all couples, regardless of gender, who meet the remaining qualifications for domestic partnership;

NOW, THEREFORE, BE IT ORDAINED by the DeKalb County Governing Authority, and it is hereby ordained by the authority of the same, that Chapter 20, Article X, of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I: ENACTMENT

By replacing the existing language of Section 20-200 of the Code of DeKalb County, as Revised 1988, with the following:

Sec. 20-200. – Definitions.

[The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:]

Declaration of domestic partnership means a form provided by the county finance department in which two (2) people agree to be jointly responsible for the necessities of life incurred during the domestic partnership and that all qualifications for domestic partnership are met when the declaration is signed. The

form will require both partners to provide reasonable proof of their primary, regular, and permanent residence address. The form must be signed under penalty of perjury and must be witnessed and notarized.

Domestic partnership means two (2) people who live together in a single home and have signed a declaration of domestic partnership in which they attest that:

- 1) They share the same primary, regular, and permanent residence and have lived together for the previous twelve (12) months (documentation must be submitted verifying joint residency);
- 2) They have a committed personal relationship with each other that is intended to be lifelong;
- 3) The employee's partner is a dependent of the employee under Georgia law;
- 4) They are not married as recognized by Georgia law to anyone or legally separated from anyone;
- 5) They have only one current domestic partner;
- 6) They are eighteen (18) years of age or older;
- 7) They are competent to enter into a contract;
- 8) They are not related by blood closer than would bar marriage in the state;
- 9) They are each other's sole domestic partner;
- 10) They agree to file a termination of domestic partnership within ten (10) days if any of the facts set out in this definition change;
- 11) Any prior domestic partnership declared under this section, in which their domestic partner participated with a third party, was terminated not less than twelve (12) months prior to the date of such affidavit and, that notice of termination was provided to the county in writing to the finance department;
- 12) They agree that the county employee shall have the sole and exclusive right to make all benefit elections on behalf of the domestic partner;
- 13) They agree that the county employee shall be responsible for any and all tax liability associated with any benefits provided to the domestic partner, including imputed taxable income and be subject to tax withholding or other tax treatment;
- 14) They agree under penalty of perjury under the laws of Georgia that all information in the declaration of domestic partnership is true and correct.

Live(d) together means that the two (2) people claiming domestic partnership status share the same primary, regular, and permanent residence. It is not necessary that the legal right to possess the residence be in both names.

Domestic partners do not cease to live together if one leaves the shared residence for a period not to exceed six (6) months, but intends to return. Whether the relationship between these two (2) people is or is not sexual is in no way relevant for the purposes of determining eligibility under this article.

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PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, nor any part thereof, other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the Board of Commissioners of DeKalb County, this _____ day of _____ 2021.

STEPHEN R. BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____ 2021.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA SANDERS-NORWOOD, CCC

Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

AAPPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

VIVIANE H. ERNSTES

County Attorney
DeKalb County, Georgia

BENITA C. RANSOM

Director of Human Resources
DeKalb County, Georgia