

RESOLUTION NO.

RE: ADOPTING LOCAL LAW NO. _____ of 2022
A LOCAL LAW TO AUTHORIZE COUNTY REGISTRY
FOR DOMESTIC PARTNERS

Legislators
offer the following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No.
_____ of 2022 which has been submitted this day for consideration by said Legislature.

CA-105-22
CRC/kvh
G-0130-B_____
08/24/22
Fiscal Impact: None

LOCAL LAW NO. ____ of 2022

RE: A LOCAL LAW TO AUTHORIZE COUNTY REGISTRY
FOR DOMESTIC PARTNERS

BE IT ENACTED by the County Legislature of the County of Dutchess, State of New York as follows:

Section 1. Legislative Intent

This Legislature hereby finds and determines that the American tradition of equal opportunity and the exercise of individual rights protects all citizens against discrimination.

This Legislature also finds that many couples who live together often have personal relationships and bonds that are as strong as married couples and who nurture and care for one another in sickness and health.

This Legislature hereby determines that the COVID-19 Pandemic demonstrated the need to provide domestic partners in committed relationships with a means to legally establish that relationship because there are situations in which one partner was disabled or killed and the partner has been denied the ability to collect insurance, reside in the partner's residence, claim next of kin benefits, or even to visit their hospitalized partner.

Therefore, the purpose of this law is to establish a Dutchess County registry for domestic partners of county residents and/or employees.

Section 2. Definitions

- A. "Domestic partners" shall mean persons who have a registered domestic partnership, including any partnership registered pursuant to this law.
- B. "Registry of domestic partnerships" shall mean the registry maintained by the County Clerk pursuant to this law, including all domestic partnerships registered.
- C. "Affidavit of domestic partnership" shall mean an affidavit prepared by the office of the County Clerk in accordance with the rules adopted by the County Clerk.

Section 3. Domestic partnership registration

- A. Domestic partnership registration: A domestic partnership may be registered by two people who meet all of the following conditions:
 - 1. Either (a) both persons are residents of Dutchess County, or (b) at least one partner is employed by the County of Dutchess on the date of registration;

2. Both persons are eighteen (18) years of age or older and mentally competent to execute a contract;
3. Neither of the persons is legally married to a third party;
4. Neither of the persons is a party to another domestic partnership, or has been a party to another domestic partnership within the six months immediately prior to registration;
5. The persons are not related to each other by blood in a manner that would bar their marriage in the State of New York;
6. The persons have a close and committed personal relationship, live together, and have been living together on a continuous basis for a least one (1) year;
7. The persons return a completed domestic partners affidavit provided by the County Clerk, notarized and signed by both parties;
8. The proposed partners submit at least two (2) items of proof evidencing their financial interdependence from among the following list:

JOINT BANK ACCOUNT

- Statement with both names
- Check with both names
- Passbook with both names

JOINT CREDIT CARD

- Statement with both names

JOINT OBLIGORS ON LOAN

- Note or other loan origination document with both names

JOINT OWNERSHIP OF RESIDENCE

- Deed or other sale/transfer document with both names
- Property or water tax document with both names
- Mortgage Agreement

JOINT TENANTS ON LEASE

- Lease with both names

COMMON HOUSEHOLD EXPENSES

- Utility/telephone bill with both names
- Public assistance document with both names

JOINT CUSTODY OF A CHILD

JOINT VEHICLE OWNERSHIP

-Title in both names

JOINT WILLS

-Copy of will or wills, with each party naming the other as beneficiary and/or executor

POWER OF ATTORNEY

-Copy of Powers of Attorney with each party naming the other party and no limitation on the term of the documents

HEALTH CARE PROXY

-Copy of health care proxies/living wills, with each party giving the other party the power to make health care/non-resuscitation decisions upon incapacitation

LIFE INSURANCE

-Copy of policy with one party naming the other as beneficiary

RETIREMENT BENEFITS

-Copy of beneficiary designation form with one party designating the other as beneficiary

TAX RETURNS

JOINT MEMBERSHIP

-Church
-Family organization

REGISTRATION

-Domestic partnership filed in a different state or municipality which recognizes such partnerships

DAYCARE

-Joint responsibility for childcare as evidenced by school documents or guardianship

JOINT INVESTMENTS

-Investment securities with both names
-Mutual fund statements with both names
-Brokerage account statements with both names

AFFIDAVIT

-By a creditor or other person able to testify to partner's financial interdependence

COUNTY CLERK

-Other proof establishing economic interdependence, as determined by the County Clerk

- B. In order to register, persons shall execute an affidavit of domestic partnership and submit it to the County Clerk, who shall maintain a registry of domestic partnerships. Both parties to the partnership shall be present when the affidavit is submitted.
- C. Except when one of the parties is confined to a prison, in a hospital or other health-care facility, or is unable to travel to the office of the County Clerk because of a physical disability, the affidavits shall be submitted to the County Clerk at the office of the County Clerk.
- D. The County Clerk may adopt such rules and filing fees as are necessary to implement this domestic partnership registration program which shall include provisions necessary to provide for the registration of domestic partners when one of the partners is in prison or unable to travel, which shall be comparable to (no more restrictive) to the rules applicable to persons in such circumstances who apply for a marriage license.

Section 4. Termination of domestic partnership

- A. If either party or both parties to a registered domestic partnership determines that the partnership has terminated, one of the partners shall file a termination statement with the County Clerk. The person filing the termination statement shall declare that the domestic partnership is terminated and, if the termination statement has not been signed by both domestic partners, proof that the other domestic partner has been notified of such termination by registered mail, return receipt requested.
- B. A domestic partnership shall terminate whenever one of the parties to the partnership marries a third party.
- C. A domestic partnership shall terminate upon the death of one of the parties.

Section 5. Confidentiality of domestic partnership information

- A. The County Clerk shall establish procedures and filing fees to ensure the confidentiality of information in the registry of domestic partnerships. In the ordinary course of business, such records shall be released only:
 - 1. To the parties to the domestic partnership;
 - 2. To individuals presenting written authorization, duly notarized, from one of the parties to the domestic partnership; and
 - 3. To attorneys in cases where such records are required as evidence in an active pending legal proceeding.
- B. The following restrictions shall not apply to records that are at least fifty (50) years old, or to records where both parties to the domestic partnership are deceased:

1. Where a party to the domestic partnership sends a third party to obtain their domestic partnership record without a letter of authorization, the third party may make the request and pay any applicable fee if the third-party consents to have the record mailed directly to the party to the domestic partnership;
 2. If a person requires information concerning the prior history of domestic partnerships of a person who is that person's domestic partner or spouse or prospective domestic partner or spouse, the office of the County Clerk shall, upon receiving adequate assurance that such person's interest is as described in this paragraph, payment of the appropriate fee, and the furnishing of an approximate date of the registration of the partnership and sufficient information to search under at least one party's name, confirm only the fact of a prior domestic partnership by a "yes" or "no" answer.
- C. Nothing herein shall be construed to prohibit the publication of statistics pertaining to domestic partnerships which have been registered by the County Clerk, provided that appropriate measures are taken to prevent identification of persons registered.

Section 6. Certificate of domestic partnership registration

- A. The County Clerk shall issue a Certificate of Domestic Partnership Registration to persons who have registered pursuant to this law. Such a certificate shall constitute notice of a registered domestic partnership when persons apply for rights or benefits available to domestic partners.
- B. The application fee for the processing of the request for such a Certificate of Domestic Partnership Registration shall be Twenty and 00/100 (\$20.00) Dollars and must be paid before any such certificate may be issued.
- C. The fee for such a Certificate of Domestic Partnership Registration or certified copy thereof shall be Twenty and 00/100 (\$20.00) Dollars

Section 7. Benefits

As a matter of County policy,

- A. Nothing in this law shall be deemed to supersede, alter, affect or conflict with any applicable state or federal statutes, laws, regulations, or rules. Nor shall anything in this law be construed to confer any right, privilege, or benefit not explicitly provided for herein.
- B. Nothing in this local law requires, or is intended to require, any religious or denominational institution or organization operated for charitable or educational purposes to recognize or provide health benefits to domestic partners.

Section 8. Applicability

This law shall apply to domestic partners who apply for a domestic partnership registration on or after the effective date of this law.

Section 9. Severability

If any clause, sentence, paragraph, subdivision, section or party of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. Penalties

Any person who willfully makes a material misrepresentation under Section 3 of this law shall be guilty of a violation punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

Section 11. SEQRA Determination

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5©(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures and legislative decisions in connection with the continuing agency administration, management and information collection. The Dutchess County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 12. Effective Date

This law shall take effect on the 60th day after filing in the office of the Secretary of State.

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0
and Source

Source of County Funds (*check one*): Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other (*explain*).

Identify Line Items(s):

Related Expenses: Amount \$ _____

Nature/Reason:

Anticipated Savings to County: \$ 0

Net County Cost (this year): \$ 0

Over Five Years: \$ 0

Additional Comments/Explanation:

Minimal Expense to create anew document type in our document management system by OCIS

Revenue generates by \$20 filing fee and a \$20 certificate fee will cover the staff expense involved.

Prepared by: Bradford Kendall

Prepared On: 8/15/2022

BRADFORD H KENDALL
COUNTY CLERK



ANNE-MARIE DIGNAN
DEPUTY

COUNTY OF DUTCHESS
OFFICE OF THE COUNTY CLERK

STATEMENT OF DOMESTIC PARTNERSHIP AFFIDAVIT

WE DO HEREBY CERTIFY OURSELVES TO BE DOMESTIC PARTNERS AS DEFINED BY LOCAL LAW XX-2022 TO AUTHORIZE A COUNTY REGISTRY FOR DOMESTIC PARTNERS. WE FURTHER DECLARE:

- Either (a) both persons are residents of Dutchess County, or (b) at least one partner is employed by the County of Dutchess on the date of registration;
- Both persons are eighteen (18) years of age or older and mentally competent to execute a contract;
- Neither of us is legally married to a third party;
- Neither of us is a party to another domestic partnership, or has been a party to another domestic partnership within the six months immediately prior to registration;
- We are not related to each other by blood in a manner that would bar marriage in the State of New York;
- We have a close and committed personal relationship, live together, and have been living together on a continuous basis for at least one (1) year; and
- We understand that the registration of this Domestic Partnership Affidavit creates a domestic partnership of continuous duration until an Affidavit of Termination is filed or upon the death or marriage of either of us; and
- We have submitted at least two (2) items of proof evidencing our financial interdependence as listed in Local Law XX-2022.

WE CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT UNDER PENALTY OF LAW.

Applicants' Name: 1) _____ 2) _____
(Print) (Print)

Applicants' Signature: 1) _____ 2) _____
(Signature) (Signature)

Address: _____

STATE OF NEW YORK
COUNTY OF _____ SS:}

Sworn before me this ___ day
of _____, 20__.

NOTARY PUBLIC

FOR OFFICE USE ONLY:

PLEASE CHECK THE TWO CATAGORIES OF PROOF SUBMITTED AS EVIDENCE BY THE DOMESTIC PARTNERSHIP APPLICANTS :

- | | |
|---|--|
| <input type="checkbox"/> JOINT BANK ACCOUNT - STATEMENT WITH BOTH NAMES - CHECK WITH BOTH NAMES - PASSBOOK WITH BOTH NAMES | <input type="checkbox"/> HEALTH CARE PROXY - COPY OF HEALTH CARE PROXIES / LIVING WILLS, WITH EACH PARTY GIVING THE OTHER PARTY THE POWER TO MAKE HEALTH CARE/NON-RESUSCITATION DECISIONS UPON INCAPACITATION |
| <input type="checkbox"/> JOINT CREDIT CARD - STATEMENT WITH BOTH NAMES | <input type="checkbox"/> LIFE INSURANCE - COPY OF POLICY WITH ONE PARTY NAMING THE OTHER AS BENEFICIARY |
| <input type="checkbox"/> JOINT OBLIGORS ON LOAN - NOTE OR OTHER LOAN ORIGATION DOCUMENT WITH BOTH NAMES | <input type="checkbox"/> RETIREMENT BENEFITS - COPY OF BENEFICIARY DESIGNATION FORM WITH ONE PARTY DESIGNATING THE OTHER AS BENEFICIARY |
| <input type="checkbox"/> JOINT OWNERSHIP OF RESIDENCE - DEED OR OTHER SALE/TRANSFER DOCUMENT WITH BOTH NAMES - PROPERTY OR WATER TAX DOCUMENT WITH BOTH NAMES - MORTGAGE AGREEMENT | <input type="checkbox"/> TAX RETURNS |
| <input type="checkbox"/> JOINT TENANTS ON LEASE - LEASE WITH BOTH NAMES | <input type="checkbox"/> JOINT MEMBERSHIP - CHURCH - FAMILY ORGANIZATION |
| <input type="checkbox"/> COMMON HOUSEHOLD EXPENSES - UTILITY/TELEPHONE BILL WITH BOTH NAMES - PUBLIC ASSISTANCE DOCUMENT WITH BOTH NAMES | <input type="checkbox"/> REGISTRATION - DOMESTIC PARTNERSHIP FILED IN A DIFFERENT STATE OR MUNICIPALITY WHICH RECOGNIZES SUCH PARTNERSHIPS |
| <input type="checkbox"/> JOINT CUSTODY OF A CHILD | <input type="checkbox"/> DAYCARE - JOINT RESPONSIBILITY FOR CHILDCARE AS EVIDENCED BY SCHOOL DOCUMENTS OR GUARDIANSHIP |
| <input type="checkbox"/> JOINT VEHICLE OWNERSHIP - TITLE IN BOTH NAMES | <input type="checkbox"/> JOINT INVESTMENTS - INVESTMENT SECURITIES WITH BOTH NAMES - MUTUAL FUND STATEMENTS WITH BOTH NAMES - BROKERAGE ACCOUNT STATEMENTS WITH BOTH NAMES |
| <input type="checkbox"/> JOINT WILLS - COPY OF WILL OR WILLS, WITH EACH PARTY NAMING THE OTHER AS BENEFICIARY AND/OR EXECUTOR | <input type="checkbox"/> AFFIDAVIT - BY A CREDITOR OR OTHER PERSON ABLE TO TESTIFY TO PARTNER'S FINANCIAL INTERDEPENDENCE |
| <input type="checkbox"/> POWER OF ATTORNEY - COPY OF POWERS OF ATTORNEY WITH EACH PARTY NAMING THE OTHER PARTY AND NO LIMITATION ON THE TERM OF THE DOCUMENTS | <input type="checkbox"/> COUNTY CLERK - OTHER PROOF ESTABLISHING ECONOMIC INTERDEPENDENCE, AS DETERMINED BY THE COUNTY CLERK |

BRADFORD H KENDALL
COUNTY CLERK



ANNE-MARIE DIGNAN
DEPUTY

COUNTY OF DUTCHESS
OFFICE OF THE COUNTY CLERK
DISSOLUTION OF DOMESTIC PARTNERSHIP AFFIDAVIT

I, _____, certify that I previously filed a Statement
(Print)

of Domestic Partnership with the County of Dutchess, New York. I now inform
Suffolk County that _____ is no longer my Domestic Partner.
(Print)

I further certify that a signed copy of this Notice of Dissolution of Domestic Partnership
has been mailed or otherwise delivered to the Domestic Partner identified above.

I understand that I may not file a new Statement of Domestic Partnership Statement for a
minimum of six (6) months following the date this Notice of Dissolution of Domestic
Partnership has been filed by the County Clerk of Dutchess, New York.

ACKNOWLEDGEMENTS:

- A.) If either party or both parties to a registered domestic partnership determines that the partnership has terminated, one of the partners shall file a termination statement with the Dutchess County Clerk. The person filing the termination statement shall declare that the domestic partnership is terminated and, if the termination statement has not been signed by both domestic partners, that the other domestic partner has been notified.
- B.) A domestic partnership shall terminate whenever one of the parties to the partnership marries a third party.
- C.) A domestic partnership shall terminate upon the death of one of the parties.

Applicants' Name: 1) _____ 2) _____
(Print) (Print)

Applicants' Signature: 1) _____ 2) _____
(Signature) (Signature)

Address: _____

STATE OF NEW YORK
COUNTY OF _____ SS:}

Sworn before me this _____ day
of _____, 20__.

NOTARY PUBLIC

On XXXX xx, 2022, the Dutchess County Clerk's office created a Registry for Domestic Partners and accepted for filing, Affidavits of Domestic Partnerships pursuant to Local Law XX-2022.

Both parties to the partnership must be present when the affidavit is submitted for filing. A domestic partnership may be registered by two people who meet all of the following conditions:

1. Either (a) both persons are resident of Dutchess County, or (b) at least one partner is employed by the County of Dutchess on the date of registration;
2. Both persons are eighteen (18) years of age or older and mentally competent to execute a contract;
3. Neither of the parties is legally married to a third party;
4. Neither of the persons is a party to another domestic partnership, or has been a party to another domestic partnership within the six months immediately prior to registration;
5. The persons are not related to each other by blood in a manner that would bar their marriage in the State of New York;
6. The persons have a close and committed personal relationship, live together and have been living together on a continuous basis for at least one (1) year;
7. The persons return a completed domestic partners affidavit provided by the County Clerk, notarized and signed by both parties; and

The parties to the partnership must submit at least two (2) items of proof evidencing their financial interdependence from among the following list:

JOINT BANK ACCOUNT

- Statement with both names
- Check with both names
- Passbook with both names

JOINT OWNERSHIP OF RESIDENCE

- Deed or other sale/transfer document with both names
- Property or water tax document with both names
- Mortgage agreement

JOINT CUSTODY OF A CHILD

JOINT CREDIT CARD

- Statement with both names

JOINT OBLIGORS ON LOAN

- Note or other loan origination document with both names

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- Lease with both names

COMMON HOUSEHOLD EXPENSES

- Utility/telephone bill with both names
- Public assistance document with both names

TAX RETURNS

JOINT VEHICLE OWNERSHIP

-Title in both names

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-Copy of will or wills, with each party naming the other as beneficiary and/or executor

HEALTH CARE PROXY

-Copy of health care proxies/living wills, with each party giving the other party the power to make health care/non-resuscitation decisions upon incapacitation

JOINT MEMBERSHIP

-Church
-Family organization

DAYCARE

-Joint responsibility for childcare as evidenced by school documents or guardianship

JOINT INVESTMENTS

-Investment securities with both names
-Mutual fund statements with both names
-Brokerage account statements with both names

LIFE INSURANCE

-Copy of policy with one party naming the other as beneficiary

POWER OF ATTORNEY

-Copy of Powers of Attorney with each party naming the other party and no limitation on the term of the documents

RETIREMENT BENEFITS

-Copy of beneficiary designation form with one party designating the other as beneficiary

REGISTRATION

-Domestic partnership filed in a different state or municipality which recognizes such partnerships

AFFIDAVIT

-By a creditor or other person able to testify to partners financial interdependence

COUNTY CLERK

-Other proof establishing economic interdependence as determined by the County Clerk

The application fee for the processing of the request for such a Certificate of Domestic Partnership Registration shall be twenty (\$20.00) dollars and must be paid before any such certificate may be issued.

The County Clerk shall issue a Certificate of Domestic Partnership Registration to persons who have registered pursuant to this law. Such a certificate shall constitute notice of a registered domestic partnership when persons apply for rights or benefits available to domestic partners.

If either party or both parties to a registered domestic partnership determines that the partnership has terminated, one of the partners shall file a termination statement with the County Clerk. The person filing the termination statement shall declare that the domestic partnership is terminated and, if the termination statement has not been signed by both domestic partners, that the other domestic partner has been notified of such termination by registered mail, return receipt requested. The fee for filing a termination is twenty (\$20.00) dollars.

A domestic partnership shall terminate whenever one of the parties to the partnership marries a third party or upon the death of one of the parties.

Any person who willfully makes a material misrepresentation under Section X of this law shall be guilty of a violation punishable by a fine not to exceed five hundred dollars (\$500.00).



OFFICE OF THE
COUNTY CLERK OF DUTCHESS COUNTY
22 Market Street
Poughkeepsie, New York 12601
(845) 486-2374

Bradford H. Kendall
County Clerk

Anne-Marie Dignan
Deputy County Clerk

Lisa Ayala
Deputy County Clerk

May 16, 2022

Hon. Marcus J. Molinaro
Dutchess County Executive
22 Market Street
Poughkeepsie, NY 12601

Hon. A. Gregg Pulver
Chair, Dutchess County Legislature
22 Market St.
Poughkeepsie, NY 12601

Gentlemen:

I write to you today requesting that Dutchess County establish a “Domestic Partnership Registry” under the aegis of the Dutchess County Clerk.

The ravages of COVID 19 over the past 26 months are well known, In some cases, the partners of those affected have been denied visitation rights, benefits and the ability to participate in medical decision making.

Further, as a result of the pandemic, many of our new residents have moved here from jurisdictions that provide domestic partnership registries. The five boroughs of New York City, Suffolk County, Westchester County, Putnam County, Rockland County and some municipalities in Nassau County have all established domestic partnership registries. When our new residents move to Dutchess County they are unable to continue to prove their partnership status since most jurisdictions require residency.

The county legislature has previously considered the establishment of a domestic partnership registry on two occasions.

In 2002, the proposal was removed from consideration by the sponsor: Resolution 203042 (4/3/2003); Status: PULLED; Category: LOCAL LAW - DOMESTIC PARTNERS - BEHAVIORAL AND COMMUNITY HLTH/MENTAL HYGIENE/HLTH (dutchessny.gov)

In 2007, the proposal was defeated in committee: Resolution 207194 (8/9/2007); Status: DEFEATED IN COMMITTEE; Category: LOCAL LAW - DOMESTIC PARTNERS (dutchessny.gov)

I have attached a copy of the Suffolk County Local law edited for Dutchess County. The Suffolk County law addresses several deficiencies that were contained in the proposed 2007 local law as well as sample forms and procedures.

Earlier debates about a domestic partnership registry sometimes got derailed by extraneous concerns. Establishing a registry now would allow those whose long-term relationships have been acknowledged in other jurisdictions to be recognized in their new county of residence. It will also allow partners to participate more fully in joint financial and medical decision-making.

I look forward to your thoughts.

Yours in governance:

A handwritten signature in black ink, appearing to be 'Bradford Kendall', with a stylized flourish extending to the right.

Bradford Kendall