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PRODUCED BY COUNCILMEMBER DANNY WAN

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY

Ordinance No. 12467 C.M.S.

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**AN ORDINANCE PERMANENTLY CODIFYING THE CITY OF OAKLAND'S CITY-WIDE DOMESTIC PARTNER REGISTRATION POLICY ESTABLISHED IN RESOLUTION 72752**

WHEREAS, the City of Oakland Ordinance 10427 C.M.S. states that it is the policy of the City of Oakland to ensure that no individual within the City is subject to discrimination as a result of her or his sexual orientation; and

WHEREAS, the City of Oakland Resolution 72752 established a policy providing domestic partner registration for residents of Oakland; and

WHEREAS, it is the desire of the City Council to memorialize the policy set forth in Resolution 72752 by codifying Oakland's Domestic Partner Registration process in the Oakland Municipal Code;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

**SEC. 1 - PURPOSE**

The purpose of this ordinance is to permanently establish the City of Oakland's Domestic Partnership Registration Policy, particularly as an alternative to marriage for those couples who cannot legally marry but share a loving relationship, reside together and share the common necessities of life. All costs of registration must be covered by fees to be established by the Master Fee Schedule.

**SEC. 2 - DEFINITIONS.**

(a) Domestic Partnership. Domestic Partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, who live together, and who have agreed to be jointly responsible for basic living expenses incurred during the Domestic Partnership. They must sign an Affidavit of Domestic Partnership, and establish the partnership under Section 3 of this ordinance.

(b) "Live Together." "Live together" means that two people share the same living quarters. It is not necessary that the legal right to possess the quarters be in both of their names. Two people may live together even if one or both have additional living

quarters. Domestic Partners do not cease to live together if one leaves the shared quarters but intends to return.

(c) **“Basic Living Expenses.”** “Basic living expenses” means the cost of basic food, shelter and medical care. It also includes the expenses, which are paid at least in part by a program or benefit for which the partner qualified because of the domestic partnership. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the costs.

(d) **“Affidavit of Domestic Partnership.”** An “Affidavit of Domestic Partnership” is a form provided by the City Clerk. By signing it, two people agree to be jointly responsible for basic living expenses which they incur during the domestic partnership and that this agreement can be enforced by anyone to whom those expenses are owed. They also state under penalty of perjury that they met the definition of domestic partnership when they signed the statement, that neither is married, that they are not related to each other in a way which would bar marriage in California, that each are at least 18 years of age, and that neither had a different domestic partner less than six months before they signed.

This last condition does not apply if the previous domestic partner died. The form will also require each partner to provide a mailing address.

### **SEC. 3 - ESTABLISHING A DOMESTIC PARTNERSHIP.**

(a) **Methods.** Two people may establish a Domestic Partnership by either:

(1) Signing an Affidavit of Domestic Partnership in the presence of the City Clerk or his or her designee, who will file it and give the partners a certificate showing that the Affidavit was filed; or

(2) Having an Affidavit of Domestic Partnership notarized and forwarding it to the office of the City Clerk.

(b) **Time Limitation.** A person cannot become a member of a Domestic Partnership until at least six months after any other Domestic Partnership of which he or she was a member ended. This does not apply if the earlier domestic partnership ended because one of the members died.

(c) **Residence Limitation.** The City Clerk will only file the Affidavit of Domestic Partnership if:

(1) The partners have a residence in Oakland; or

(2) At least one of the partners is employed by the City of Oakland.

## **SEC. 4 - ENDING DOMESTIC PARTNERSHIPS.**

(a) **When the Partnership Ends.** A Domestic Partnership ends when:

(1) One partner sends the other a written notice that he or she has ended the partnership; or

(2) One of the partners dies; or

(3) One of the partners marries or the partners no longer live together.

(b) **Notice the Partnership Has Ended.**

(1) **To Domestic Partners.** When a Domestic Partnership ends, at least one of the partners must sign a notice saying that the partnership has ended. The notice must be dated and signed under penalty of perjury. If the Affidavit of Domestic Partnership was filed with the City Clerk, the notice must be filed with the clerk; otherwise, the notice must be notarized. The partner who signs the notice must send a copy to the other partner.

(2) **To Third Parties.** When a Domestic Partnership ends, a Domestic Partner who has given a copy of an Affidavit of Domestic Partnership to any third party, (or, if that partner has died, the surviving member of the domestic partnership) must give that third party a notice signed under penalty of perjury stating the partnership has ended. The notice must be sent within 60 days of the end of the domestic partnership.

(3) **Failure to Give Notice.** Failure to give either of the notices required by this subsection will neither prevent nor delay termination of the Domestic Partnership. Anyone who suffers any loss as a result of failure to send either of these notices may sue for actual losses.

## **SEC. 5 - CITY CLERK'S RECORDS.**

(a) **Amendments to Affidavits.** A Partner may amend an Affidavit of Domestic Partnership filed with the City Clerk at any time to show a change in his or her mailing address.

(b) **New Affidavits of Domestic Partnership.** No person who has filed an Affidavit of Domestic Partnership with the City Clerk may file another Affidavit of Domestic Partnership until six months after a notice the partnership has ended has been filed. However, if the Domestic Partnership ended because one of the partners died, a new Affidavit may be filed anytime after the notice the partnership ended is filed.

(c) **Maintenance of City Clerk's Records.** The City Clerk will keep a record of all Affidavits of Domestic Partnership, amendments to Affidavits of Domestic Partnership and all notices that a partnership has ended. The records will be maintained

so that amendments and notices a partnership has ended are filed with the Affidavits of Domestic Partnership to which they apply.

**SEC. 6 - LEGAL EFFECT OF AFFIDAVIT OF DOMESTIC PARTNERSHIP.**

(a) **Obligations.** The obligations of domestic partners to each other are those described by the definition.

(b) **Duration of Rights and Duties.** If a domestic partnership ends, the partners incur no further obligations to each other.

**SEC. 7 - CODIFICATION.**

Upon adoption, the City Clerk shall codify this ordinance into the Oakland Municipal Code.

**SEC. 8 - FILING FEES.**

For each filing of an Affidavit of Domestic Partnership, each Amendment to an Affidavit of Domestic Partnership, and Notice Ending Domestic Partnerhsip, the City Clerk shall charge a fee according to the Master Fee Schedule.

**SEC. 9 - EXISTING DOMESTIC PARTNER REGISTRATION**

All Domestic Partner Registrations pursuant to City of Oakland Resolution 72752, are hereby deemed also established under this ordinance.

In Council, Oakland, California, FEB 25 2003, 2003.

PASSED BY THE FOLLOWING VOTE:


AYES- BROOKS, BRUNNER, CHANG, DE LA FUENTE, NADEL, QUAN,  
AND WAN, Reid - 8

NOES-

ABSENT-

ABSTENTION-

Introduction Date: FEB 11 2003

Attest:   
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California