

OFFICE OF THE CITY CLERK
OAKLAND
INTRODUCED BY
COUNCILMEMBER DANNY WAN
03 FEB 15 PM 2:53

REVISED

APPROVED AS TO FORM & LEGALITY
[Signature]
CITY ATTORNEY

OAKLAND CITY COUNCIL

12466

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING SECTION 4.20.050 C. 1. OF THE OAKLAND MUNICIPAL CODE (OMC) RELATING TO THE REAL ESTATE TRANSFER TAX TO MAKE THE STANDARDS APPLICABLE TO TRANSFERS BETWEEN DOMESTIC PARTNERS CONSISTENT WITH THE STANDARDS FOR INTER-SPOUSAL TRANSFERS

WHEREAS, Chapter 4.20 of the OMC imposes a Real Estate Transfer Tax on all transfers of real property within the City unless specifically excepted; and

WHEREAS, California community property laws stipulate that assets acquired during the period of a marriage belong generally to both husband and wife, and

WHEREAS, an exception to the Oakland real property tax has been granted for inter-spousal transfers and dissolution of marriage in section 4.20.050 (C) of the OMC; and

WHEREAS, it is the Council's intent to extend this same exception to unmarried domestic partners demonstrating the same underlying requisite intent to a long term familial commitment; and

WHEREAS, the City Council wishes to acknowledge domestic partnerships established through the State of California or other state and municipal jurisdictions; and

WHEREAS, the requirement that domestic partners must have been registered one year prior to qualifying for a transfer tax exception is inconsistent with the desire of the City Council to treat domestic partners the same as married couples; and

WHEREAS, the current domestic partner registration application process makes the Finance Agency requirements listed in the current code redundant and irrelevant; now therefore

BE IT RESOLVED that the Council of the City of Oakland does ordain as follows:

SECTION 1. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**;

additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the ordinances not cited or not shown in underscoring or strike-through type are not changed).

SECTION 2. That section 4.20.050 C.1. of the O.M.C. shall be amended as follows:

~~1. The two parties to the transfer must have filed for Domestic Partnership registration as administered by the Office of the City Clerk at least one year prior to the transfer in question, such qualifying declarations being in compliance with current City Council policy requirements. In the event the parties live outside Oakland, both must have been registered as domestic partners with the City Clerk or appropriate municipal agency of that jurisdiction for the one year period, provided, that such other jurisdiction recognizes the domestic partner status and the City Clerk of the City of Oakland concludes that the registration requirements of that jurisdiction are minimally similar to those currently in effect in Oakland. For Finance Agency records, in addition to the affidavit for the City Clerk registration, the parties requesting a real estate transfer tax exemption must affirm and attest to the following requirements:~~

- ~~a. The parties reside together and share the common necessities of life,~~
- ~~b. The parties are not married to anyone,~~
- ~~c. The parties are at least eighteen (18) years of age,~~
- ~~d. The parties are not related by blood so close as to bar marriage in the State of California and are mentally competent to contract,~~
- ~~e. The parties are each other's sole domestic partner and intend to remain so indefinitely and are responsible for their common welfare,~~
- ~~f. The parties agree to file a statement of termination of domestic partnership with the Office of the City Clerk within three months of change of their status if any of the declarations of the affidavit of domestic partnership cease to be true~~
- ~~g. The parties understand that the registration of the affidavit of domestic partnership with the Office of the City Clerk creates a domestic partnership of continuous duration until either of the parties files a statement of termination or upon the death of either of the parties. Prior to the entering into a subsequent domestic partnership or marriage, the surviving partner must file a statement of termination with the Office of the City Clerk in the event of death of one of the parties,~~
- ~~h. Neither of the parties has filed a statement of termination or dissolution within six months prior to the filing of the current affidavit of domestic partnership,~~
- ~~i. The parties understand that any person/employer/company who suffers any loss because of false statements contained in the affidavit of domestic partnership or the statement of termination may have cause to bring a civil action against the parties, individually or collectively, to recover their losses.~~

1. For domestic partners, the two parties to the transfer must have on file a valid domestic partnership registration: (a) as administered by the Office of the City Clerk of Oakland, or (b) under existing law and procedures for the State of California domestic partnership registry, or (c) with the City Clerk or appropriate governmental agency of a jurisdiction that recognizes domestic partnership registration and the City Clerk of the

Introduction Date: **FEB 1 1 2003**

City of Oakland concludes that the registration requirements of that jurisdiction are minimally similar to those currently in effect in Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, **FEB 2 5 2003**, 20____


PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, BRUNNER, CHANG, DE LA FUENTE, NADEL, REID, QUAN, WAN — 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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