

1 [Amending Domestic Partnership requirements]

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3 **Ordinance amending Chapter 62 of the Administrative Code by amending the statement**
 4 **of purpose in Section 62.1; amending Sections 62.2(d), 62.3(b) and 62.5(b) to remove a**
 5 **waiting period for certain domestic partnerships; amending Sections 62.3(a)(2) and**
 6 **62.10(a) relating to Retirement System requirements; repealing Section 62.3(c) to**
 7 **eliminate a residency requirement; amending Section 62.6(a) to expand the rights and**
 8 **duties of domestic partners; adding Section 62.11 to clarify the Board of Supervisors’**
 9 **authority to amend domestic partnership legislation; adding Section 62.12 to add a**
 10 **severability provision; and adding Section 62.13 to ratify and approve domestic**
 11 **partnerships between certain non-residents.**

12 Note: Additions are *single-underline italics Times New Roman*;
 13 deletions are *strikethrough italics Times New Roman*.
 14 Board amendment additions are double underlined.
 Board amendment deletions are ~~strikethrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. The San Francisco Administrative Code is hereby amended by amending
17 Section 62.1, 62.2, 62.3, 62.5, 62.6 and 62.10 to read as follows:

18 **SEC. 62.1. PURPOSE.**

19 The purpose of this ordinance is to create a way to recognize intimate committed
 20 relationships, including those of ~~lesbians and gay men~~ *same-sex couples* who otherwise ~~are~~ *may*
 21 *be* denied the right to ~~identify the partners with whom they share their lives~~ *marry under*
 22 *California law, and to afford to domestic partners, to the fullest extent legally possible, the same rights,*
 23 *benefits, responsibilities, obligations, and duties as spouses.* All costs of registration must be
 24 covered by fees to be established by ordinance.

25

1 **SEC. 62.2. DEFINITIONS.**

2 (a) Domestic Partnership. Domestic Partners are two adults who have
3 chosen to share one another's lives in an intimate and committed relationship of mutual
4 caring, who live together, and who have agreed to be jointly responsible for basic living
5 expenses incurred during the Domestic Partnership. They must sign a Declaration of
6 Domestic Partnership, and establish the partnership under Section 62.3 of this chapter.

7 (b) “Live Together.” “Live together” means that two people share the same
8 living quarters. It is not necessary that the legal right to possess the quarters be in both of
9 their names. Two people may live together even if one or both have additional living quarters.
10 Domestic Partners do not cease to live together if one leaves the shared quarters but intends
11 to return.

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

17 (d) “Declaration of Domestic Partnership.” A “Declaration of Domestic
18 Partnership” is a form provided by the County Clerk. By signing it, two people agree to be
19 jointly responsible for basic living expenses which they incur during the domestic partnership
20 and that this agreement can be enforced by anyone to whom those expenses are owed. They
21 also state under penalty of perjury that they met the definition of domestic partnership when
22 they signed the statement, that neither is married, and that they are not related to each other
23 in a way which would bar marriage in California, ~~and that neither had a different domestic partner~~
24 ~~less than six months before they signed. This last condition does not apply if the previous domestic~~
25 ~~partner died.~~ The form will also require each partner to provide a mailing address.

1 **SEC. 62.3. ESTABLISHING A DOMESTIC PARTNERSHIP.**

2 (a) Methods. Two persons may establish a Domestic Partnership by either:

3 (1) Presenting a signed Declaration of Domestic Partnership to the County
4 Clerk, who will file it and give the partners a certificate showing that the Declaration was filed;
5 or

6 (2) Having a Declaration of Domestic Partnership notarized and giving a
7 copy to the person who witnessed the signing (who may or may not be the notary). However, a
8 domestic partnership formed in this manner shall not be recognized for purposes of San Francisco
9 Charter Sections A8.500-2 relating to the Retirement System, where a registered domestic partnership
10 or certificate of domestic partnership is required by law, or where a spouse would be required to
11 present a marriage license.

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

15 ~~—— (c) — Residence Limitation. The County Clerk will only file Declaration of Domestic~~
16 ~~Partnership if:~~

17 ~~(1) — The partners have a residence in San Francisco; or~~

18 ~~—— (2) — At least one of the partners works in San Francisco.~~

19 **SEC. 62.5. COUNTY CLERK'S RECORDS.**

20 (a) Amendments to Declarations. A Partner may amend a Declaration of
21 Domestic Partnership filed with the County Clerk at any time to show a change in his or her
22 mailing address.

23 ~~(b) — New Declarations of Domestic Partnership. No person who has filed a~~
24 ~~declaration of Domestic Partnership with the County Clerk may file another declaration of Domestic~~
25 ~~Partnership until six months after a notice the partnership has ended has been filed. However, if the~~

1 ~~Domestic Partnership ended because one of the partners died, a new Declaration may be filed anytime~~
2 ~~after the notice the partnership ended is filed.~~

3 (e)(b) Maintenance of County Clerk's Records. The County Clerk will keep a
4 record of all Declarations of Domestic Partnership, amendments to Declarations of Domestic
5 Partnership and all notices that a partnership has ended. The records will be maintained so
6 that amendments and notices a partnership has ended are filed with the Declaration of
7 Domestic Partnership to which they apply.

8 (e)(c) Filing Fees. The Board of Supervisors will set the filing fee for
9 Declarations of Domestic Partnership and Amendments. No fee will be charged for notices
10 that a partnership has ended. The fees charged must cover the city's cost of administering
11 this ordinance.

12 **SEC. 62.6. LEGAL EFFECT OF DECLARATION OF DOMESTIC PARTNERSHIP.**

13 (a) Rights and Obligations. The rights and obligations of domestic partners to
14 each other are those described by Section 62.2, Definitions ~~the definition~~ or otherwise granted by
15 San Francisco law or policies.

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

18 **SEC. 62.10. RECOGNITION OF ~~MARRIAGES NOT RECOGNIZED BY THE STATE~~**
19 **~~OF CALIFORNIA, DOMESTIC PARTNERSHIPS, AND CIVIL UNIONS, AND SIMILAR~~**
20 **LEGAL RELATIONSHIPS OF OTHER JURISDICTIONS.**

21 (a) A domestic partnership, civil union, or similar legal relationship lawfully
22 entered into in another jurisdiction shall be entitled to all the rights and benefits available to
23 domestic partners registered pursuant to this Chapter. A certificate of such domestic
24 partnership, civil union, or similar legal relationship issued by another jurisdiction shall
25 constitute sufficient proof of entitlement to such rights and benefits. *Provided, however, that*

1 ~~nothing in this Chapter exempts those who are members of a domestic partnership, civil union, or~~
2 ~~similar legal relationship lawfully entered into in another jurisdiction from the filing requirements set~~
3 ~~forth in San Francisco Charter Section A8.500-2, relating to retirement benefits under the retirement~~
4 ~~system.~~

5 (b) For purposes of this Chapter, a “domestic partnership, civil union, or
6 similar legal relationship” does not include a relationship between parents and children,
7 ancestors and descendants of every degree, between brothers and sisters of the half as well
8 as the whole blood, or between uncles or aunts and nieces or nephews, whether or not such
9 relationship is recognized as a domestic partnership, civil union or similar legal relationship in
10 another jurisdiction.

11 Section 2. The San Francisco Administrative Code is hereby amended by adding
12 Sections 62.11, 62.12 and 62.13 to read as follows:

13 **SEC. 62.11 AMENDMENT AND REPEAL**

14 No part of this Chapter may be amended or repealed except by a vote of the people of the City and
15 County of San Francisco, except that the Board of Supervisors may amend or repeal this Chapter as it
16 deems necessary (1) to recognize domestic partnerships formed in other jurisdictions to the same extent
17 as marriages formed in other jurisdictions, and (2) to afford domestic partners, to the fullest extent
18 legally possible, the same rights, benefits, responsibilities, obligations and duties as spouses.

19 **Sec 62.12. SEVERABILITY.**

20 In the event that a court or agency of competent jurisdiction holds that federal or state law, rule
21 or regulation invalidates any clause, sentence, paragraph or section of this Chapter or the application
22 thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or
23 agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall
24 remain in effect.

1 **Sec 62.13. DOMESTIC PARTNERSHIPS RATIFIED AND APPROVED.**

2 The Board of Supervisors hereby ratifies and approves all domestic partnerships formed after
3 March 2, 2004 between otherwise qualified persons, where the partners neither resided nor at least one
4 worked in San Francisco at the time they established their Domestic Partnership. All such domestic
5 partnerships shall be deemed valid as of the date the persons submitted a signed Declaration of
6 Domestic Partnership to the County Clerk or delivered a signed, notarized copy of a Declaration of
7 Domestic Partnership to the person who witnesses the signing, as provided in Sections 62.3 (a)(1) or
8 (a)(2).

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: CATHARINE BARNES
12 Deputy City Attorney