

1 [Recognition of marriages, domestic partnerships and civil unions.]

2
3 **Ordinance amending Chapter 62 of the Administrative Code by adding Section 62.10 to**
4 **extend recognition of domestic partnerships, civil unions, and other similar legal**
5 **relationships to persons who lawfully enter into these agreements in other**
6 **jurisdictions.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Declaration of legislative intent and findings. Same sex couples have faced
12 many obstacles to full legal recognition of their relationships. The Defense of Marriage Act,
13 Pub. L. No. 104-199, 110 Stat. 2419 (1996) defines marriage for purposes of federal law as
14 the union of a man and woman and empowers states to deny recognition to same sex
15 marriages entered into in other jurisdictions.

16 In 1990, San Francisco passed the Domestic Partnership Law, which established rights
17 and entitlements for City residents who register their domestic partnerships with the City
18 Clerk. The Board of Supervisors now intends to extend San Francisco's commitment to
19 recognizing rights of same sex partners by revising the definition of "domestic partners" in the
20 administrative code to include persons who have lawfully registered domestic partnerships,
21 civil unions, or other similar legal relationships in other jurisdictions, ensuring that such
22 couples enjoy all rights and benefits currently available to domestic partners registered under
23 San Francisco law.

24 Section 2. The San Francisco Administrative Code is hereby amended by amending
25 Section 62.10, to read as follows:

1 SEC. 62.1. PURPOSE.

2 The purpose of this ordinance is to create a way to recognize intimate committed
3 relationships, including those of lesbians and gay men who otherwise are denied the right to
4 identify the partners with whom they share their lives. All costs of registration must be covered
5 by fees to be established by ordinance.

6 SEC. 62.2. DEFINITIONS.

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

12 (b) "Live Together." "Live together" means that two people share the same living
13 quarters. It is not necessary that the legal right to possess the quarters be in both of their
14 names. Two people may live together even if one or both have additional living quarters.
15 Domestic Partners do not cease to live together if one leaves the shared quarters but intends
16 to return.

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

22 (d) "Declaration of Domestic Partnership." A "Declaration of Domestic Partnership" is a
23 form provided by the County Clerk. By signing it, two people agree to be jointly responsible for
24 basic living expenses which they incur during the domestic partnership and that this
25 agreement can be enforced by anyone to whom those expenses are owed. They also state

1 under penalty of perjury that they met the definition of domestic partnership when they signed
2 the statement, that neither is married, that they are not related to each other in a way which
3 would bar marriage in California, and that neither had a different domestic partner less than
4 six months before they signed. This last condition does not apply if the previous domestic
5 partner died. The form will also require each partner to provide a mailing address.

6 SEC. 62.3. ESTABLISHING A DOMESTIC PARTNERSHIP.

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

- 8 (1) Presenting a signed Declaration of Domestic Partnership to the County Clerk, who
9 will file it and give the partners a certificate showing that the Declaration was filed; or
10 (2) Having a Declaration of Domestic Partnership notarized and giving a copy to the
11 person who witnessed the signing (who may or may not be the notary).

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

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

- 18 (1) The partners have a residence in San Francisco; or
19 (2) At least one of the partners works in San Francisco.

20 SEC. 62.4. ENDING DOMESTIC PARTNERSHIPS.

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

- 22 (1) One partner sends the other a written notice that he or she has ended the
23 partnership; or
24 (2) One of the partners dies; or
25 (3) One of the partners marries or the partners no longer live together.

1 (b) Notice the Partnership Has Ended.

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

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

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

16 SEC. 62.5. COUNTY CLERK'S RECORDS.

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

20 (b) New Declarations of Domestic Partnership. No person who has filed a declaration
21 of Domestic Partnership with the County Clerk may file another declaration of Domestic
22 Partnership until six months after a notice the partnership has ended has been filed. However,
23 if the Domestic Partnership ended because one of the partners died, a new Declaration may
24 be filed anytime after the notice the partnership ended is filed.

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

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

9 SEC. 62.6. LEGAL EFFECT OF DECLARATION OF DOMESTIC PARTNERSHIP.

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

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

14 SEC. 62.7. CODIFICATION.

15 Upon adoption, the Clerk of the Board shall codify this amendment into the San
16 Francisco Administrative Code.

17 SEC. 62.8. FILING FEES.

18 For each filing of a Declaration of Domestic Partnership and each Amendment to a
19 Declaration of Domestic Partnership the County Clerk shall charge a fee of \$10.

20 SEC. 62.9. CIVIL CEREMONY.

21 (a) The County Clerk and any other person authorized by state law to perform marriage
22 ceremonies are authorized to perform a civil ceremony solemnizing the formation of a
23 Domestic Partnership established in accordance with this Chapter. Persons who either (1)
24 present a signed Declaration of Domestic Partnership for filing to the County Clerk in
25 accordance with Section 62.3(a)(1), or who (2) present a certificate issued by the County

1 Clerk in accordance with Section 62.3(a)(1) showing that a signed Declaration of Domestic
2 Partnership for these persons has been previously filed with the County Clerk, may request
3 that the County Clerk or any other person authorized by state law to perform marriage
4 ceremonies perform a ceremony solemnizing the formation of their Domestic Partnership.
5 Each request for a Domestic Partnership ceremony by the County Clerk shall be made in
6 writing on a form provided by the County Clerk, and shall be accompanied by payment of a
7 fee of \$60, for a ceremony to be performed during regular business hours, and \$100, for a
8 ceremony to be performed on a weekend or holiday.

9 (b) Upon completion of the ceremony authorized by Subsection (a), the County Clerk
10 shall issue a souvenir certificate memorializing the performance of the ceremony. If the
11 ceremony is performed by a person other than the County Clerk, the persons entering into
12 Domestic Partnership shall obtain a Ceremony Request Form from the County Clerk prior to
13 the ceremony and shall return such Ceremony Request Form to the County Clerk within six
14 months following the ceremony. The Ceremony Request Form shall be signed by the officiant.
15 The County Clerk shall keep a record of all such ceremonies performed, filed with the
16 Declaration of Domestic Partnership to which they apply. The County Clerk shall keep a
17 record of Domestic Partnership ceremonies.

18 (c) The County Clerk is authorized to deputize persons to solemnize Domestic
19 Partnership ceremonies. Any person 18 years of age or older may apply to be deputized for
20 this purpose. Approval of applicants and the terms of any such authorization shall be solely
21 within the discretion of the County Clerk. The County Clerk shall charge a fee, as set forth in
22 Section 8.33.1, for issuing an authorization to perform the ceremony and oath.

23 (d) The ceremony authorized by this Section shall have no legal effect upon the status
24 of a Domestic Partnership established pursuant to this Chapter.

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1 SEC. 62.10 Recognition of marriages not recognized by the state of California, domestic
2 partnerships, and civil unions, of other jurisdictions.

3 (a) A domestic partnership, civil union, or similar legal relationship lawfully entered into in
4 another jurisdiction shall be entitled to all the rights and benefits available to domestic partners
5 registered pursuant to this Chapter. A certificate of such domestic partnership, civil union, or similar
6 legal relationship issued by another jurisdiction shall constitute sufficient proof of entitlement to such
7 rights and benefits. Provided, however, that nothing in this Chapter exempts those who are
8 members of a domestic partnership, civil union, or similar legal relationship lawfully entered
9 into in another jurisdiction from the filing requirements set forth in San Francisco Charter
10 Section A8.500-2, relating to retirement benefits under the retirement system.

11 (b) For purposes of this Chapter, “domestic partnership, civil union, or similar legal
12 relationship” does not include a marriage prohibited by Part 2 of Division 6 of the California
13 Family Code, beginning with Section 2200 relationship between parents and children,
14 ancestors and descendants of every degree, between brothers and sisters of the half as well
15 as the whole blood, or between uncles or aunts and nieces or nephews, whether or not such
16 relationship is recognized as a domestic partnership, civil union or similar legal relationship in
17 another jurisdiction.

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20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 K. SCOTT DICKEY
24 Deputy City Attorney
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