

## Chapter 13.6 DOMESTIC PARTNERSHIP\*

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\***Editor's note**--Ord. No. 250-01, adopted May 21, 2001 enacted new provisions, relative to domestic partnership.

Cross reference(s)-- **Human Rights, Ch. 13.5.**

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- Art. I.** In General, §§ 13.6-1 - 13.6-20
- Art II. Creation of Domestic Partnership and Related Rights**
- Div. 1 Generally, §§ 13.6-21, 13.6-22
  - Div. 2 Creation of Domestic Partnership, §§ 13.6-23, 13.6-24, 13.6-25
  - Div. 3 Rights of Domestic Partners, §§ 13.6-26, 13.6-27
  - Div. 4 Limitations of Liabilities, § 13.6-28
  - Div. 5 Reciprocity, § 13.6-29
  - Div. 6 Retaliation, § 13.6-30
  - Div. 7 Severability, § 13.6-31
  - Div. 8 Forms, § 13.6-32
  - Div. 9 Effect on other sections of Code, § 13.6-33
  - Div. 10 Applicability to other organizations, § 13.6-34

### ARTICLE I. IN GENERAL

- Sec. 13.6-1. Reserved.
- Sec. 13.6-2. Reserved.
- Sec. 13.6-3. Reserved.
- Sec. 13.6-4. Reserved.
- Sec. 13.6-5. Reserved.
- Sec. 13.6-6. Reserved.
- Sec. 13.6-7. Reserved.
- Sec. 13.6-8. Reserved.
- Sec. 13.6-9. Reserved.
- Sec. 13.6-10. Reserved.
- Sec. 13.6-11. Reserved.
- Sec. 13.6-12. Reserved.
- Sec. 13.6-13. Reserved.
- Sec. 13.6-14. Reserved.
- Sec. 13.6-15. Reserved.
- Sec. 13.6-16. Reserved.
- Sec. 13.6-17. Reserved.
- Sec. 13.6-18. Reserved.
- Sec. 13.6-19. Reserved.
- Sec. 13.6-20. Reserved.

**ARTICLE II. CREATION OF DOMESTIC PARTNERSHIP AND RELATED RIGHTS**

**Section 13.6-21. Legislative findings and statement of policy.**

The City Council finds that:

- (a) its citizens are the city's most important asset;
- (b) the diverse composition of its citizenry is an important part of the social fabric of the community;
- (c) the citizens' lives have evolved from when laws governing family relationships were enacted;
- (d) the traditional definition of "family" excludes a significant segment of the Portland population, deprives them of recognition and validation, and denies certain rights that should be afforded to persons who share their homes, their hearts and their lives;
- (e) the City is committed to nondiscrimination and fair treatment of its citizens and employees;

Therefore, in order to protect the public health, safety, and welfare, it is declared to be the policy of this city to allow persons in committed relationships who meet the criteria established by the City as constituting domestic partnerships to register at the office of the City Clerk and obtain a certificate attesting to their status; to provide certain rights of access for domestic partners; and to equalize the treatment of City employees.

(Ord. No. 250-01, 5-21-01)

DIVISION 1. GENERALLY

**Section 13.6-22 Definitions.**

As used in this chapter:

- (a) *Competent to contract* means eighteen years of age or older, and mentally competent to contract.
- (b) *Dependent* means a person less than 18 years old who lives within the household of a domestic partnership

and is:

- (1) A biological child or adopted child, or foster child of a domestic partner, if the child is not provided with medical insurance coverage by the state;
  - (2) A dependent as defined under IRS regulations; or
  - (3) A ward of a domestic partner as determined in a guardianship proceeding.
- (c) *Domestic partner* means a person who meets the criteria set out in subsection d of this section or who is registered as such in another jurisdiction.
- (d) *Domestic partnership* means the entity formed by two persons who meet the following criteria and jointly file a registration statement proclaiming that:
- (1) They are in a relationship of mutual support, caring and commitment and intend to remain in such a relationship; and
  - (2) They reside together within the city in a shared primary residence and have resided together and been domestic partners as defined herein for a period of at least six (6) months prior to the date of registration; and
  - (3) They are not married; and
  - (4) They are not related by blood closer than would bar marriage in the State of Maine; and
  - (5) They are each other's sole domestic partner and intend to remain so indefinitely; and
  - (6) They are competent to contract; and
  - (7) They consider themselves a family.
  - (8) In addition to the requirements set forth in 1-7 above, City or School Department employees, if Section 13.6-27 of this ordinance is approved by the School Committee, who are applying for

employee benefits, shall provide the City or School Department proof that they are jointly responsible for each other's common welfare and share financial obligations. Such joint proof of responsibility may be demonstrated by the existence of two or more of the following:

- a. Notarized Domestic Partnership Agreement or Relationship Contract.
  - b. Joint mortgage or joint ownership of primary residence.
  - c. Two of:
    1. Joint ownership of motor vehicle.
    2. Joint checking account.
    3. Joint credit account.
    4. Joint lease.
  - d. The Domestic Partner has been designated as a beneficiary for the employee's will, retirement contract, or life insurance.
- (e) Subsequent to the filing of a registration form, the existence of a "family" relationship may be shown by evidence relevant to the following factors:
- (1) The manner in which the people live their daily lives;
  - (2) How they hold their relationship out to the world;
  - (3) Their emotional and financial commitment;
  - (4) Their reliance on each other for daily family services;
  - (5) The longevity and exclusivity of their relationship; and
  - (6) Any other factors which may be relevant.

(f) *Mutual support* means that the domestic partners each contributed in some fashion, not necessarily equal or financially, to the maintenance and support of the domestic partnership.

(g) *Reside together* means living together in a common household. A partner may be temporarily absent from the common household, so long as she or he has the intent to return. A partner may own or maintain an additional residential dwelling.

(Ord. No. 250-01, 5-21-01)

## DIVISION 2. CREATION OF DOMESTIC PARTNERSHIP

### **Section 13.6-23 Registration and termination.**

(a) Persons who meet the criteria set out in subsection (d) of Section 13.6-22 may make an official record of their domestic partnership by filing a domestic partnership registration form with the City Clerk. The domestic partnership registration shall include the name and date of birth of each of the domestic partners, the address of the common household, and the name and dates of birth of any dependents of the domestic partnership, and shall be signed, under the pains and penalties of perjury, by both domestic partners.

(b) Domestic partners may amend the domestic partnership registration to add or delete dependents or change the household address. Amendments to the domestic partnership registration shall be signed, under the pains and penalties of perjury, by both domestic partners.

(c) A domestic partnership is terminated by the death of a domestic partner or by the filing of a termination statement by a domestic partner.

(1) The death of a domestic partner automatically terminates a domestic partnership.

(2) A domestic partnership may be terminated by a domestic partner who files with the City Clerk, by hand or by certified mail, a termination statement. The person filing the termination statement must declare under pains and penalties of perjury that the domestic partnership is terminated, that the partners have been

separated for a period of at least 14 days and that a copy of the termination statement has been mailed by certified mail to the other domestic partner at his or her last known address. If either partner or both partners no longer reside at the joint residence, the new address of that partner or both partners shall be listed on the termination statement. The person filing the termination statement must include on such statement the address to which the copy was mailed and a statement of the reason or reasons why the partnership is being terminated, such as irreconcilable differences, abandonment, abuse and so forth. Within two business days, the City Clerk shall send a second copy of the termination notice by certified mail and regular mail to the other domestic partner at his or her last known address.

(d) The termination of a domestic partnership shall be effective immediately upon the death of a domestic partner. The voluntary termination of a domestic partnership by a partner shall be effective thirty days after the mailing of the termination statement by the City Clerk. Prior to becoming effective, the person who filed the termination statement may withdraw the termination statement in person at the office of the City Clerk. If the termination statement is withdrawn, the domestic partner shall give notice of the withdrawal, by certified mail, to the other domestic partner.

(e) If a domestic partnership is terminated by the death of a domestic partner, there shall be no required waiting period to filing another domestic partnership. If a domestic partnership is terminated by one or both domestic partners, neither domestic partner may file another domestic partnership until six months have elapsed since termination.

(Ord. No. 250-01, 5-21-01)

#### **Section 13.6-24 City Clerk - Fees.**

(a) The City Clerk shall collect a reasonable fee for filing a domestic partnership registration, for amending a registration or for a termination statement. The amount of this fee shall be thirty dollars (\$30.00).

(b) The City Clerk shall collect a fee of ten dollars (\$10.00) for the first certified copy of domestic partnership documents, other than the copy of the certificate of domestic

partnership issued by the City Clerk to the domestic partners as provided for in section 13.6-25, and five dollars (\$5.00) for every copy thereafter.

(Ord. No. 250-01, 5-21-01; Ord. No. 289-04/05, 6-20-05)

**Section 13.6-25 City Clerk - Records.**

(a) Upon receipt of a domestic partnership registration and filing fee, the City Clerk shall issue a certificate of domestic partnership and shall mail to the household of the domestic partnership one certified copy of the certificate and two wallet-sized cards indicating the existence of the domestic partnership, the names of the domestic partners and the names of the dependents of the domestic partnership, if any. In the event such registration and certificate is amended, the City Clerk shall provide an amended certificate in the same manner as the initial certificate, upon receipt of the fee for amending a registration as provided in 13.6-24 above.

(b) The City Clerk shall maintain records of domestic partnerships registered in the City, including forms filed and certificates issued. The City Clerk shall provide forms to persons requesting them in accordance with Section 13.6-32.

(c) The City Clerk shall allow public access to domestic partnership records to the same extent and in the same manner as other public documents.

(Ord. No. 250-01, 5-21-01; Ord. No. 289-04/05, 6-20-05)

DIVISION 3. RIGHTS OF DOMESTIC PARTNERS

**Section 13.6-26 Rights of domestic partners.**

Persons who have registered their domestic partnership at the office of the City Clerk pursuant to Section 13.6-23 are entitled to the following rights:

(a) A domestic partner shall have the same visitation rights or rights to accompany another, as a spouse or parent of a patient at the Barron Center and any other health care facilities run by the City. A dependent shall have the same visitation rights as a patient's child.

(b) Following approval of this subsection by the Portland

School Committee:

- (1) A domestic partner, who is also the parent or legal guardian of a child, may file a form at or send a letter to the child's school to indicate that the parent's domestic partner shall have access to the child's records, access to school personnel in matters concerning the child, and access to the child, including the right to remove such child from the school for sickness or family emergency. The school shall afford such person access as directed by the child's parent.
  - (2) When a domestic partnership is terminated pursuant to Section 13.6-23, it is the responsibility of the parent or guardian to notify the school, in writing, of the termination of rights of the former domestic partner.
  - (3) The term "school" includes, but is not limited to, high schools, vocational schools, junior high and middle schools, elementary schools, preschool programs, after-school programs and day care programs directly funded by the city in whole or in part.
- (c) Subsections (b)(1), (2), and (3) above apply to any non-public school or school system, and any child care programs in those schools, or any other child care programs, that accept city grant funds for any purpose, regardless of any vote by that school or school system's or child care program's governing body.
- (d) Domestic partners shall be considered a family for the purpose of eligibility for any benefits or programs provided by the city to families and, wherever the term "family" appears in city ordinances, regulations or guidelines, the term shall include domestic partners.

(Ord. No. 250-01, 5-21-01)

**Section 13.6-27 Employment benefits.**

(a) The City and, upon approval of this section, in whole or in part, by the Portland School Committee, the Portland

School Department shall provide the same health and employment fringe benefits to employees with domestic partners as to employees with spouses. As used in this chapter, "employees" refers to active and retired employees of the City and the Portland School Department eligible for benefits pursuant to state or municipal law, employment policies or collective bargaining agreements.

(b) Employees must file a declaration or affidavit of domestic partnership, signed under the pains and penalties of perjury, with their department administrator or Department of Human Resources of the City or School Department, as appropriate, in order to obtain benefits under this chapter. On such declaration, employees shall agree to notify their department administrator or the Department of Human Resources of the City or School Department, within 60 days of any changes in status as domestic partners. There shall be no fee for such declaration or affidavit. Employees shall not be obligated to file a domestic partnership registration form with the City Clerk.

(c) The City and School Department shall provide medical insurance coverage to an employee's domestic partner as it does to an employee's spouse, and to the dependent(s) of an employee's domestic partnership as it does to an employee's child(ren). An employee may opt to decline medical insurance coverage for her or his domestic partner, without foregoing the right to obtain medical insurance coverage for her or his domestic partner at a later date on the same terms that late enrollment is allowed to other employees.

(d) Upon termination of a domestic partnership by an employee, the domestic partner shall be covered by medical insurance until the end of the month in which termination paperwork is dated. If the employee leaves employment with the City or School Department prior to the end of the month in which termination paperwork is dated, the medical insurance shall lapse on the date that the former employee's insurance lapses.

The former domestic partner and children of the domestic partner (if applicable) will be offered the coverage provided by federal law under the Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended.

(e) Upon termination of a domestic partnership by the death of an employee, the surviving domestic partner's medical

insurance coverage shall lapse as it would for the spouse of a married employee, upon the death of such employee.

(f) Employees shall be granted the same bereavement or funeral leave, with pay, for the death of a domestic partner or family member of a domestic partner as that provided for a spouse or family member of a spouse. Use of the term "in-law" in employee handbooks shall include the relatives of a domestic partner.

(g) Employees shall be granted sick leave to care for a domestic partner to the same extent permitted to care for a spouse, and to care for a dependent of a domestic partnership to the same extent permitted to care for a child.

(h) Employees shall be entitled to take parental leave to take care of a child born to their domestic partner or a newly adopted child to the same extent as a married person.  
(Ord. No. 250-01, 5-21-01)

#### DIVISION 4. LIMITATIONS OF LIABILITIES

##### **Section 13.6-28 Limitation of liabilities.**

(a) Nothing in this chapter shall be interpreted to contravene the general laws of the state.

(b) Nothing contained in this chapter shall be construed to impose liability upon a domestic partner for the health or medical expenses of his or her domestic partner, with the sole exception of the medical insurance contributions assumed by a City or School Department employee who is a member of a domestic partnership.

(c) Nothing in this chapter shall be construed to create additional legal liabilities greater than those already existing under law or to create new private causes of action.  
(Ord. No. 250-01, 5-21-01)

#### DIVISION 5. RECIPROCITY

##### **Section 13.6-29 Reciprocity.**

All rights, privileges and benefits extended to domestic partnerships registered pursuant to this chapter shall also be

extended to domestic partnerships registered pursuant to similar laws in other jurisdictions.  
(Ord. No. 250-01, 5-21-01)

## DIVISION 6. RETALIATION

### **Section 13.6-30 Retaliation.**

No person shall discriminate or retaliate against a person who seeks the benefit of this chapter, registers or makes a declaration pursuant to its provisions, or assists another person in obtaining the benefits of this chapter.

A violation of this article shall be a civil infraction and shall be enforceable in the Maine Superior Court in a civil action. Within the time limited, a person who has been subject to unlawful discrimination or retaliation may file a civil action in the superior court against the person or persons who committed the unlawful discrimination or retaliation.

In any civil action under this article, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination or retaliation occurred.

In any action filed under this article by any person:

- (a) Where any person who has been the subject of alleged unlawful discrimination or retaliation related to housing has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodations as to which the violation allegedly occurred, or against the sale or rental of a single housing accommodation substantially identical thereto and controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this article, when it appears probable that the plaintiff will succeed upon final disposition of the case.
- (b) If the court finds that unlawful discrimination or retaliation occurred, its judgment shall specify an appropriate remedy or remedies therefore. Such remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;
  - (2) An order to employ or reinstate a victim of unlawful discrimination or retaliation;
  - (3) An order to accept or reinstate such a person in a union;
  - (4) An order to rent or sell a specified housing accommodation, or one (1) substantially identical thereto if controlled by the respondent, to a victim of unlawful discrimination or retaliation;
  - (5) An order requiring the disclosure of the locations and descriptions of all housing accommodations which the violator has the right to sell, rent, lease or manage;
  - (6) An order to pay in cases of unlawful price discrimination or retaliation the victim thereof three (3) times the amount of any excessive price demanded and paid by reason of such unlawful discrimination or retaliation; and
  - (7) An order to pay to the complainant civil penal damages not in excess of one thousand dollars (\$1,000.00) in the case of the first order under this article against the respondent, not in excess of two thousand dollars (\$2,000.00) in the case of a second such order against the respondent, and not in excess of three thousand dollars (\$3,000.00) in the case of a third or subsequent such order against the respondent; and
- (c) The action shall be commenced not more than two (2) years after the act of unlawful discrimination complained of.

In any civil action under this article, the court, in its discretion, may allow the prevailing party reasonable attorneys' fees and costs.

(Ord. No. 250-01, 5-21-01)

#### DIVISION 7. SEVERABILITY

**Section 13.6-31 Severability.**

The provisions of this chapter are severable. If any of its provisions are held invalid by a court of competent jurisdiction, all other provisions shall continue in full force and effect.

(Ord. No. 250-01, 5-21-01)

DIVISION 8. FORMS

**Section 13.6-32 Forms.**

(a) The City Clerk shall distribute copies of the following forms to those persons who request them:

- (1) Domestic partnership registration;
- (2) Domestic partnership information sheet;
- (3) Termination of domestic partnership;
- (4) School authorization form.

(b) The Department of Human Resources shall distribute copies of the following forms to those persons who request them:

- (1) Declaration or affidavit of domestic partnership;
- (2) Amendment to declaration or affidavit of domestic partnership.

(c) The School Department shall distribute copies of the following forms to persons who request them:

- (1) School authorization form;
- (2) Revocation of school authorization form.

(d) The City Clerk, the Department of Human Resources, School Department and all other affected City agencies, offices and departments shall provide and distribute any other relevant forms that are or become necessary.

(Ord. No. 250-01, 5-21-01)

DIVISION 9. EFFECT ON OTHER SECTIONS OF CODE

**Section 13.6-33 Effect on other sections of code.**

When the term "spouse" is used in other City ordinances, regulations, or guidelines, it shall be interpreted to include a domestic partner. When the term "family" is used in other City ordinances, regulations, or guidelines, it shall be interpreted to include domestic partnerships.

(Ord. No. 250-01, 5-21-01)

DIVISION 10. APPLICABILITY TO OTHER ORGANIZATIONS

**Section 13.6-34 Applicability to other organizations.**

This ordinance shall apply to any organization that accepts HCD funds from the City. Organizations that provide employee benefits shall have the same rights and obligations as the City under this ordinance. For the purpose of this section, the term "domestic partner" shall mean "domestic partner" as defined in Public Law 2001, Chapter 347 of the Laws of Maine.

(Ord. No. 250-01, 5-21-01; Ord. No. 286-01/02, 6-3-02)

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**Editor's note:** See 24 M.R.S.A. Sec. 2319-A and 24-A M.R.S.A. Secs. 22741-A, 2832-A and 4249 for definitions, as applicable.

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