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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** January 22, 2008

**SUBJECT:** Proposed ordinance creating a Domestic Partnership Registry

**STAFF REPORT BY:** Jennifer Bruno, Budget & Policy Analyst

**AFFECTED COUNCIL DISTRICTS:** City-wide

**ADMINISTRATIVE DEPT:  
AND CONTACT PERSON:** **DAVID EVERITT, MAYOR'S CHIEF OF STAFF  
MARGARET PLANE, ASSISTANT CITY ATTORNEY**

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*\*\*note: The Council has scheduled a Public Hearing for this item on February 5th, 2008. The date for this hearing will be set at the Council's formal meeting on January 22.\*\**

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## KEY ELEMENTS:

- A. The Administration has prepared an ordinance for Council consideration that would create a Domestic Partnership Registry.
- B. The purpose statement is as follows:
- “ The City is committed to promoting justice, equity, and inclusiveness in the provision of health care and many other benefits to all of its citizens that might be offered by the City or by private employers licensed by the City. The City finds that relationships exist in many different forms, including committed, unmarried couples in either same or opposite sex relationships. The City wishes to promote the public health, safety and welfare, and prosperity of its citizens and generally improve overall quality of life by allowing for the efficient and streamlined disposition of health care benefits or other benefits that the City or businesses licensed within the City might offer to their employees - including an employee's domestic partner. The City finds that a City-maintained list is the best way for the City and for businesses licensed within the City to reliably ascertain whether an employee's domestic partner and beneficiaries are eligible for such benefits. Therefore, it is the policy of the City to allow any two adults in a committed relationship who meet the domestic partnership criteria to register with the City and to obtain a certificate attesting to their status.”
- C. The two individuals must meet the following criteria:
1. Declare that they are each other's sole domestic partner;
  2. Be 18 years or older and unmarried according to the laws of the State of Utah;
  3. Be competent to contract;
  4. Show a common financial obligation, with any 3 of the following 5 documents (*these are consistent with the Council's previously adopted "Adult Designee" ordinance*):
    - i. Joint obligation, mortgage, lease, or vehicle ownership;
    - ii. Life insurance policy, retirement benefits account, or will designating the domestic partner as a beneficiary or executor;
    - iii. A mutually granted power of attorney;
    - iv. Proof showing the partner is authorized to sign for the purposes of the other's bank or credit account;
    - v. Proof of joint bank or credit account
  5. Currently share a primary residence in Salt Lake City;
- D. If the two individuals meet this criteria, they will execute a "Certificate of Domestic Partnership," which will attest to the above requirements and will attest that the parties are

in a relationship of mutual support, caring and commitment; and are responsible for each other's physical and financial welfare; and have the present intention to remain in that relationship.

- E. The proposed ordinance is consistent with the City's recently-enacted "Adult Designee" ordinance, in that it does not imply a romantic relationship between domestic partners. The proposal would allow an array of household types to register - whether they are made up of person living with and supporting/depending on another non-related adult, an extended family member, their sibling, or their parent.
- F. The financial obligation criteria outlined above are consistent with the criteria required for the City's "Adult Designee" ordinance, with the exception of the required length of time to share a primary residence. The Adult Designee ordinance (which is a method to provide benefits to an employee's "Adult Designee") requires that the two parties prove co-habitation for at least 1 year. The proposed ordinance does not specify a required minimum length of time for cohabitation, but does require co-habitation (see item C5 above).
- G. The proposed fee for filing a domestic partner declaration will be \$25. There will be no fee for filling a certificate to terminate a domestic partnership.
- H. The City Recorder's Office is proposed to administer the program.
- I. Termination of a registered domestic partnership:

- 1. Automatic when either of the domestic partners dies or enters into a marriage recognized by the State of Utah.
- 2. When either or both partners execute a certificate of termination. If one of the partners executes a certificate of termination, then that partner shall provide notice to the other party.

Note: A person cannot become a member of a domestic partnership until at least 6 months after any other domestic partnership of which he or she was a member has ended (The Administration has indicated that this is a common requirement in domestic partner statutes nationally.)

- J. Rights allowed:
  - 1. The proposed ordinance would allow any use or access to city facilities benefits that are provided to a spouse or children, to be provided to a domestic partner or their children.
  - 2. The proposed ordinance would allow health care visitation in situations where immediate family/spouses are allowed visitation. This would apply to any health care facility in Salt Lake City regardless of if they have specified "domestic partner" as an allowed visitor in those situations. It is important to note that the proposed ordinance does not affect the designation of health care decisions, which is governed by state law.
  - 3. Other - The City may use this registry as a verification of status for other benefits (either for use by City departments or by businesses licensed with the City) which meet the goals of this ordinance, to promote the public health, safety and welfare.

Note: This ordinance would not require every employer that offers benefits to spouses of employees to offer benefits to the registered domestic partner. However, it provides a administrative method by which employers who do choose to offer benefits to domestic partners to certify that their employees have provided all necessary documentation.

- K. Staff has attached a fact sheet provided by the Administration, to answer basic concerns and questions regarding the proposed ordinance.

## MATTERS AT ISSUE:

- A. A private citizen and attorney has contacted both the Council Office and the Administration regarding a possible addition to the language in the proposed ordinance, section 10.03.020 (2), in order to make this ordinance more inclusive and easy to apply with current estate planning practice. The Attorney’s Office has reviewed the proposed addition and has no objections, should the Council wish to include the proposed language. If the Council does wish to include this language, the Attorney’s Office recommends that the “Adult Designee” ordinance also be amended to include it at a later date. The Council may wish to direct staff to request this change in either or both ordinances. The addition is as follows (in bold):
- “...a life insurance policy, retirement benefits account, or will **OR TRUST** designating the domestic partner as a beneficiary thereto, or will **OR TRUST** which designates the partner as executor **OR SUCCESSOR TRUSTEE;**”
- B. The Council may wish to ask the Administration if this ordinance has been presented to any city boards or commissions (Human Rights Commission, Business Advisory Board, Vest Pocket), or community councils for input. The Administration did note to Council Staff that they have reviewed the proposal with the local chapter of the American Civil Liberties Union, the Utah Pride Center, Equality Utah, and the Inclusion Center.

## BUDGET RELATED FACTS:

- A. The Administration is not proposing allocating additional budget to cover the administrative costs of this program. Rather the Administration has indicated that the City Recorder’s Office will absorb the cost of the program through efficient management of existing resources.
- B. Staff has conducted the following analysis to estimate the *potential* revenue budget impact of this proposal:
- In order to get closer to an estimate of typical actual participation rates, staff has reviewed participation in Domestic Partnership programs in a select number of cities throughout the US. Staff then calculated a participation rate as a percent of “non-family households” as reported by the US Census Bureau. In staff’s estimation, this household category is likely where the majority of those registering as Domestic Partners would have been recorded in the Census.

City	# of non-family households <sup>1</sup>	# of households registered as Domestic Partners <sup>2</sup>	%
Denver, CO	25,891	1,110	4.3%
Hartford, CT	2,847	270	9.5%
Kansas City, MO	13,928	182	1.3%
Madison, WI	15,120	561	3.7%
Philadelphia, PA	38,225	360	0.9%
Toledo, OH <sup>3</sup>	9,223	25	0.3%
Tucson, AZ	18,089	605	3.3%
Washington, DC	25,428	587	2.3%
<b>Average</b>			<b>3.2%</b>

<sup>1</sup> US Census Bureau, 2000

<sup>2</sup> Source: Applicable City Staff - Recorder/Clerk's Offices

<sup>3</sup> program was enacted in late 2007

- Staff then applied the average of these rates to the total number of non-family households in Salt Lake City (as reported by the US Census Bureau).

<b>Salt Lake City Data</b>		<b>%</b>
Population	181,743	
<i>Population living in households</i>	177,170	
Number of households	71,461	
Married-couple family	29,360	41%
1 person household	23,724	33%
Male or female householder - no husband or wife present	10,470	15%
<b>Non-family households</b>	<b>7,907</b>	<b>11%</b>

*US Census Bureau, 2000*

- If 3.2% of non-family households in Salt Lake City registered with the proposed Domestic Partnership Registry, and paid the \$25 fee, the revenue generated would be **\$6,326**.

cc: David Everitt, Esther Hunter, Lyn Creswell, Sam Guevara, Chris Meeker, Scott Crandall, Ed Rutan, Margaret Plane, Karen Hale, Helen Langan, Russell Weeks, Karen Halladay, Cindy Gust-Jenson, Jan Aramaki, Quin Card, Sylvia Richards, Cindy Trishman

# **Mayor Becker's Proposed Domestic Partnership Registry FAQ's**

## **What is the new domestic partnership registry?**

- This registry creates a way for Salt Lake City to recognize relationships of mutual support, caring, and commitment. By doing so, businesses that choose to do so can easily use the registry to determine eligibility for partner benefits.

## **What are the benefits of offering a domestic partnership registry?**

- This registry is for adult residents of the City who cohabit and rely on one another as dependents. The measure would help many of our elderly residents, people with adult dependent children, as well as same-sex couples.
- It is a tool for employers to use, voluntarily, to determine eligibility for benefits from their company.
- It will allow Salt Lake's domestic partners health care visitation rights to Salt Lake City health care facilities.
- It allows registered individuals access all facilities owned and operated by the City, such as recreational facilities, in the same manner as that of a spouse or children.

## **How would the registry work?**

- The City would create and maintain the registry and provide certificates to registrants.
- The domestic partnership registry will be administered by the City Recorder's Office.

## **How does this help employers in Salt Lake City?**

- Domestic partnership benefits are offered by over half of the Fortune 500 companies in the United States and numerous employers throughout Salt Lake City to their employees.
- The registry helps those local businesses that choose to offer benefits to domestic partners save time and money in the process of determining domestic status of their employees for a variety of purposes.
- The registry helps ensure employees who claim domestic status are, in fact, domestic partners as the term is commonly used.
- Similar registries are in place in cities from Baltimore to Phoenix to Eugene and throughout California.

## **What will residents have to do to prove their domestic partnership status?**

- Before being considered for domestic partner status, there are a number of requirements that must be met. The requirements include a statement that the individuals are in a relationship of mutual support, caring, and commitment, and are responsible for each other's welfare.
- Registrants must be each other's sole domestic partner; be over 18 years old; be competent to contract; and share a primary residence in Salt Lake City.
- Applicants will be required to provide any three of the following five documents:
  1. A joint loan obligation, mortgage, lease, or joint ownership of a vehicle

2. A life insurance policy, retirement benefits account, or will designating the domestic partner as beneficiary thereto, or will of the partner which designates the other as executor;
3. A mutually granted power of attorney for purposes of healthcare or financial management;
4. Proof showing that the partner is authorized to sign for purposes of the other's bank or credit account;
5. Proof of a joint bank or credit account;

**What will the registry cost tax payers?**

- Nothing. The cost of administering the program would be covered by a yet-to-be determined registration fee.

**Is it a backdoor into gay marriage?**

- No. The City has the authority to create a Domestic Partnership Registry under the general welfare clause, which grants Salt Lake the power to “preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants.” Utah Code Ann. § 10-8-84(1).
- The ordinance does not implicate or conflict with either Article I, Section 29 of the Utah Constitution, commonly known as “Amendment 3,” or Utah’s “Marriage Recognition Policy,” the state statute defining marriage.

**Does this ordinance require Salt Lake City businesses to offer domestic partnership benefits to their employees?**

- Absolutely not. Nor are domestic partners required to register.

- Staff then applied the average of these rates to the total number of non-family households in Salt Lake City (as reported by the US Census Bureau).

<b>Salt Lake City Data</b>		<b>%</b>
Population	181,743	
<i>Population living in households</i>	177,170	
Number of households	71,461	
Married-couple family	29,360	41%
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- If 3.2% of non-family households in Salt Lake City registered with the proposed Domestic Partnership Registry, and paid the \$25 fee, the revenue generated would be **\$6,326**.



cc: David Everitt, Esther Hunter, Lyn Creswell, Sam Guevara, Chris Meeker, Scott Crandall, Ed Rutan, Margaret Plane, Karen Hale, Helen Langan, Russell Weeks, Karen Halladay, Cindy Gust-Jenson, Jan Aramaki, Quin Card, Sylvia Richards, Cindy Trishman

JAN 10 2007

## COUNCIL TRANSMITTAL

**TO:** David Everitt, Chief of Staff **DATE:** January 10, 2008

**FROM:** Ed Rutan, City Attorney  
Margaret Plane, Assistant City Attorney  
Ralph Chamness, Senior City Attorney

**STAFF CONTACT:** David Everitt (policy) (x 7620)   
Margaret Plane (legal) (x 7610) 

**SUBJECT:** Domestic Partnership Registry

**DOCUMENT TYPE:** Ordinance

**BUDGET IMPACT:** None. Based on discussions with the City Recorder's Office, it appears that any budgetary impact associated with the Domestic Partnership Registry will be absorbed by the efficient use of existing resources. Any printing fees for certificates will be recouped from the registration fee approved by the Council.

**BACKGROUND/DISCUSSION:** Mayor Becker requested that the City Attorney's Office draft an ordinance establishing a Domestic Partnership Registry in Salt Lake City.

A proposed ordinance establishing such a registry is attached to this transmittal. The proposed ordinance would create a way for Salt Lake City to recognize relationships of mutual support, caring, and commitment between unmarried couples.

The registry would be administered by the City Recorder's Office. Registering a domestic partnership would be voluntary and available to unmarried couples meeting the criteria. Couples wanting to register would first obtain a Declaration of Domestic Partnership from the Recorder's Office, or, potentially, from the City's website. The Declaration will contain the requirements that the individuals must meet in order to register. The requirements include a statement that the couple is in a relationship of mutual support, caring, and commitment, and are responsible for each other's welfare. Additionally, registrants must be each other's sole domestic partner; not be married under Utah law; be over 18 years-old; be competent to contract; and share a primary residence in Salt Lake City.

After the Declaration is signed by both partners and notarized, it will be filed in a registry kept by the Recorder's Office. Couples will receive two certified copies of the official



statement documenting their registration. The ordinance specifies a process for removing and amending registered domestic partnerships.

Filing a Declaration of Domestic Partnership confers two rights or benefits, which are specified in the ordinance. The first benefit is that domestic partners will receive the same use of or access to City facilities that married spouses and their family members receive. Currently, the City offers reduced rates for tennis lessons; other discounts may be created. The second benefit is the right to visitation in a health care facility operated in Salt Lake City, under the appropriate circumstances defined in the ordinance.

The City has the authority to create this Registry under the general welfare clause, which grants Salt Lake the power to “preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants.” Utah Code Ann. § 10-8-84(1). The ordinance does not implicate or conflict with either Article I, Section 29 of the Utah Constitution, commonly known as “Amendment 3,” or Utah’s “Marriage Recognition Policy,” the state statute defining marriage.

**RECOMMENDATION:** The Administration recommends approving this ordinance.

SALT LAKE CITY ORDINANCE  
NO. \_\_\_\_\_ of 2008  
(Creating Domestic Partnership Registry)

AN ORDINANCE ENACTING CHAPTER 2.92, *SALT LAKE CITY CODE*,  
RELATING TO THE CREATION OF A DOMESTIC PARTNERSHIP REGISTRY.

WHEREAS, Salt Lake City is comprised of diverse and varied groups, communities and individuals;

WHEREAS Salt Lake City values this diversity;

WHEREAS, a number of valuable public policy goals, such as the provision of health care benefits to those who may not currently have access to such benefits, fall within the powers granted to Salt Lake City by Utah Code Annotated Section 10-8-84(1) stating that Salt Lake City may pass ordinances intended to “preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants.”

WHEREAS, the Salt Lake City Council passed Ordinance No. 4 of 2006, amending Section 2.52.100 titled “Benefits for Dependents of Employees” including that “an unmarried employee may designate one ‘adult designee’ and the ‘child’ or ‘children’ of the adult designee” to receive such benefits (the “Ordinance”); and,

WHEREAS, a domestic partnership registry will create a way to recognize relationships of mutual support, caring and commitment, where the parties to the relationship participate to support the financial and physical welfare of each other and intend to continue in this manner; and,

WHEREAS, to better facilitate the provision of such health care benefits and where an employee, either of the City or a business licensed within the City, may desire to designate a domestic partner as the recipient of such health care benefits, a registry officially identifying such a domestic partner would be effective; and,

WHEREAS, the establishment of a registry for identification of domestic partners may facilitate both the City’s interest in providing fair and reasonable health care and other benefits; and,

WHEREAS, the establishment of a registry for identification of domestic partners may facilitate the extension of fair and reasonable health care and other benefits by private employer’s to their employees’ named beneficiaries; and,

WHEREAS, the establishment of a registry for identification of domestic partners may facilitate visitation of a patient in health care facilities by the domestic partner in appropriate circumstances;

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Chapter 2.92, *Salt Lake City Code*, pertaining to a Domestic Partnership Registry, be and the same hereby is, enacted as follows:

**CHAPTER 2.92  
DOMESTIC PARTNERSHIP REGISTRY**

Sections:

- |          |  |
|----------|--|
| 2.92.010 | Purpose                                    |
| 2.92.020 | Requirements for Domestic Partner Registry |
| 2.92.030 | Declaration of Domestic Partnership        |
| 2.92.040 | Termination of Domestic Partnership        |
| 2.92.050 | Registration and Fees                      |
| 2.92.060 | Rights of Registered Domestic Partners     |
| 2.92.070 | Severability                               |

**2.92.010 Purpose**

The City is committed to promoting justice, equity, and inclusiveness in the provision of health care and many other benefits to all of its citizens that might be offered by the City or by private employers licensed by the City. The City finds that relationships exist in many different forms, including committed, unmarried couples in either same or opposite sex relationships. The City wishes to promote the public health,

safety, and welfare, and prosperity of its citizens and generally improve overall quality of life by allowing for the efficient and streamlined disposition of health care benefits or other benefits that the City or businesses licensed within the City might offer to their employees – including an employee’s domestic partner. The City finds that a City-maintained list is the best way for the City and for businesses licensed within the City to reliably ascertain whether an employee’s domestic partner and beneficiaries are eligible for such benefits. Therefore, it is the policy of the City to allow any two adults in a committed relationship who meet the domestic partnership criteria to register with the City and to obtain a certificate attesting to their status.

#### **2.92.020 Requirements for Domestic Partnership Registry**

To be considered “Domestic Partners” for the purposes of registering the partnership with Salt Lake City, the two individuals must meet the following criteria:

- A. Freely declare that they are each other’s sole domestic partner;
- B. Be persons eighteen years of age or older and be unmarried according to the laws of the State of Utah;
- C. Be competent to contract;
- D. Be directly dependent upon, or interdependent with, each other, sharing a common financial obligation. Acceptable documentation shall include any three (3) of the following five (5) documents:
  - 1. A joint loan obligation, mortgage, lease, or joint ownership of a vehicle;

2. A life insurance policy, retirement benefits account, or will designating the domestic partner as beneficiary thereto, or will which designates the partner as executor;
3. A mutually granted power of attorney for purposes of healthcare or financial management;
4. Proof showing that the partner is authorized to sign for purposes of the other's bank or credit account;
5. Proof of a joint bank or credit account;

E. Currently share a primary residence in Salt Lake City. For these purposes primary residence means the place where both domestic partners reside. The legal right to occupy the residence need not be joint; and,

F. Execute a certificate of domestic partnership, attesting to the foregoing requirements and attesting that the parties are in a relationship of mutual support, caring, and commitment; are responsible for each other's physical and financial welfare; and have the present intention to remain in that relationship.

### **2.92.030 Declaration of Domestic Partnership**

A. Domestic partners shall make an official record of their partnership by executing a "Declaration of Domestic Partnership" on the form prescribed by the City.

B. The Declaration must include a statement that the persons are in a relationship of mutual caring, commitment, and support, and are responsible for each other's welfare. For these purposes, "mutual support" means that they contribute mutually to each other's maintenance and support.

C. The Declaration must include a statement that both persons agree to file a termination of the partnership if there is a change in the status of their relationship such that they cease to meet the criteria for domestic partnership.

D. The sworn Declaration shall include the date on which the domestic partnership was registered, the mailing address(es) of both partners, and the notarized signatures of both partners. The Declaration shall further state that the domestic partners meet all the criteria for domestic partners set forth in section 2.92.020.

E. The City shall have no duty to verify the information provided by the individuals filing the Declaration of Domestic Partnership.

#### **2.92.040 Termination of Domestic Partnership**

A domestic partnership ends when:

A. Either of the domestic partners dies or enters a marriage recognized by the State of Utah; or

B. One or both partners execute a certificate of termination, stating that one or more of the criteria listed in section 2.92.020 no longer applies. If only one of the partners executes the certificate of termination, then that partner shall attest to the fact that he or she has sent a copy of the certificate of termination to the other partner at the other partner's last known address. This notice requirement does not apply if the termination of the domestic partnership is due to the death of one of the partners.

C. 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 and

a notice that the partnership ended was given. This does not apply if the earlier domestic partnership ended because one of the members died.

#### **2.92.050 Registration and Fees**

A. The City Recorder's Office will keep a record of all Declarations of Domestic Partnership and of all certificates terminating a domestic partnership.

B. The fee for filing a domestic Declaration of Domestic Partnership shall be \$25.00 (or such lesser, cost-based amount as may be determined by the City Recorder) which entitles the persons filing the statement on behalf of a domestic partnership to two (2) certified copies of the official statement.

C. No fee will be charged for filing certificates terminating a domestic partnership.

D. An amendment to a Declaration may be filed by a member of a domestic partnership with the City Recorder's Office at any time to show a change in his or her mailing address. The record will be maintained so that amendments and certificates terminating a domestic partnership are filed with the Declaration of Domestic Partnership to which they apply.

#### **2.92.060 Rights of Registered Domestic Partners**

A. Use of and Access to City Facilities. All facilities owned and operated by the City, including but not limited to recreational facilities shall allow the registered domestic partner of a user, and his or her children, to be included in any rights and privileges accorded a spouse and children for purposes of use and access to city facilities.

B. Health Care Visitation. All health care facilities operating within the City shall allow the registered domestic partner or a patient to visit such patient unless no visitors are allowed or the patient expresses a desire that visitation by the domestic partner be restricted. As used in this section, "health care facility" means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, and supervisory care services.

C. Other Benefits. The City may, from time to time, be asked by the City Council or Administration or by private employers licensed to do business within the City to have the Registry act as verification of the domestic partner status for other benefits which meet the goals of this ordinance to promote the public health, safety and welfare and prosperity of its citizens.

### **2.92.070 Severability**

If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 2. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
CHAIRPERSON



ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2008.  
Published: \_\_\_\_\_.

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 1/2/08  
By: 