ORDINANCE NO. 14868

FILE OF THE CITY COUNCIL

BILL NO. 102 - 2010

Introduced by Councilperson's D'Amore, Donovan, Eichenwald, Guridy, O'Connell, Schlossberg and Schweyer

December 15, 2010

AN ORDINANCE

Amending the Personnel Code by providing the same health and other employment benefits to employees and retirees with same sex domestic partners as it provides to employees and retirees with spouses.

SECTION ONE: That the following be added to the Personnel Code as 140.26, Domestic Partnerships

140.26 Domestic Partnerships

A. DEFINITIONS:

Domestic Partnerships

Definition. For purposes of this Chapter, "Domestic Partnership" shall mean two individuals, one or both of whom are City employees or retirees, who have consented to enter a domestic partnership with each other and meet all of the following qualifications:

i. Both individuals are currently living together;

ii. Both individuals are jointly responsible for each other's basic living expenses;

iii. Neither individual is part of an existing domestic partnership, civil union or marriage with any third party;

iv. Neither individual has been in another registered domestic partnership in the 30 days preceding the date of registration of the present domestic partnership;

v. The individuals cannot marry each other under the laws of the Commonwealth of Pennsylvania;

vi. Each individual is competent to enter into a contract; is eighteen years of age or older; and both individuals are not related to one another in a way that would bar marriage in the Commonwealth of Pennsylvania; and

vii. Agree under penalty of law to notify the City of any change in the status of the Domestic Partnership.

"Living together" means sharing a domicile that is the primary place of residence for both partners. It is not necessary that the legal right to possess the shared place be in the names of both domestic partners. Two people may live together even if one or both have additional places to live. Domestic partners do not cease to live together if one leaves the shared place but intends to return.

"Basic living expenses" means basic food and shelter.

"Joint responsibility" means that domestic partners jointly provide for each other's basic living expenses.

B. Identification of Domestic Partnerships

Verification. To verify a domestic partner for the purposes of this Ordinance, city employees and retirees shall complete a form prescribed by the City indicating they have satisfied the qualifications for domestic partnership requirements set forth in above. In addition, the employee must provide three additional documents, one from list A and two from list B:

List A (Residency)

1. A lease or sublease indicating that their residence is rented by both individuals;
2. A deed or mortgage indicating that their residence is owned by both individuals;
3. Driver's licenses for both individuals showing the same address;
4. A utility bill addressed to both individuals at the same address.

List B (Joint Responsibility)

1. A deed or mortgage showing joint ownership of property by both individuals;
2. Evidence of a joint credit card, debit or bank account;
3. A will or life insurance policy of one individual that names the other individual as a beneficiary;
4. Documents showing that one or both individuals have power of attorney for the other; or
5. Any document that in the opinion of the Director of Human Resources conclusively demonstrates the individuals are domestic partners living together and are jointly responsible for each other's basic living expenses as defined by this ordinance.

C. Termination

Either Domestic Partner may terminate the Domestic Partnership by filing a sworn Termination Statement with the City, in the form and manner required by the Department of Human Resources, stating that the Domestic Partnership is to be terminated. The termination shall become effective thirty (30) days from the date the Termination Statement is filed, if it is signed by both Domestic Partners. If it is not signed by both Domestic Partners, the Termination Statement shall become effective thirty (30) days from the date proof is filed with the Department of Human Resources that a copy of the Termination Statement was served, either personally or by certified or registered mail, on the other Domestic Partner.

D. Operation of the Ordinance

The City shall provide the same health and other employment benefits to employees and retirees with same sex domestic partners as it provides to employees and retirees with spouses, consistent with the fullest extent of the City's authority under the law. It is the intent of this ordinance to apply to all employees and retired employees, including those employees who retired prior to the adoption of this ordinance.

This ordinance shall apply to same sex domestic partners insofar as state law prohibits such couples from entering into a marriage that is recognized by the laws of Pennsylvania. In the event that the Commonwealth of Pennsylvania recognizes same sex marriage, domestic partners who would be impacted by this ordinance will have a 90 day period of continued coverage in order to facilitate a marriage. (7-0)

To the extent that any applicable health plan requires an affidavit that is inconsistent with the parameters of this ordinance, the parameters of that health care plan affidavit and health care plan will control. (7-0)

Pension benefits associated with active or retired members of the Police, Fire or Officers and Employees pension plans are not included in the operation of this ordinance. (7-0)

As of the date of effectiveness, the provisions of this ordinance shall become effective upon all non-bargaining unit employees, all employees whose job classifications fall under the SEIU collective bargaining agreement and all employees whose job classifications fall under the MESA "meet and discuss" unit.

This ordinance shall become effective upon all employees whose job classifications fall under the IAFF and FOP collective bargaining agreements if the following two provisions are satisfied:

1) the benefits provided in this ordinance are approved by the two respective unions and the administration following the appropriate collective bargaining process.
2) The City Council extends these benefits to employees under these two bargaining units by ordinance. (Passed, 7-0)

SECTION TWO: Repealer: Any ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of their inconsistency.

~~**SECTION THREE**: That the pension benefits established by this ordinance become effective after actuarial studies relating to pension adjustments are completed if mandated by law.~~

SECTION ~~FOUR~~ THREE: That the provisions of this ordinance become effective for each bargaining unit after the signing of memorandum of understandings in the case of the IAFF, SEIU and FOP; and after meet and discuss meetings with MESA. Nothing in this ordinance shall supersede any collective bargaining agreement for which the City of Allentown is a party.

SECTION ~~FIVE~~ FOUR: Severability: The provisions of this article are declared to be severable and if any section, sentence, clause or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

APPENDIX

Sample form for verification of domestic partnership

AFFIDAVIT

Under the penalty of perjury, I hereby certify that I am in a domestic partnership that meets the following conditions:

1. My domestic partner and I are currently living together.
2. My domestic partner and I are jointly responsible for each other's basic living expenses.
3. Neither my domestic partner nor I is part of an existing domestic partnership, civil union or marriage with any third party.
4. Neither my domestic partner nor I have been in another registered domestic partnership in the thirty days preceding the date of registration of the present domestic partnership.
5. My domestic partner and I cannot marry each other under the laws of the Commonwealth of Pennsylvania.
6. My domestic partner and I are competent to enter into a contract.
7. My domestic partner and I are eighteen years of age or older.
8. My domestic partner and I are not related to one another in a way that would bar marriage in Pennsylvania.
9. My domestic partner has consented to the City recognizing our domestic partnership for the purposes of receiving benefits.

Employee/Retiree Signature

Subscribed and Sworn to before me
this _____ day of _____, 20_____

Notary Public / Commissioner

*Amendment passed, 7 – 0

	Yea	Nay
W. Michael Donovan	X	
Jeanette Eichenwald	X	
Julio A. Guridy	X	
Ray O'Connell	X	
Michael Schlossberg	X	
Peter G. Schweyer	X	
Michael D'Amore, President	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on January 19, 2011 and signed by the Mayor on January 26, 2010.

Michael P Hanlon

CITY CLERK