

1 [Amending Domestic Partnership requirements for marriages between persons of the same  
2 sex]

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4 **Ordinance amending Chapter 62 of the San Francisco Administrative Code by**  
5 **amending Section 62.4 to clarify that domestic partners who entered into a marriage**  
6 **nullified by the Courts retain their status as domestic partners; adding a new Section**  
7 **62.14 to allow persons of the same sex who were not domestic partners when they**  
8 **married an opportunity to establish a domestic partnership effective as of the date of**  
9 **their marriage license; and adding a new Section 62.15 directing the County Clerk to**  
10 **send notices and forms to all persons who entered into marriages in San Francisco**  
11 **between February 12,2004 and March 11, 2004 to enable them to exercise their right to**  
12 **establish a retroactively effective domestic partnership.**

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

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

17 Section 1. The San Francisco Administrative Code is hereby amended by amending  
18 Section 62.4(a) and adding Sections 62.14 and 62.15 to read as follows:

19 **SEC. 62.4. ENDING DOMESTIC PARTNERSHIPS.**

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

21 (1) One partner sends the other a written notice that he or she has ended the  
22 partnership; or

23 (2) One of the partners dies; or

24 (3) One of the partners marries or the partners no longer live together, *except*  
25 *that any marriage entered into in San Francisco between persons of the same sex who are also partners*

1 of one another in a domestic partnership established under Section 62.3 of this Chapter or recognized  
2 under Section 62.10 of this Chapter shall not end the domestic partnership.

3 (b) Notice the Partnership Has Ended.

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

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

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

18 **Sec 62.14. SAME SEX MARRIAGE AS DOMESTIC PARTNERSHIP.**

19 **(a) Findings.**

20 (1) The Board of Supervisors finds that between February 12, 2004 and March 11, 2004,  
21 the County Clerk issued 4,035 licenses for marriage between persons of the same sex. The  
22 County Clerk ceased issuing same sex marriage licenses when ordered to do so by the Court.  
23 Some of the persons who obtained such marriage licenses were also domestic partners of one  
24 another, but others were not.

1           (2)     The Board of Supervisors further finds that this Chapter precludes persons who are  
2           married from establishing a domestic partnership.

3           (3) Domestic Partnership law and State marriage law have additional differing eligibility  
4           requirements and differing legal effect such that it is not certain whether married persons of the  
5           same sex who were not previously domestic partners of one another are otherwise qualified for,  
6           or desire to establish, a domestic partnership.

7           **(b) Retroactive Domestic Partnership**

8           (1)     Any two persons who together obtained a marriage license from the County clerk  
9           between February 12, 2004 and March 11, 2004 who desire also to establish a domestic  
10          partnership with one another may do so by submitting a signed Declaration of Domestic  
11          Partnership to the County Clerk or delivering a signed, notarized copy of a Declaration of  
12          Domestic Partnership to the person who witnesses the signing, as provided in Sections 62.3  
13          (a)(1) or (a)(2).

14          (2) All such domestic partnerships may, at the election of the persons submitting the  
15          Declaration of Domestic Partnership, be deemed valid as of the date of their marriage license,  
16          provided that Declaration of Domestic Partnership is submitted or delivered no later than  
17          ninety days after the delivery of the Notice required in Section 62.15.

18          **Sec 62.15. County Clerk to Notify Marriage License Holders**

19          The San Francisco County Clerk shall send written notice, by first class mail, to all persons  
20          receiving marriage licenses in San Francisco between February 12, 2004 and March 11, 2004  
21          at the mailing address(es) indicated on their marriage license application. Such notice shall  
22          inform the recipient that the City has enacted legislation that allows them also to establish a

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1            domestic partnership with one another. The notice shall also include the information and forms  
2            necessary for the recipients to establish a domestic partnership under this Chapter.

3 APPROVED AS TO FORM:  
4 DENNIS J. HERRERA, City Attorney

5 By: \_\_\_\_\_  
6        CATHARINE BARNES  
7        Deputy City Attorney

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