

1 [Environment Code - Safe Drug Disposal Information Ordinance]

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3 **Ordinance amending the San Francisco Environment Code by adding Sections 2250**
4 **through 2254, to require any business selling prescription drugs to the public to post**
5 **display materials explaining how to safely and lawfully dispose of unused prescription**
6 **drugs, and making environmental findings.**

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

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

11 Section 1. The San Francisco Environment Code is hereby amended by adding
12 Sections 2250 through 2254, to read as follows:

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14 **SEC. 2250. SHORT TITLE.**

15 *This Ordinance shall be entitled the "Safe Drug Disposal Information Ordinance."*

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17 **SEC. 2251. DEFINITIONS.**

18 *For the purposes of this Ordinance, the following words shall have the following meanings:*

19 *(a) "Business" means a fixed location within the City and County of San Francisco, whether*
20 *indoors or outdoors, at which Prescription Drugs are offered for sale at retail and that is required to*
21 *obtain a valid San Francisco business registration certificate from the San Francisco Tax Collector's*
22 *office.*

23 *(b) "Department" means the Department of the Environment.*

24 *(c) "Director" means the Director of the Department of the Environment.*

25 *(d) "Display materials" means signs, posters or other similar informational materials.*

1 (e) "Prescription drug" means any drug that by federal or state law may be dispensed lawfully
2 only on prescription.

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4 **SEC. 2252. INFORMATION REQUIRED AT POINT OF SALE.**

5 (a) Beginning September 1, 2011, any business selling prescription drugs to the public shall
6 post display materials approved by the Director explaining how members of the public may safely and
7 lawfully dispose of unused prescription drugs. The materials shall be in English, Spanish, and Chinese,
8 and legible and easily readable by the average person. The materials shall be posted on the premises
9 of the business in a location visible to the public and adjacent to the area where the prescription drugs
10 are dispensed.

11 (b) The Director may, in his or her discretion, authorize a business to use alternate means to
12 comply with the requirements of subsection (a). The Director shall authorize such alternate means
13 through the adoption of a regulation after a noticed hearing, and no business may sell prescription
14 drugs to the public or offer to sell prescription drugs to the public using any alternate means of
15 compliance with this Chapter unless specifically authorized to do so in advance in writing by the
16 Director.

17 (c) The City urges all persons and entities providing prescription drugs to the public for free to
18 also participate in this program.

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20 **SEC. 2253. IMPLEMENTATION.**

21 (a) The Director, after a public hearing, may adopt and may amend guidelines, rules,
22 regulations, and forms to implement this Ordinance.

23 (b) By July 1, 2011, the Department shall issue regulations specifying the contents and format
24 for the display materials required by Section 2252.

1 **SEC. 2254. ENFORCEMENT.**

2 (a) During the period between the effective date of this Chapter and September 1, 2011, the
3 operative date for compliance, the Department shall develop and conduct an education and assistance
4 program for businesses subject to the Chapter, and shall contact the businesses and assist them with
5 meeting the requirements of the Chapter.

6 (b) Beginning September 1, 2011, the City Administrator shall issue a written warning to any
7 person he or she determines is violating provisions of this Chapter or any regulation issued under this
8 Chapter. If 30 days after issuance of the written warning the City Administrator finds that the person
9 receiving the warning has continued to violate the provisions of the Chapter or any regulation issued
10 under this Chapter, the City Administrator may impose administrative fines as provided below in
11 subsections (c), (d), and (e).

12 (c) Violation of this Chapter or any regulation issued under this Chapter shall be punishable by
13 administrative fines in the amount of:

14 (1) Up to \$100.00 for the first violation;

15 (2) Up to \$250.00 for the second violation within a twelve-month period; and,

16 (3) Up to \$500 for the third and subsequent violations within a twelve-month period.

17 (d) Except as provided in subsection (c), setting forth the amount of administrative fines,
18 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as
19 may be amended from time to time, is hereby incorporated in its entirety and shall govern the
20 imposition, enforcement, collection, and review of administrative citations issued by the City
21 Administrator to enforce this Chapter or any regulation issued under this Chapter. Violation of this
22 Chapter is not a misdemeanor, and the Board of Supervisors intends that the requirements of this
23 Chapter be enforced only through administrative fines as provided in this Section.

1 (e) For purposes of this Chapter, each week that a business sells or offers to sell prescription
2 drugs to the public contrary to the provisions of this Chapter or any regulation issued under this
3 Chapter shall constitute a separate violation.

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5 **Section 2. General Provisions.**

6 (a) **Severability.** If any section, subsection, sentence, clause, or phrase of this
7 Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of
8 competent jurisdiction, such decision shall not affect the validity of the remaining portions of
9 the Ordinance. The Board of Supervisors hereby declares that it would have passed this
10 Ordinance and each and every section, subsection, sentence, clause, or phrase not declared
11 invalid or unconstitutional without regard to whether any portion of this Ordinance would be
12 subsequently declared invalid or unconstitutional.

13 (b) **No Conflict with State or Federal Law.** Nothing in this ordinance shall be
14 interpreted or applied so as to create any requirement, power, or duty in conflict with any
15 federal or state law.

16 (c) **Undertaking for the General Welfare.** In adopting and implementing this
17 Ordinance, the City and County of San Francisco is assuming an undertaking only to promote
18 the general welfare. It is not assuming, nor is it imposing in its officers and employees, an
19 obligation for breach of which it is liable in money damages to any person who claims that
20 such breach proximately caused injury.

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1 (d) **Environmental Findings.** The Planning Department has determined that the
2 actions contemplated in this ordinance are in compliance with the California Environmental
3 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the
4 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
5 reference.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 THOMAS J. OWEN
12 Deputy City Attorney
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