

BOARD of SUPERVISORS



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MEMORANDUM

TO: Harlan Kelly, Jr., General Manager, Public Utilities Commission
Olson Lee, Director, Mayor's Office of Housing and Community
Development
John Rahaim, Director, Planning Department
Tom Hui, Director, Department of Building Inspection
Mohammed Nuru, Director, Public Works
Barbara A. Garcia, Director, Department of Public Health

FROM: *Al*
for Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: October 25, 2016

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Wiener on October 18, 2016:

File No. 161069

Ordinance amending the Health Code to revise the definition of development projects subject to the requirements for an Alternate Water Source system and the definitions of large and small residential projects subject to specific requirements for such a system, and providing authorization for the review and approval of alternative means of compliance; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Juliet Ellis, Public Utilities Commission
Donna Hood, Public Utilities Commission
Eugene Flannery, Mayor's Office of Housing and Community Development
Sophie Hayward, Mayor's Office of Housing and Community Development
Scott Sanchez, Planning Department

Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Frank Lee, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health

1 [Health Code - Definition of Projects and Responsibilities for Alternate Water Sources]

2
3 **Ordinance amending the Health Code to revise the definition of development projects**
4 **subject to the requirements for an Alternate Water Source system and the definitions of**
5 **large and small residential projects subject to specific requirements for such a system,**
6 **and providing authorization for the review and approval of alternative means of**
7 **compliance; and affirming the Planning Department's determination under the**
8 **California Environmental Quality Act.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Sections 21000, et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. _____ and is incorporated herein by reference. The
21 Board affirms this determination.

22 Section 2. The Health Code is hereby amended by revising Sections 12C.2, 12C.4,
23 and 12C.10, to read as follows:
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25

1 **SEC. 12C.2. DEFINITIONS.**

2 The terms used in this Article 12C have the meaning set forth below:

3 * * * *

4 **Alternate Water Source System:** The system of facilities necessary for providing Non-potable
5 Water for use in a Development Project, including but not limited to all collection, treatment, storage,
6 and distribution facilities. Non-potable Water System shall have the same meaning.

7 * * * *

8 **Development Project:** Construction of new buildings. Development Projects are Large
9 Development Projects and Small Development Projects. Development Project does not include
10 (1) any housing project funded or constructed pursuant to the HOPE SF Program sponsored and
11 developed by the San Francisco Housing Authority and either the Mayor’s Office of Housing and
12 Community Development or the Office of Community Investment and Infrastructure; (2) construction of
13 a new building that will receive water service from the San Francisco Public Utilities Commission
14 through no larger than a 5/8” domestic water meter or a 5/8” recycled water domestic meter, as
15 determined in accordance with the San Francisco Public Utilities Commission’s rules for water
16 service; 3) for District projects located within the boundaries of the Reclaimed Water Use Map,
17 construction of new buildings subject to a development agreement or similar contractual agreement,
18 within a development phase or subphase, a street improvement plan, or a tentative map or vesting
19 tentative map approved before November 1, 2015; or 4) for District projects located outside the
20 boundaries of the Reclaimed Water Use Map, construction of new buildings subject to a development
21 agreement or similar contractual agreement, within a development phase or subphase, a street
22 improvement plan, or a tentative map or vesting tentative map approved before November 1, 2017.

23 **District System:** An alternative Water Source System serving a District Development Project.

24 * * * *

1 **Gross Floor Area:** The floor area of a Development Project as defined in Planning Code

2 Section 102.

3 **Large Development Project:** Construction of a ~~new~~ single building, or construction of
4 multiple buildings on one or more parcels in accordance with a phased plan or approval, with a total
5 gross floor area for the single building or the multiple buildings of 250,000 square feet or more:

6 (a) located within the boundaries of the Reclaimed Water Use Map designated in
7 accordance with Sections 1203 and 1209 of the Public Works Code and subject to a site
8 permit or building permit that is final and effective after November 1, 2015; or

9 (b) located outside the boundaries of the Reclaimed Water Use Map designated in
10 accordance with Sections 1203 and 1209 of the Public Works Code and subject to a site
11 permit or building permit that is final and effective after November 1, 2016.

12 Large Development Projects are not limited to buildings constructed by individuals or
13 non-governmental entities but, to the extent allowed by law, also include buildings constructed
14 and operated by any local, state, or federal government entity, including the City and County
15 of San Francisco.

16 * * * *

17 **Nonpotable Water System:** The same meaning as Alternate Water Source System.

18 * * * *

19 **Permittee:** ~~owner or operator of an on site treated Nonpotable Water system.~~ The owner of
20 an Alternate Water Source System under this Article 12C.

21 * * * *

22 **Small Development Project:** Construction of a ~~new~~ single building, or construction of
23 multiple buildings on one or more parcels in accordance with a phased plan or approval, with a total
24 gross floor area for the single building or the multiple buildings of 40,000 square feet or more, but
25 less than 250,000 square feet. Small Development Projects are not limited to buildings

1 constructed by individuals or non-governmental entities but, to the extent allowed by law, also
2 include buildings constructed and operated by any local, state, or federal government entity,
3 including the City and County of San Francisco.

4 * * * *

5 **Water Budget Documentation:** An in-depth assessment of the Project Applicant's
6 non-potable water use, including survey information, water meter readings, water service
7 billing information, Alternate Water Source schematic drawings, or any other information
8 deemed necessary by the General Manager. For proposed District Systems, Water Budget
9 Documentation shall include implementation information that, at a minimum, shall address potential
10 infrastructure and public right of way conflicts, demonstrate compliance with all applicable
11 requirements, and establish the capabilities of the Development Project Applicant to effectively operate
12 the District System.

13 **SEC. 12C.4. DEVELOPMENT PROJECT REQUIREMENTS.**

14 (a) Large Development Projects shall be constructed, operated, and maintained in
15 compliance with the following:

16 (1) All toilet and urinal flushing and irrigation demands shall be met through the
17 collection and reuse of available onsite Rainwater, Graywater, and Foundation Drainage, to
18 the extent required by application of the Water Budget Documentation developed for each
19 Development Project.

20 (2) A Large Development Project Applicant shall use the Water Budget Calculator,
21 as provided by the General Manager's rules, to prepare a Water Budget assessing the
22 amount of Rainwater, Graywater, and Foundation Drainage produced on site, and the planned
23 toilet and urinal flushing and irrigation demands.

24 (3) If, based on the Water Budget Documentation, the available supply from onsite
25 sources exceeds the demands for toilet and urinal flushing and irrigation, 100% of those

1 demands shall be met by using the available onsite sources. If, based on the Water Budget
2 Documentation, the available supply from onsite sources is less than the demands for toilet
3 and urinal flushing and irrigation, 100% of the available onsite supply shall be used to meet
4 the demands for toilet and urinal flushing and irrigation. Available Blackwater or Stormwater
5 supplies may be used instead of, or in addition to Rainwater, Graywater, and Foundation
6 Drainage to meet the available onsite supply requirements calculated in accordance with the
7 Water Budget Documentation requirements of this section 12C.4(a).

8
9 ~~(b) (4)~~—Small Development Project Applicants shall use the Water Budget Calculator,
10 as provided by the General Manager's rules, to prepare a Water Budget assessing the
11 amount of Rainwater, Graywater and Foundation Drainage produced on site, and the planned
12 toilet and urinal flushing and irrigation demands.

13 (c) Additional Requirements for District Systems. All District Systems shall conform to the
14 following requirements, subject to the General Manager's determination, in his or her sole discretion,
15 that an exception to any of such requirements will fulfill the purposes and objectives of this Article 12C.

16 (1) In addition to preparation of the Water Budget, Development Project Applicants for
17 District Systems shall submit implementation plans to the General Manager for review and approval, in
18 accordance with guidelines and rules established by the General Manager.

19 (2) District Systems shall be operated by a single Permittee having sole ownership and
20 control of operations of all of its facilities, including but not limited to treatment and distribution
21 facilities. District Systems shall be constructed in accordance with all applicable City utility standards
22 and specifications.

23 (3) District Systems shall not provide Non-potable Water to water users or for purposes
24 located outside the boundaries of the District or approved Development Project.

1 (4) The ongoing operation and maintenance responsibilities of a completed District
2 System shall be held by the owner of the common areas within the District Development Project, and
3 may be transferred to a homeowners association or similar entity that maintains the common areas
4 within the District Development Project.

5 Where a District System complies with the requirements in subsections 1 through 4 of this
6 subsection 12C.4(c), including any exceptions approved by the General Manager, individual
7 Development Projects with the District shall not be required to demonstrate compliance as long as the
8 individual Development Projects are provided service by the approved District System.

9 (d) The General Manager may approve alternative District Systems that will achieve
10 compliance with the purposes and objectives of this Article 12C, in accordance with guidelines and
11 rules established by the General Manager. Alternative District Systems may include, but are not
12 limited to, water purchase agreements.

13 ~~(e)~~ (5) City departments shall not issue an encroachment permit, a site permit, or
14 plumbing permit for a Large Development Project or a Small Development Project, or approve
15 a Non-potable Water Engineering Report, prior to the General Manager's determination that
16 the Water Budget Documentation has been prepared in accordance with the General
17 Manager's rules for Water Budget calculations.

18 ~~(f)~~ (b) Subdivision Approvals.

19 (1) Parcel Map or Tentative Subdivision Map Conditions. The Director of Public
20 Works shall not approve a tentative subdivision map or a parcel map for any property unless a
21 condition is imposed requiring compliance with this Article 12C to serve the potential uses of
22 the property covered by the parcel map or tentative subdivision map, as specified in the
23 provisions of this Article.

24 (2) Subdivision Regulations. The Director of Public Works shall adopt regulations
25 consistent with, and in furtherance of this Article 12C.

1 (3) Final Maps. The Director of Public Works shall not endorse and file a final map
2 for property within the boundaries of the City without first determining that:

3 (A) The subdivider has complied with the conditions imposed on the tentative
4 subdivision map or parcel map, pursuant to this Article 12C; and

5 (B) For any such conditions not fully satisfied prior to the recordation of the final
6 map, the subdivider has signed a certificate of agreement and/or improvement agreement, to
7 ensure compliance with such conditions.

8 (4) This Subsection ~~(f)~~ ~~(b)~~ shall not apply to tentative subdivision maps or parcel
9 maps submitted solely for the purposes of condominium conversion, as defined in Subdivision
10 Code Section 1308(d).

11 *(g) In the event that a privately owned Alternate Water Supply System approved by the General*
12 *Manager is subsequently determined by the California Public Utilities Commission to be subject to that*
13 *agency's jurisdiction and regulation, the San Francisco Public Utilities Commission may, with the*
14 *consent of the affected owner, acquire and operate the facilities.*

15 **SEC. 12C.10. SALE OR TRANSFER OF PERMITS.**

16 ~~(a)~~ Permittees shall notify the Director of any intent to sell or transfer the building or
17 facility containing an Alternate Water Source system within 30 days ~~prior to~~ following the sale
18 or transfer of property, in accordance with regulations adopted by the Director.

19 ~~(b) Any subsequent owner shall submit documentation to the Director establishing their ability~~
20 ~~to own, operate and maintain the Alternate Water Source system in accordance with this Article 12C,~~
21 ~~the rules and regulations adopted by the Department of Public Health, and all applicable local, state,~~
22 ~~and federal laws, within 90 days of transfer of the property and prior to commencement of operations~~
23 ~~of the Alternate Water Source system.~~

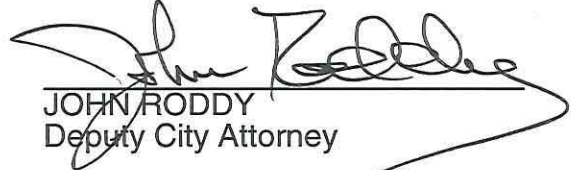
24 ~~(e) The Director may approve or deny the transfer of the permit to operate to any subsequent~~
25 ~~owner, in accordance with the requirements of this Article 12C and applicable regulations.~~

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Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
JOHN RODDY
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Substituted, 10/18/2016)

[Health Code - Definition of Projects and Responsibilities for Alternate Water Sources]

Ordinance amending the Health Code to revise the definition of development projects subject to the requirements for an Alternate Water Source system and the definitions of large and small residential projects subject to specific requirements for such a system, and providing authorization for the review and approval of alternative means of compliance; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Chapter 12C of the Health Code mandates that development projects of a certain size use an Alternate Water Source system for the collection and reuse of available onsite Rainwater, Graywater, and Foundation Drainage.

Amendments to Current Law

Section 12C.2 of the Health Code is amended to clarify the definitions of large and small development projects that are subject to the requirements. Also, HOPE SF projects and construction of building using no large than a 5/8" water service meter are excluded from the definition of development project. In addition, the initial phases of development projects that have been approved in specified circumstances are excluded from the definition of development project. Section 12C.2 is also amended to provide other clarifying definitions relevant to these amendments. Section 12C.4 is amended to provide that operation and maintenance responsibilities of a completed Alternate Water Source System serving the District Development Project shall be held by the owner of the common areas within the District Development Project, that implementation plans must be provided to the General Manager of the San Francisco Public Utilities Commission, and that alternative systems in District Development Projects that provide for compliance with Article 12C may be approved by the General Manager. Section 12C.10 is amended to remove unnecessary subsections.

Background Information

The definitions of large development project and small development project in Health Code Article 12C are being amended to implement the Board's intent that Article 12C applies to development projects consisting of interconnected buildings or phased construction of buildings, as well as single building projects, that exceed the threshold limits of the Article. Also, HOPE SF projects, construction of building using no large than a 5/8" water service meter, and the initial phases of development projects that have been approved in specified circumstances are excluded from the definition of development project.

In addition, the General Manager of the San Francisco Public Utilities Commission may approve alternative non-potable water systems proposed as compliance with this Article 12C, where the proposed alternative complies with the purposes and objectives of this Article. Such alternatives could involve using water from a SFPUC facility in close proximity, synergistic opportunities arising because of the adjacency of two or more development projects, or other circumstances deemed acceptable by the General Manager.

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