

1 [Ban on sale of carbonated beverages and certain fruit-based drinks on City property]

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3 **Ordinance adding Section 4.24 to the Administrative Code to ban the sale of**
4 **carbonated beverages and certain fruit-based drinks on property owned by or under**
5 **the control of the City, except under certain circumstances.**

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Note: This entire section is new.

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

9 Section 1. The San Francisco Administrative Code is hereby amended by adding

10 Section 4.24, to read as follows:

11 Sec. 4.24. PROHIBITED BEVERAGE SALES.

12 (a) Definitions. For purposes of this Section, "City" is the City and County of San
13 Francisco; "City property" is property owned by or under the control of the City; and "minor" is
14 a person under 18.

15 (b) Prohibition. No sale of carbonated beverages, fruit-based drinks with less than
16 50% fruit juice, or fruit-based drinks with added sweeteners, shall be allowed on any City
17 property. This prohibition shall not extend to carbonated water lacking sugar or added
18 sweeteners.

19 (c) Scope of Prohibition. The prohibition on beverage sales contained in subsection
20 (b) shall apply to all leases, permits, or agreements awarded by the City allowing any person
21 to use City property, including existing leases, permits, or agreements, except where the
22 prohibition would impair obligations of contract. The prohibition shall also apply to subleases,
23 subcontracts, or other agreements that derive from a lease, permit, or agreement awarded by
24 the City allowing for the use of City property, including existing subleases, subcontracts, or
25 other derivative agreements, except where the prohibition would impair obligations of contract.

1 (d) Prohibitory Language. All leases, permits, or agreements awarded by the City
2 allowing any person to use City property shall specifically provide that there shall be no sale of
3 beverages on the property in violation of this Section. In addition, any such lease, permit, or
4 agreement shall specifically provide that any sublease, subcontract, or other agreement
5 derived from the lease, permit, or agreement shall also specifically provide that there shall be
6 no sale of beverages in violation of this Section.

7 (e) Categorical Exemptions. The prohibition on beverage sales contained in
8 subsection (b) shall not apply to particular City property when (i) it is illegal for minors to be
9 present there or (ii) as a result of any form of lawful agreement, policy, practice, or promotion,
10 minors are not allowed to be present there.

11 (f) Other Exemptions. The prohibition on beverage sales contained in subsection
12 (b) shall not apply to particular City property if the City finds it more likely than not that no
13 more than 10% of the persons who are regularly present there are minors. The
14 aforementioned finding shall be justified in writing by the City department or other entity
15 responsible for the particular City property; shall be made by the head of the department or
16 entity or by his or her designee; and shall become effective only if approved by the board,
17 commission, or other body that oversees the department or entity, or, if no such board,
18 commission, or body exists, by the City's Chief Administrative Officer or his or her designee.

19 If there is a substantial change in use patterns for a particular City property as to which
20 an exemption has been granted pursuant to this subsection, the City department or other
21 entity responsible for the property, through the head of the department or entity or his or her
22 designee, shall reevaluate the finding that is the basis of the exemption and report whether
23 the finding remains valid to the board, commission, or other body that oversees the
24 department or entity, or, if no such board, commission, or body exists, to the City's Chief
25 Administrative Officer or his or her designee, which shall determine if the finding remains

1 valid. If it remains valid, the exemption shall remain effective; if it is no longer valid, the
2 exemption shall no longer be effective.

3 (g) Consistency With City Charter. This Section shall not be interpreted or
4 construed to conflict with the Charter-conferred jurisdiction of any City commission, board, or
5 other entity.

6 (h) Applicability Of Other Laws. This Section shall not be interpreted or construed
7 to permit the sale of any beverage under any circumstance where its sale would violate
8 another applicable law.

9 (i) Severability. If any part or provision of this Section or the application thereof to
10 any person or circumstance is held invalid, the remainder of this Section, including the
11 application of such part or provision to persons or circumstances other than those to which it
12 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this
13 end, the parts and provisions of this Section are severable.

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

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18 By: _____
19 PAUL ZAREFSKY
20 Deputy City Attorney

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