

LEGISLATIVE DIGEST
(12/8/2016, Amended in Committee)

[Environment Code - Packaged Drinking Water]

Ordinance amending the Environment Code to modify restrictions on the sale or distribution on City property of drinking water in single service containers, to educate City departments regarding the restrictions, and making environmental findings.

Existing Law

Environment Code Chapter 24, entitled “Bottled Drinking Water,” regulates the sale or distribution of “Bottled Water,” defined to include drinking water in a sealed rigid plastic bottle having a capacity of 21 fluid ounces or less, on City property. It also requires the Department of the Environment and Public Utilities Commission to educate other City departments about Chapter 24’s requirements, and compels the Director of the Department of the Environment to report annually to the Mayor and Board of Supervisors on Chapter 24’s implementation. Chapter 24 also contains a City policy to promote the availability of clean, free drinking water in public areas.

Amendments to Current Law

The proposal, the “San Francisco Packaged Water Ordinance,” is an ordinance that would amend Chapter 24 to extend application of many of the Chapter’s current regulations concerning Bottled Water to also apply to “Packaged Water.” “Packaged Water” would be defined as drinking water in a sealed box, bag, can, glass bottle, rigid plastic bottle, or other container intended primarily for single service use and having a capacity of one liter or less.

Events on City Property

According to Chapter 24, as of October 1, 2014, no person may sell or distribute Bottled Water at an indoor event held on City property, or an outdoor event held on City property, including a City street, where the City allowed the sponsor to use an on-site water supply. As of October 1, 2016, no one may sell or distribute Bottled Water at an outdoor event held on City property.

These restrictions apply only to events where more than 100 people attend or participate. They do not apply to public athletic events held on City property, to events where the City grants the general public access to enter or use the property without a permit, or to events held on City property where the sponsor applied for or received the permit prior to July 1, 2014.

A City officer or department responsible for an event or the property to be used for an event may waive these requirements in full or in part if the event sponsor demonstrates that strict application of the requirements is not feasible, would cause undue hardship or practical difficulty, or that circumstances otherwise warrant waiver.

The proposal would, starting March 1, 2017, apply these same restrictions to the sale and distribution of Packaged Water. In addition, the proposal would require a City officer or department responsible for an event or the property to be used for an event to seek a full or partial waiver from the Department of the Environment—rather than itself waiving this Chapter’s requirements—in the event that the sponsor demonstrates that a strict application of the requirement is not feasible, would cause undue hardship or practice difficulty, or that circumstances otherwise warrant waiver.

Permits and Leases; Food Trucks

According to Chapter 24, as of October 1, 2014, all new permits or leases allowing any person to use City property for purposes that include the sale or distribution of beverages must require that the permittee comply with the Chapter. This requirement also applies to permits or leases renewed, extended, or materially amended after that date. As of October 1, 2014, no City officer or department may issue a bid proposal or solicitation, request for bid or proposal, or contract for vendors or concessions to be operated on City property that require or permit the sale or distribution of Bottled Water on such property. These restrictions do not apply to concessions or vendors at San Francisco Airport facilities. They likewise do not apply to the Moscone Center until either January 1, 2018, or completion of the first phase of the current expansion of that facility, whichever occurs sooner.

As of October 1, 2014, all Mobile Food Facility permits issued or renewed under Article 5.8 of the Public Works Code must specifically provide that the permittee shall not sell or distribute Bottled Water as part of the operation of the Facility.

Per the proposal, starting March 1, 2017, these same requirements would apply to the sale and distribution of Packaged Water. In addition, starting March 1, 2017, no person would be permitted to sell or distribute Packaged Water as part of its performance of a City contract or grant, unless specifically exempted from or allowed to do so under this Chapter.

Use of City Funds to Purchase Packaged Water

Under Chapter 24, City departments and officers may not use City funds to purchase Bottled Water for their own general use. The proposal would apply this same restriction to purchases of Packaged Water.

It is City policy not to use drinking water systems in City offices or facilities that use plastic water bottles of any size, where satisfactory alternatives exist and are feasible at the location under consideration. In addition, it is City policy to conform drinking water systems in City offices or facilities to this goal where reasonable by the end of 2016. The proposal would not change these policies.

Policy to Increase the Availability of Clean, Free Drinking Water in Public Areas

Chapter 24 includes a City policy to increase the availability of clean, free drinking water in public areas. Specifically, it is City policy that any City department undertaking a capital improvement in a park, plaza, playground, or other public space must ensure the

space includes bottle-filling stations or drinking fountains for public use, if reasonable and appropriate. It is also City policy to encourage the inclusion of bottle-filling stations or drinking fountains for public use in Privately-Owned Public Spaces. The proposal would not modify these policies.

Penalties

An event sponsor who allows a violation of Chapter 24 can be punished by administrative fines imposed by the Director of the Department of the Environment in an amount of up to \$500 for a first violation, up to \$750 for a second violation within a year, and up to \$1,000 for a third and subsequent violations within a year. The proposal would not modify these penalties.

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