

1 [Health, Business and Tax Regulations Codes - Alternate Water Sources for Non-Potable
2 Applications]

3 **Ordinance amending the Health Code to 1) lower the threshold, from 250,000 to 100,000**
4 **square feet of gross floor area, for requiring that new buildings be constructed,**
5 **operated, and maintained using specified alternate water sources for required non-**
6 **potable uses; 2) exempt certain affordable housing projects and property uses from**
7 **that requirement; 3) require that certain categories of new buildings use specific**
8 **sources of non-potable water for specific purposes; 4) require that new developments**
9 **with multiple buildings install an alternate water source system serving the entire**
10 **development; 5) modify certain administrative review fees; and 6) require the payment**
11 **of excess use charges and penalties for failure to properly use and maintain alternate**
12 **water source systems; amending the Business and Tax Regulations Code to update**
13 **certain annual license fee amounts for operating alternate water source systems; and**
14 **affirming the Planning Department's determination under the California Environmental**
15 **Quality Act.**

16 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
17 **Additions to Codes** are in *single-underline italics Times New Roman font*.
18 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
19 **Board amendment additions** are in double-underlined Arial font.
20 **Board amendment deletions** are in ~~strikethrough Arial font~~.
21 **Asterisks (* * * *)** indicate the omission of unchanged Code
22 subsections or parts of tables.

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

24 Section 1. Environmental Findings.

25 The Planning Department has determined that the actions contemplated in this
ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
2 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
3 determination.

4 Section 2. The Health Code is hereby amended by revising Article 12C, Sections
5 12C.1 through 12C.9 and 12C.11 through 12C.13, to read as follows:

6 **SEC. 12C.1. PURPOSE AND FINDINGS.**

7 The Board of Supervisors finds that:

8 (a) All California water users are responsible for making effective use of the available
9 water resources.

10 (b) The development of alternate water source systems will assist in meeting future
11 water requirements of the City and lessen the impacts of new developments on the City's
12 sewer system.

13 (c) Establishing a regulatory structure that provides administrative efficiency and a
14 streamlined project approval process will assist developers who opt to design, install, operate,
15 and maintain alternate water source systems.

16 (d) Adoption of Article 12C by the Board of Supervisors and adoption of rules and
17 regulations by the Department of Public Health will help achieve the City's goals for water
18 supply use and preservation by:

19 (1) Promoting the values and benefits of non-potable water use while
20 recognizing the need to invest water and other resources as efficiently as possible;

21 (2) Encouraging the use of non-potable water for non-potable applications; and

22 (3) Replacing potable water use for toilet and urinal flushing and irrigation to
23 the maximum extent possible with alternative water sources.

24 (e) It shall be City policy that within five years of the effective date of Ordinance No.
25 109-15, adding this subsection (e) to Article 12C, the City shall use only non-potable water for

1 the purpose of irrigating and cleaning parks, streets, and other public spaces. Within two
2 years of the effective date of that ordinance, the City Administrator, in consultation as
3 appropriate with other City departments, boards, and commissions, including, among others,
4 the Recreation and Park Department, Department of Public Works, Port of San Francisco,
5 San Francisco International Airport, ~~Department~~ Division of Real Estate, and Capital Planning
6 Committee, shall study what will be required to accomplish this policy, including associated
7 costs, and report the results of the study to the Mayor and Board of Supervisors. Upon
8 receiving this study, the Board of Supervisors intends to evaluate any changes to the law and
9 Capital Plan needed to implement this policy.

10 (f) In order to further determine opportunities to maximize and expand the use of nonpotable
11 sources of water, the General Manager shall submit to the Board of Supervisors by June 1, 2022, a
12 report evaluating opportunities to develop a recycled water and purified water supply for San
13 Francisco.

14 **SEC. 12C.2. DEFINITIONS.**

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

16 **100% Affordable Housing Project:** a building where 100% of the residential units (not
17 including a manager's unit) have (1) a maximum affordable purchase price or affordable rent set at
18 120% of the unadjusted area median family income as determined by the Mayor's Office of Housing
19 and Community Development on an annual basis and derived from the HUD Metro Fair Market Rent
20 Area that contains San Francisco; (2) a rent that does not exceed 30% of the applicable household
21 income limit for a rental unit, or a purchase price with an annual housing cost that does not exceed
22 33% of the applicable income limit for an owner-occupied unit, as may be adjusted for household size
23 and bedroom count; and (3) a recorded regulatory agreement, consistent with any applicable federal,
24 state, or City government regulatory requirements, to assure that the residential units are sold or
25

1 rented in accordance with the above criteria for the life of the project or a minimum of 55 years,
2 whichever is shorter.

3 **100% Permanent Supportive Housing Project:** a new building where 100% of the residential
4 units (not including a manager's unit) are (1) owned by a nonprofit charitable organization or qualified
5 related legal entity, (2) used for permanent supportive housing to formerly homeless households subject
6 to a recorded declaration of restriction, and (3) funded through a subsidy agreement with the
7 Department of Homelessness and Supportive Housing.

8 **Alternate Water Source:** a source of ~~non~~Non-potable water that includes Graywater,
9 on-site treated ~~non~~Non-potable water, Rainwater, Stormwater, Foundation Drainage, Blackwater,
10 and any other source approved by the Director.

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

15 **Blackwater:** wastewater containing bodily or other biological wastes, as from toilets,
16 dishwashers, kitchen sinks, and utility sinks.

17 **City:** the City and County of San Francisco.

18 **Commercial Building:** a building with a commercial use as defined in Planning Code Section
19 102, amended from time to time.

20 **Development Project:** Construction of a new building or buildings. Development
21 Projects are Large Development Projects and Small Development Projects. Development
22 Project does not include rehabilitation of buildings constructed prior to August 1, 2015 ~~the~~
23 ~~effective date of this Article 12C.~~ Development Project does not include (1) any 100% Affordable
24 Housing Project, 100% Permanent Supportive Housing Project, or ~~any~~ housing project funded or
25 constructed pursuant to the HOPE SF Program sponsored and developed by the San

1 Francisco Housing Authority and either the Mayor's Office of Housing and Community
2 Development or the Office of Community Investment and Infrastructure; (2) Hospital Buildings,
3 Health Service Buildings, and Institutional Healthcare Use Buildings; (3) Industrial Use Buildings; (4)
4 Production, Distribution, and Repair Use Buildings; (5~~2~~) construction of a new building that will
5 receive water service from the San Francisco Public Utilities Commission through no larger
6 than a 5/8" domestic water meter or a 5/8" recycled water domestic meter, as determined in
7 accordance with the San Francisco Public Utilities Commission's rules for water service; (6~~3~~)
8 for District projects located within the boundaries of the Reclaimed Water Use Map,
9 construction of new buildings subject to a disposition and development agreement or similar
10 contractual agreement approved before November 1, 2015, that includes in its applicable
11 infrastructure plan the construction and operations of water treatment facilities within the
12 project boundaries that would provide recycled water to the project; (7~~4~~) for District projects
13 located within the boundaries of the Reclaimed Water Use Map, construction of new buildings
14 subject to a development agreement or similar contractual agreement, within a development
15 phase or subphase, a street improvement plan, or a tentative map or vesting tentative map
16 approved before November 1, 2015; or (8~~5~~) for District projects located outside the boundaries
17 of the Reclaimed Water Use Map, construction of new buildings subject to a development
18 agreement or similar contractual agreement, within a development phase or subphase, a
19 street improvement plan, or a tentative map or vesting tentative map approved before
20 November 1, 2017.

21 **Director:** the Director of Health or any individual designated by the Director to act on
22 ~~his or her~~ the Director's behalf.

23 **District Development Project:** a Large Development Project consisting of two or more
24 buildings a group of two or more parcels that share Alternate Water Sources.

25

1 **District System:** An Alternate Water Source System serving a District Development
2 Pproject.

3 **First Certificate of Occupancy:** either a temporary certificate of occupancy or a
4 Certificate of Final Completion and Occupancy as defined in San Francisco Building Code
5 Section 109A, whichever is issued first.

6 **Foundation Drainage:** nuisance groundwater that is extracted to maintain a building's
7 or facility's structural integrity and would otherwise be discharged to the City's sewer system.
8 Foundation Drainage does not include non-potable groundwater extracted for a beneficial use
9 that is subject to City groundwater well regulations.

10 **General Manager:** the General Manager of the San Francisco Public Utilities
11 Commission, or any individual designated by the General Manager to act on his or her behalf.

12 **Graywater:** untreated wastewater that has not been contaminated by any toilet
13 discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and
14 does not present a threat from contamination by unhealthful processing, manufacturing, or
15 operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs,
16 showers, bathroom sinks, lavatories, clothes washing machines, and laundry tubs, but does
17 not include wastewater from toilets, kitchen sinks, utility sinks, or dishwashers.

18 **Gross Floor Area:** The floor area of a Development Project as defined in Planning
19 Code Section 102, as amended from time to time.

20 **Health Service Building:** A building with a health service use as defined in Planning Code
21 Section 102, as amended from time to time.

22 **Hospital Building:** A building with a hospital use as defined in Planning Code Section 102, as
23 amended from time to time.

24 **Industrial Use Building:** A building with an industrial use as defined in Planning Code Section
25 102, as amended from time to time.

1 **Institutional Healthcare Use Building:** A building with an institutional healthcare Use as
2 defined in Planning Code Section 102, as amended from time to time.

3 **Large Development Project:**

4 (a) Prior to January 1, 2022, a Large Development Project is the construction ~~Construction~~ of
5 a single building, or construction of multiple buildings on one or more parcels in accordance
6 with a phased plan or approval, with a total ~~gross floor area~~ Gross Floor Area for the single
7 building or the multiple buildings of 250,000 square feet or more:

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

11 ~~—(b)~~ (2) located outside the boundaries of the Reclaimed Water Use Map
12 designated in accordance with Sections 1203 and 1209 of the Public Works Code and subject
13 to a site permit or building permit that is final and effective after November 1, 2016.

14 (b) On or after January 1, 2022, a Large Development Project is the construction of a single
15 building, or construction of multiple buildings on one or more parcels in accordance with a phased
16 plan or approval, with a total Gross Floor Area for the single building or the multiple buildings of
17 100,000 square feet or more.

18 (c) Large Development Projects ~~are not limited to buildings constructed by individuals or~~
19 ~~non-governmental entities but, to the extent allowed by law, also include, to the extent allowed by law,~~
20 buildings constructed and operated by any local, state, or federal government entity, including
21 the City ~~and County of San Francisco.~~

22 **Large Development Project Applicant:** The person or entity applying for
23 authorization to construct and operate a Large Development Project.

24 **Mixed-Use Residential Building:** A building with both a residential use and a commercial use as
25 defined in Planning Code Section 102.

1 **Multi-Family Residential Building:** A building that contains three or more dwelling
2 units.

3 **Non-potable Water:** ~~Non-potable~~ water collected from ~~alternate water sources;~~ Alternate
4 Water Sources treated, and intended to be used on the Project Applicant's site or District parcels and is
5 suitable for direct beneficial use.

6 **Non-potable Water Engineering Report:** Report submitted by the Project Applicant to
7 the Director describing the Alternate Water Source ~~system~~ System in accordance with the rules
8 and regulations adopted by the Department of Health.

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

10 **~~Non-residential~~ Residential Building:** A building with a non-residential use as defined in
11 Planning Code Section 102. that contains occupancies other than dwelling units.

12 ~~NSF 350 System:~~ Any treatment system certified by NSF International to meet NSF/ANSI
13 Standard 350 for Onsite Residential and Commercial Reuse Treatment Systems, as amended from time
14 to time.

15 **Permittee:** The Project Applicant, or any subsequent owner, assignee, successor in interest or
16 any other transferee subject to this Article 12C, including, but not limited to, operations and
17 maintenance of an Alternative Water Source System. Permittee includes, but is not limited to, the
18 owner of the common areas within a District Development Project and any homeowners association or
19 similar entity that maintains the common areas within a District Development Project. Permittee does
20 not include the Project Applicant, subsequent owners, assignees, successors in interests, transferees,
21 owners of a common area, homeowners associations, or any other person or entity associated with a
22 Development Project serviced by an Alternative District System dedicated to the City in accordance
23 with Section 12C.4(h) of this Article 12C.

1 ~~The operator of an Alternate Water Source System under this Article 12C, including, but not~~
2 ~~limited to, a third-party contractor obtained for the purpose of operating and maintaining all or any~~
3 ~~portion of the Alternate Water Source System.~~

4 **Production, Distribution, Repair Use Building:** A building with production, distribution, repair
5 Use as defined in Planning Code Section 102.

6 **Project Applicant:** the person or entity applying for authorization to install and use an
7 Alternate Water Source ~~System~~project.

8 **Rainwater:** precipitation collected from roof surfaces or other manmade, aboveground
9 collection surfaces.

10 ~~Responsible Party: The Project Applicant, or any subsequent owners, assignees, successors in~~
11 ~~interest or any other transferees responsible for compliance with this Article 12C. Responsible Party~~
12 ~~includes, but is not limited to, the owner of the common areas within a District Development Project~~
13 ~~and any homeowners association or similar entity that maintains the common areas within a District~~
14 ~~Development Project. Responsible Party does not include the Project Applicant, subsequent owners,~~
15 ~~assignees, successors in interests, transferees, owners of common area, homeowners associations, or~~
16 ~~any other person or entity associated with a Development Project serviced by an Alternative District~~
17 ~~System as described in Section 12C.4(d).~~

18 **Small Development Project:**

19 (a) Prior to January 1, 2022, a Small Development Project is the construction ~~Construction~~ of
20 a single building, or construction of multiple buildings on one or more parcels in accordance
21 with a phased plan or approval, with a total ~~gross floor area~~ Gross Floor Area for the single
22 building or the multiple buildings of 40,000 square feet or more, but less than 250,000 square
23 feet.

24 (b) On or after January 1, 2022, a Small Development Project is the construction of a single
25 building, or construction of multiple buildings on one or more parcels in accordance with a phased

1 plan or approval, with a total Gross Floor Area for the single building or the multiple buildings of
2 40,000 square feet or more, but less than 100,000 square feet.

3 (c) Small Development Projects ~~are not limited to buildings constructed by individuals or~~
4 ~~non-governmental entities but, to the extent allowed by law, also include, to the extent allowed by law,~~
5 buildings constructed and operated by any local, state, or federal government entity, including
6 the City ~~and County of San Francisco.~~

7 **Small Development Project Applicant:** The person or entity applying for authorization
8 to construct and operate a Small Development Project.

9 **Small Residential Building:** A building that contains no more than two dwelling units.

10 **Stormwater:** Precipitation collected from at-grade or below-grade surfaces.

11 **Water Budget:** The calculation of the potential volume of onsite ~~alternate water~~ Alternate
12 Water Source supplies and demands of a Development Project and any other building subject
13 to this Article 12C.

14 **Water Budget Calculator:** The water use calculation ~~application~~ tool approved by the
15 General Manager that provides for the assessment of a proposed onsite water system,
16 ~~alternate water source~~ Alternate Water Source, and the end uses of the Alternate Water Source.

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

1 **SEC. 12C.3. APPLICABILITY.**

2 This Article 12C shall apply to the installation and operation of the Alternate Water
3 Source ~~systems~~ Systems at Large Development Projects, and to the voluntary installation and
4 operation of the Alternate Water Source ~~systems~~ Systems at sites containing ~~multi-family~~ Multi-
5 Family Residential Building and ~~non-residential~~ Non-Residential buildings. This Article does not
6 apply to:

7 (a) Systems at ~~small-residential~~ Small Residential Buildings ~~occupancies~~.

8 (b) Graywater systems where Graywater is collected solely for subsurface irrigation
9 and does not require disinfection, as determined by the Director.

10 (c) Rainwater systems where Rainwater is collected solely for subsurface irrigation,
11 drip irrigation, or non-sprinkled surface applications and does not require disinfection, as
12 determined by the Director.

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) For Large Development Projects and District Development Projects that
17 submit an application for a site permit on or prior to January 1, 2022, an Alternate Water Source
18 System shall be constructed, operated, and maintained. All toilet and urinal flushing and irrigation
19 demands shall be met through the collection and reuse of available onsite Rainwater,
20 Graywater, and Foundation Drainage, to the extent required by application of the Water
21 Budget Documentation developed for each Development Project.

22 (2) For Large Development Projects consisting of a single Commercial Building
23 that submit an application for a site permit after January 1, 2022, an Alternate Water Source System
24 shall be constructed, operated, and maintained. Toilet and urinal flushing demands are required non-
25 potable uses. The collection and reuse of Blackwater (required Alternate Water Source) shall be used

1 for required non-potable uses to the extent required by application of the Water Budget
2 Documentation.

3 (3) For Large Development Projects consisting of a single Multi-Family
4 Residential Building or Mixed-Use Residential Building that submit an application for a site permit
5 after January 1, 2022, an Alternate Water Source System shall be constructed, operated, and
6 maintained. Toilet and urinal flushing, clothes washing, and irrigation demands are required non-
7 potable uses. The collection and reuse of Graywater (required Alternate Water Source) shall be used
8 for required non-potable uses to the extent required by application of the Water Budget
9 Documentation.

10 (4) For District Development Projects consisting of solely Commercial Buildings
11 that submit an application for a site permit after January 1, 2022, a District System shall be
12 constructed, operated and maintained. Toilet and urinal flushing and irrigation demands are required
13 non-potable uses. The collection and reuse of Blackwater (required Alternate Water Source) shall be
14 used for required non-potable uses to the extent required by application of the Water Budget
15 Documentation.

16 (5) For District Development Projects consisting of any Multi-Family Residential
17 Buildings or Mixed-Use Residential Buildings that submit an application for a site permit after
18 January 1, 2022, a District System shall be constructed, operated, and maintained. Toilet and urinal
19 flushing, clothes washing, and irrigation demands are required non-potable uses. The collection and
20 reuse of Graywater (required Alternate Water Source) shall be used for required non-potable uses to
21 the extent required by application of the Water Budget Documentation.

22 (b) A Large Development Project Applicant shall use the Water Budget Calculator as
23 follows:

24 (1)(2) For Large Development Projects that submit an application for a site
25 permit on or prior to January 1, 2022, a Large Development Project Applicant shall use the

1 Water Budget Calculator, as provided by the General Manager's rules, to prepare a Water
2 Budget assessing the amount of Rainwater, Graywater, and Foundation Drainage produced
3 on site, and the planned toilet and urinal flushing and irrigation demands.

4 (2) For Large Development Projects that submit an application for a site permit
5 after January 1, 2022, a Large Development Project Applicant shall use the Water Budget Calculator,
6 as provided by the General Manager's rules, to prepare a Water Budget assessing the amount of
7 Alternate Water produced on site by the required Alternate Water Sources, and the amount of
8 Alternate Water needed to supply the required non-potable uses.

9 (c) Use of Alternate Water for Large Development Projects shall be as follows:

10 (1) For Large Development Projects that submit an application for a site permit
11 on or prior to January 1, 2022, if ~~H~~, based on the Water Budget Documentation, the available
12 supply from onsite sources exceeds the demands for toilet and urinal flushing and irrigation,
13 100% of those demands shall be met by using the available onsite sources. If, based on the
14 Water Budget Documentation, the available supply from onsite sources is less than the
15 demands for toilet and urinal flushing and irrigation, 100% of the available onsite supply shall
16 be used to meet the demands for toilet and urinal flushing and irrigation. Available
17 Blackwater or Stormwater supplies may be used instead of, or in addition to Rainwater,
18 Graywater, and Foundation Drainage to meet the available onsite supply requirements
19 calculated in accordance with the Water Budget Documentation requirements of this Section
20 12C.4~~(a)~~(c)(1).

21 (2)~~(3)~~ For Large Development Projects that submit an application for a site
22 permit after January 1, 2022, if, based on the Water Budget Documentation, the available supply from
23 required Alternate Water Sources exceeds the demand from required non-potable uses, 100% of that
24 demand shall be met by using the required Alternate Water Sources. If, based on the Water Budget
25 Documentation, the available supply from required Alternate Water Sources is less than the demand

1 from required non-potable uses, 100% of the available supply from required Alternate Water Sources
2 shall be used to meet the demand from required non-potable uses.

3 (d) Small Development Project Applicants shall be as follows:

4 (1) For Small Development Projects that submit an application for a site permit
5 on or prior to January 1, 2022, Small Development Project Applicants shall use the Water Budget
6 Calculator, as provided by the General Manager's rules, to prepare a Water Budget
7 assessing the amount of Rainwater, Graywater and Foundation Drainage produced on site,
8 and the planned toilet and urinal flushing and irrigation demands.

9 (2) For Small Development Projects that submit an application for a site permit
10 after January 1, 2022, Small Development Project Applicants shall use the Water Budget Calculator,
11 as provided by the General Manager's rules, to prepare a Water Budget assessing the supply from
12 Alternate Water Sources available on site, and the demand from non-potable uses on site.

13 (e) Large Development Projects and District Development Projects shall be subject to
14 excess use charges for exceeding potable water allocations determined in accordance with rules
15 adopted by the General Manager. If a Large Development Project or District Development Project
16 exceeds its allocation of potable water, the Permittee for the Large Development Project or District
17 Development Project shall be subject to excess use charges on each unit of potable water exceeding
18 the allocation at 300% (or 3x) the applicable water and wastewater rates.

19 (f) Large Development Projects and District Development Projects shall not provide Non-
20 potable Water to water users or for purposes located outside the boundaries of the Large Development
21 Project or District Development Project, except (1) as permitted in the sole discretion of the General
22 Manager, or (2) when the water users or other purposes are located on property contiguous to, or
23 across a public right of way from the boundaries of the Large Development Project or District
24 Development Project, and the total amount of Non-potable Water produced by the Alternate Water
25 Source System will not exceed 125% of the Large Development Project's or District Development

1 Project's required non-potable demands as determined by the approved Water Budget
2 Documentation.

3 (ge) Additional Requirements for District Systems. All District Systems shall conform
4 to the following requirements, ~~subject to the General Manager's determination, in his or her sole~~
5 ~~discretion, that an exception to any of such requirements will fulfill the purposes and objectives of this~~
6 ~~Article 12C:~~

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

11 (2) ~~District Systems shall be operated by a single Permittee having sole control~~
12 ~~of operations of all of its facilities, including but not limited to treatment and distribution facilities.~~
13 District Systems shall be constructed in accordance with all applicable City utility standards
14 and specifications.

15 (3) ~~District Systems and Development Projects shall not provide Non-potable~~
16 ~~Water to water users or for purposes located outside the boundaries of the District or approved~~
17 ~~Development Project, except when the water users or other purposes are located on property~~
18 ~~contiguous to, or across a public right of way from the boundaries of the District or approved~~
19 ~~Development Project, and the total amount of Nonpotable Water produced by the Alternate Water~~
20 ~~Source System will not exceed 125% of the District System's or approved Development Project's Non-~~
21 ~~potable Water demands for toilet and urinal flushing and irrigation, as determined by the approved~~
22 ~~Water Budget Documentation.~~

23 —(4) ~~For District Systems, the ongoing operation and maintenance~~
24 ~~responsibilities of the Responsible Party shall be held by the owner of the common areas within the~~

1 ~~District Development Project, and may be transferred to a homeowners association or similar entity~~
2 ~~that maintains the common areas within the District Development Project.~~

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

8 (hd) The General Manager may approve ~~alternative~~ Alternate District Systems that
9 will achieve compliance with the purposes and objectives of this Article 12C, in accordance
10 with guidelines and rules established by the General Manager. Alternative District Systems
11 may include, but are not limited to, the dedication to the City, without cost to the City, of a District
12 System's treatment and/or conveyance system that is constructed in accordance with all applicable
13 utility standards and specifications~~water purchase agreements.~~

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

19 (jf) Subdivision Approvals.

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

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

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

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

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

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

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

18 **SEC. 12C.5. REGULATION OF ALTERNATE WATER SOURCES.**

19 (a) Any person or entity who installs and operates an Alternate Water Source
20 system shall comply with this Article 12C, the rules and regulations adopted by the
21 Department of Public Health, and all applicable ~~local~~ City, state, and federal laws.

22 (b) ~~The Within 90 days after passage of this ordinance, the~~ Director shall issue rules and
23 regulations regarding the operation of Alternate Water Source systems necessary to
24 effectuate the purposes of ~~the~~ this Article 12C and to protect public health and safety. These
25 regulations shall address, at a minimum:

- 1 (1) Water quality criteria;
- 2 (2) Monitoring and reporting content and frequencies; and
- 3 (3) Operation and maintenance requirements.

4 (c) The Director shall review applications for Alternative Water Sources systems and
5 may issue or deny such applications, in accordance with applicable laws and regulations.

6 (d) The Department of Building Inspection shall review plans and issue or deny
7 plumbing permits for the construction, installation, or modification of Alternate Water Source
8 systems, in accordance with applicable laws and regulations.

9 **SEC. 12C.6. PROJECT APPLICANT AND/OR PERMITTEE DESIGN AND**
10 **CONSTRUCTION REQUIREMENTS.**

11 (a) Prior to initiating installation of any Alternate Water Source project, Project
12 Applicants shall submit to the Director an application for permits to operate Alternate Water
13 Source systems. Such applications shall comply with the requirements of this Article 12C and
14 any regulations the Director has issued. Project Applicants shall pay a non-refundable permit
15 application fee to cover the costs of investigation and processing the application and issuing
16 the permit. Each project application submitted to the Director shall include a Non-potable
17 Water Engineering Report that provides project information the Director determines to be
18 necessary for complete review of the proposed project. City departments may not approve or
19 issue permits for any site installing an Alternate Water Source system unless and until the
20 Director has approved the Non-potable Water Engineering Report.

21 The Non-potable Water Engineering Report for District systems must include
22 information on the permanent legal agreements between property owners, and provide
23 documentation that each party is a willing and responsible participant in the District Non-
24 potable Water use.

1 (b) System Design. All buildings using Non-potable Water from Alternate Water

2 Source systems shall include:

3 (1) A flow meter on the non-potable distribution system to account for Non-potable
4 Water use;

5 (2) A flow meter on the potable make-up water pipeline to the Alternate Water Source

6 System;

7 (32) A reduced pressure backflow assembly (RP) within 25 feet of the downstream
8 side of the point of connection or meter to protect the City's public water and/or recycled water
9 system;

10 (43) Signage that state law and the Department of Public Health's rules and
11 regulations require;

12 (54) Cross connection control in accordance with California Code of Regulations
13 Titles 17 and 22 and the San Francisco Public Utilities Commission's Cross Connection
14 Control Program; and

15 (65) Any other requirements the Director determines are necessary to protect
16 public health.

17 (c) Plumbing Permit. A Project Applicant shall obtain from the Department of
18 Building Inspection an appropriate plumbing permit and any other building or installation
19 permit required to construct, install, alter, an Alternate Water Source system. Each parcel
20 within a District shall obtain appropriate plumbing and any other building or installation permits
21 required.

22 (d) Encroachment Permit. A Project Applicant shall obtain from the Department of
23 Public Works appropriate authorization for placement of any pipelines or other portions of an
24 Alternate Water Source system within the public right-of-way.

25

(e) Construction Certification Letter. Project Applicants shall certify to the Director that Alternate Water Source system construction is complete and consistent with the approved Non-potable Water Engineering Report in accordance with the provisions of this Article 12C and any implementing rules and regulations. City departments may not approve or issue a First Certificate of Occupancy or approval for any Alternate Water Source system until the Director has reviewed and verified the Construction Certification Letter.

SEC. 12C.7. FEES.

(a) The non-refundable application fees for alternative source water system permits are:

(1)	Rainwater, Stormwater, Foundation Drainage	\$2,616.28 \$1,544.00
(2)	NSF 350 systems	\$2,688.00
(3)	Foundation Drainage	\$5,032.00
(24)	Graywater	\$8,142.66 \$5,032.00
(35)	Blackwater	\$13,958.84 \$9,034.00
(46)	Transfer of any permit	\$226 229.00
(57)	District Scale, the applicable amount above, plus	\$226 191.00 per
hour		for plan review
		and/or on-site
		inspection.

(b) The fees set forth in this Section 12C.7 may be adjusted each year, without further action by the Board of Supervisors.

Not later than April 1, the Director shall report to the Controller the revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other information that the Controller determines appropriate to the performance of the duties set forth in this Section 12C.7.

1 Not later than May 15, the Controller shall determine whether the current fees
2 produce, or are projected to produce, revenues sufficient to support the costs of providing the
3 services for which the fees are assessed and that the fees will not produce revenue that
4 significantly exceed more than the costs of providing the services for which the fees are
5 assessed.

6 The Controller shall if necessary, adjust the fees upward or downward for the
7 upcoming fiscal year as appropriate to ensure that the program recovers the costs of
8 operation without producing revenue which is significantly more than such costs. The adjusted
9 rates shall become operative on July 1.

10 (c) Every permit holder shall also pay an annual license fee as provided in the
11 Business and Tax Regulations Code Section 249.24.

12 **SEC. 12C.8. OPERATING REQUIREMENTS.**

13 When the Director determines the Project Applicant ~~applicant~~ has satisfied all the
14 requirements of this Article 12C, the Director may issue an operations permit for an
15 Alternative Water Source system. Permittees shall timely submit all water quality monitoring
16 information required by the provisions of this Article and the Department of Public Health's
17 rules and regulations. Permittees shall conduct ongoing backflow prevention and cross
18 connection testing in accordance with this Article, the rules and regulations of the Department
19 of Public Health, and all applicable ~~local~~ City, state, and federal laws.

20 **SEC. 12C.9. NON-POTABLE WATER USE AUDITS.**

21 When required by the General Manager, the Permittee ~~or property owner~~, shall conduct
22 a Non-potable Water use audit describing the extent of Non-potable Water use in accordance
23 with requirements provided by the General Manager.

1 **SEC. 12C.11. INSPECTION ~~AND NOTICES OF VIOLATION.~~**

2 The Director may inspect any Alternate Water Source system subject to the
3 requirements of this Article 12C to determine compliance with the provisions of this Article
4 and applicable regulations.

5 **SEC. 12C.12. VIOLATION AND PENALTIES.**

6 ~~The Director may impose administrative penalties on any Permittee, or person otherwise~~
7 ~~subject to the requirements of this Article 12C, who violates any provision of this Article or any~~
8 ~~applicable rule or regulation shall be subject to enforcement in accordance with Chapter 100 of the~~
9 ~~San Francisco Administrative Code with respect to administrative penalties, and may pursue any other~~
10 ~~available legal remedies for such violations.~~

11 Administrative penalties shall be assessed and collected by the Department of Public Health as
12 set forth in this Section 12C.12.

13 (a) Any Permittee, or other person otherwise subject to the requirements of this Article 12C,
14 who violates any provision of this Article or any applicable rule or regulation shall be subject to an
15 administrative penalty imposed by order of the Director, not to exceed \$1,000. Each day or portion
16 thereof that a violation exists constitutes a separate and distinct violation for which an administrative
17 penalty may be imposed. In assessing the amount of the administrative penalty, the Director may
18 consider any one or more of the following: the nature and seriousness of the misconduct, the number of
19 violations, the persistence of the misconduct, the length of time over which the misconduct occurred,
20 and the willfulness of the violator's misconduct.

21 (b) If the Director determines that any Permittee, or other person otherwise subject to the
22 requirements of this Article 12C, is in violation of any provision of this Article or any applicable rule
23 or regulation, the Director shall issue a Notice of Violation to the person. The Notice of Violation shall
24 contain the following information: a description of circumstances or condition constituting the
25 violation; the date by which the person must correct the violation; the amount of the administrative

1 penalty that the Director will impose daily until such time as the person has demonstrated to the
2 satisfaction of the Director that the violation has been corrected; and the right to seek administrative
3 review of the Notice of Violation by filing an appeal within 30 days of the date that the Notice of
4 Violation is served to challenge the Director's determination and/or the proposed administrative
5 penalty.

6 (c) If no request for administrative review is timely made, the right to request a hearing shall be
7 waived, and the Director's determination shall become final. The failure to timely request a hearing
8 shall constitute a failure to exhaust administrative remedies and shall preclude judicial review of the
9 validity of the enforcement action. The Director shall issue an order imposing the administrative
10 penalties, which shall be due and payable within 15 days of the date of the order.

11 (d) Administrative penalties assessed by the Director shall be paid to the Treasurer of the City
12 and County of San Francisco and credited to the Public Health Environmental Health Code
13 Compliance Fund, authorized by Administrative Code Section 10.100-193.

14 **SEC. 12C.13. REVOCATION AND SUSPENSION OF PERMIT.**

15 The Director may order a Permittee to cease operation of an Alternate Water Source
16 system, or may revoke or suspend the permit to operate if the Director determines that:

17 (a) The Permittee or its manager_s, operator_s or any employee_s has violated any
18 provision of this Article 12C or any regulation issued pursuant to this Article;

19 (b) The Alternate Water Source system is being operated or maintained in a manner
20 threatening the public health or health of patrons and/or residents; or

21 (c) The Permittee ~~owner or operator~~ has refused to allow any duly authorized City
22 official to inspect the premises or the operations of the Alternate Water Source system.

23
24 Section 3. Article 2 of the Business and Tax Regulations Code is hereby amended by
25 revising Section 249.24, to read as follows:

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SEC. 249.24. NON-POTABLE WATER SYSTEMS.

Every person, firm, or corporation engaged in operating an alternate water source system that requires a permit from the ~~San Francisco~~ Department of Public Health shall pay an annual license fee to the Tax Collector in the amount listed below. For the purpose of this Section 249.24, the term "alternate water source ~~system~~systems" shall have the same meaning as that in Article 12C of the ~~San Francisco~~ Health Code.

(a) Rainwater, <u>Stormwater, and Foundation Drainage</u>	\$1,613.45 <u>\$472.00</u>
(b) NSF 350 systems	\$ 929.00
(c) Foundation Drainage	\$1,387.00
(db) Graywater	\$2,195.07 <u>\$1,387.00</u>
(ec) Black water	\$2,195.07 <u>\$1,844.00</u>

The license fee set forth above shall be paid annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.

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.

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment, except as otherwise stated in this ordinance. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance

1 within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
2 ordinance.

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

6 By: /s/ John Roddy /s/
7 JOHN RODDY
8 Deputy City Attorney
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