

1 [Health Code, Business and Tax Regulations Code - On-site Water Reuse for Commercial,
2 Multi-Family, and Mixed-Use Developments]

3 **Ordinance amending the San Francisco Health Code by adding Article 12C and**
4 **amending the Business and Tax Regulations Code by adding Section 249.24 to: 1)**
5 **establish permitting requirements for the use of alternate water sources for nonpotable**
6 **applications; 2) setting permit and annual fees; and 3) 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;
10 Board amendment deletions are ~~strike through normal~~.

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

12 Section 1. Environmental Findings. The Planning Department has determined that the
13 actions contemplated in this ordinance comply with the California Environmental Quality Act
14 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
15 the Clerk of the Board of Supervisors in File No. _____ and is incorporated
16 herein by reference.

17
18 Section 2. The San Francisco Health Code is hereby amended by adding Article 12C,
19 Sections 850 - 861, to read as follows:

20
21 **SEC 850. PURPOSE AND FINDINGS.**

22 *The Board of Supervisors finds that:*

23 *(a) All California water users are responsible for making effective use of the available water*
24 *resources.*

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

3 **(c) Establishing a regulatory structure for designing, installing, operating, and maintaining**
4 **alternate water source systems will provide administrative efficiency and streamline the project**
5 **approval process.**

6 **(d) Adoption of this ordinance by the Board of Supervisors and adoption of rules and**
7 **regulations by the Department of Public Health will help achieve the City's goals for water supply use**
8 **and preservation by:**

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

11 **(2) Encouraging the use of non-potable water for non-potable applications.**

12
13 **SEC. 851. DEFINITIONS.**

14 **The terms used in this Article have the meaning set forth below:**

15 **(a) Alternate Water Source: a source of nonpotable water that includes graywater, on-site**
16 **treated nonpotable water, rainwater, and any other source approved by the Director.**

17 **(b) Black water: wastewater containing bodily or other biological wastes, as from toilets,**
18 **dishwashers, kitchen sinks and utility sinks.**

19 **(c) City: the City and County of San Francisco.**

20 **(d) Director: the Director of Public Health or any individual designated by the Director to act**
21 **on his or her behalf.**

22 **(e) First certificate of occupancy: either a temporary certificate of occupancy or a Certificate**
23 **of Final Completion and Occupancy as defined in San Francisco Building Code Section 109A,**
24 **whichever is issued first.**

1 (f) Foundation Drainage: nuisance groundwater that is extracted to maintain a building's or
2 facility's structural integrity and would otherwise be discharged to the City's sewer system. Foundation
3 drainage does not include non-potable groundwater extracted for a beneficial use that is subject to City
4 groundwater well regulations.

5 (g) General Manager: the General Manager of the San Francisco Public Utilities Commission,
6 or any individual designated by the General Manager to act on his or her behalf.

7 (h) Graywater: untreated wastewater that has not been contaminated by any toilet discharge,
8 has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a
9 threat from contamination by unhealthful processing, manufacturing, or operating wastes.

10 "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom sinks,
11 lavatories, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen
12 sinks or dishwashers.

13 (i) Multi-Family Residential Building: A building that contains three or more dwelling units.

14 (j) Non-potable Water Engineering Report: Report submitted by project applicant to the
15 Director describing the alternate water source system in accordance with the rules and regulations
16 adopted by the Department of Public Health.

17 (k) Non-residential: A building that contains occupancies other than dwelling units.

18 (l) On-Site Treated Non-Potable Water: Non-potable water collected from alternate water
19 sources, treated, and intended to be used on the Project Applicant's site and is suitable for direct
20 beneficial use.

21 (m) NSF 350 System: Any treatment system certified by NSF International to meet NSF/ANSI
22 Standard 350 for Onsite Residential and Commercial Reuse Treatment Systems, as amended from time
23 to time.

24 (n) Permittee: owner or operator of an on-site treated non-potable water system.

1 (o) Project Applicant: the person or entity applying for authorization to install and use an
2 alternate water source project.

3 (p) Rainwater: precipitation collected from roof surfaces or other manmade, aboveground
4 collection surfaces.

5 (q) Small Residential Building: A building that contains no more than two dwelling units.

6 (r) Stormwater: Precipitation collected from at-grade or below grade surfaces.

7 (s) Water Budget Documentation: An in-depth assessment of the permittee's nonpotable water
8 use, including survey information, water meter readings, water service billing information, and any
9 other information deemed necessary by the General Manager.

10
11 **SEC. 852. APPLICABILITY.**

12 *This Article shall apply to the installation and operation of the alternate water source systems*
13 *at sites containing multi-family and non-residential buildings. This Article does not apply to:*

14 (a) Systems at small residential occupancies.

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

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

20 **SEC. 853. REGULATION OF ALTERNATE WATER SOURCES.**

21 (a) Any person or entity who installs and operates an alternate water source system shall
22 comply with this Article, the rules and regulations adopted by the Department of Public Health, and all
23 applicable local, state, and federal laws.

24 (b) Within 90 days after passage of this ordinance, the Director shall issue rules and
25 regulations regarding the operation of alternate water source systems necessary to effectuate the

1 purposes of the Article and to protect public health and safety. These regulations shall address, at a
2 minimum:

3 (1) Water quality criteria;

4 (2) Monitoring and reporting content and frequencies; and

5 (3) Operation and maintenance requirements.

6 (c) The Director shall review applications for alternative water sources systems and may issue
7 or deny such applications, in accordance with applicable laws and regulations.

8 (d) The Department of Building Inspection shall review plans and issue or deny plumbing
9 permits for the construction, installation, or modification of alternate water source systems, in
10 accordance with applicable laws and regulations.

11
12 **SEC 854. PROJECT APPLICANT AND/OR PERMITTEE DESIGN AND CONSTRUCTION**
13 **REQUIREMENTS.**

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

23 (b) System Design. All alternate water source systems shall include:

24 (1) A flow meter on the alternate water source system to account for nonpotable water
25 use;

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

3 (3) Signage that state law and the Department of Public Health's rules and regulations
4 require;

5 (4) Cross connection control in accordance with California Code of Regulations Titles
6 17 and 22 and the San Francisco Public Utilities Commission's Cross Connection Control Program;
7 and

8 (5) Any other requirements the Director determines is necessary to protect public
9 health.

10 (c) **Water budget documentation.** Upon submitting a project application to the Director, a
11 project applicant shall also submit Water Budget Documentation to the General Manager for review.
12 Water Budget Documentation shall include a description of the proposed alternate water source
13 system, the project's water budget, and other applicable information as determined by the General
14 Manager. City departments may not issue a site permit or plumbing permit, or approve an alternate
15 water source project application unless and until the General Manager has reviewed the Water Budget
16 Documentation.

17 (d) **Plumbing Permit.** A project applicant shall obtain from the Department of Building
18 Inspection an appropriate plumbing permit and any other building or installation permit required to
19 construct, install, alter, an alternate water source system.

20 (e) **Construction Certification Letter.** Project applicants shall certify to the Director that
21 alternate water source system construction is complete and consistent with the approved Non-Potable
22 Engineering Report in accordance with the provisions of this Article 12C and any implementing rules
23 and regulations. City departments may not approve or issue a first certificate of occupancy or
24 approval for any alternate water source system until the Director has reviewed and verified the
25 Construction Certification Letter.

1 **SEC. 855. FEES.**

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

3	<u>(1) Rainwater</u>	<u>\$1,544.00</u>
4	<u>(2) NSF 350 systems</u>	<u>\$2,688.00</u>
5	<u>(3) Foundation Drainage</u>	<u>\$5,032.00</u>
6	<u>(4) Graywater</u>	<u>\$5,032.00</u>
7	<u>(5) Black water</u>	<u>\$9,034.00</u>
8	<u>(6) Transfer of any permit</u>	<u>\$ 229.00</u>

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

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

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

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

23 (c) Every permit holder shall also pay an annual license fee as provided in the Business and
24 Taxation Code Section 249.24.

1 **SEC. 856. OPERATING REQUIREMENTS.**

2 When the Director determines the applicant has satisfied all the requirements of this Article, the
3 Director may issue an operations permit for an alternative water source system. Permittees shall
4 timely submit all water quality monitoring information required by the provisions of this Article 12C
5 and the Department of Public Health's rules and regulations. Permittees shall conduct ongoing
6 backflow prevention and cross connection testing in accordance with this Article, the rules and
7 regulations of the Department of Public Health, and all applicable local, state, and federal laws.

8
9 **SEC. 857. NON-POTABLE WATER USE AUDITS.**

10 When required by General Manager, the permittee or property owner, shall conduct a non-
11 potable water use audit describing the extent of non-potable water use in accordance with
12 requirements provided by the General Manager.

13
14 **SEC. 858. SALE OR TRANSFER OF PERMITS.**

15 (a) Permittees shall notify the Director of any intent to sell or transfer the building or facility
16 containing an alternate water source system 30 days prior to the sale or transfer of property, in
17 accordance with regulations adopted by the Director.

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

23 (c) The Director may approve or deny the transfer of the permit to operate to any subsequent
24 owner, in accordance with the requirements of the Article and applicable regulations.

1 **SEC. 859. INSPECTION AND NOTICES OF VIOLATION.**

2 *The Director may inspect any alternate water source system subject to the requirements of*
3 *this Article to determine compliance with the provisions of this Article and applicable regulations.*

4
5 **SEC. 860. VIOLATION AND PENALTIES.**

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

11
12 **SEC. 861. REVOCATION AND SUSPENSION OF PERMIT.**

13 *The Director may order a permittee to cease operation of an alternate water source system, or*
14 *may revoke or suspend the permit to operate if the Director determines that:*

15 *(a) The manager, operator or any employee has violated any provision of the Article or any*
16 *regulation issued pursuant to this Article;*

17 *(b) The alternate water source system is being operated or maintained in a manner threatening*
18 *the public health or health of patrons and/or residents; or*

19 *(c) The owner or operator has refused to allow any duly authorized City official to inspect the*
20 *premises or the operations of the alternate water source system.*

21
22 Section 3. The San Francisco Business and Taxation Code is hereby amended by
23 adding Section 249.24, to read as follows:
24
25

1 **SEC 249.24. NON-POTABLE WATER SYSTEMS.**

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

7	<u>a) Rainwater</u>	<u>\$ 472.00</u>
8	<u>b) NSF 350 systems</u>	<u>\$ 929.00</u>
9	<u>c) Foundation Drainage</u>	<u>\$1,387.00</u>
10	<u>d) Graywater</u>	<u>\$1,387.00</u>
11	<u>e) Black water</u>	<u>\$1,844.00</u>

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

14
15 Section 4. This ordinance shall become effective 30 days from the date of passage.

16
17 Section 5. This section is uncodified. In enacting this Ordinance, the Board intends to
18 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
19 punctuation, charts, diagrams, or any other constituent part of the Health Code or Business
20 and Taxation Code that are explicitly shown in this legislation as additions, deletions, Board
21 amendment additions, and Board amendment deletions in accordance with the "Note" that
22 appears under the official title of the legislation.

23
24 Section 6. By adopting this Article, the City and County of San Francisco is assuming
25 an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on

1 its officers and employees, an obligation or duty for breach of which it is liable in money
2 damages or any other relief to any person who claims that such a breach proximately caused
3 injury or damages.

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

7 By: VIRGINIA DARIO ELIZONDO
8 Deputy City Attorney

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