

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Mohammed Nuru, Director, Public Works  
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Tom Hui, Director, Department of Building Inspection  
Barbara A. Garcia, Director, Department of Public Health  
Trent Rhorer, Executive Director, Human Services Agency  
Jaci Fong, Director, Office of Contract Administration

FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee, Board of Supervisors

DATE: January 20, 2016

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Farrell on January 12, 2016:

**File No. 160025**

**Ordinance amending the Administrative Code to require that prepackaged food and beverages sold in vending machines on City property meet specified nutritional standards; to require City departments to make best efforts to meet nutritional guidelines for food and beverages purchased with City funds and served at City events and meetings; and to encourage restaurants, cafeterias, and concessions located on City property to offer healthy food options.**

If you have any 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.

c:  
Frank Lee, Public Works  
Amanda Kahn Fried, Office of the Treasurer and Tax Collector  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection  
Cameron Langer, Office of Contract Administration  
Kofo Domingo, Office of Contract Administration

[Administrative Code - Nutritional Standards for Food and Beverages Sold in Vending Machines on City Property or Served at City Meetings and Events]

**Ordinance amending the Administrative Code to require that prepackaged food and beverages sold in vending machines on City property meet specified nutritional standards; to require City departments to make best efforts to meet nutritional guidelines for food and beverages purchased with City funds and served at City events and meetings; and to encourage restaurants, cafeterias, and concessions located on City property to offer healthy food options.**

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

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

Section 1. The Administrative Code is hereby amended by adding Section 4.9-1 to read as follows:

**SEC. 4.9-1. NUTRITIONAL STANDARDS FOR VENDING MACHINES; NUTRITIONAL GUIDELINES FOR FOOD SERVED AT CITY MEETINGS AND EVENTS; RECOMMENDED NUTRITIONAL GUIDELINES FOR RESTAURANTS ON CITY PROPERTY.**

**(a) Findings.**

**(1) Healthy eating is a key factor in reducing obesity, which is often a cause of heart disease, diabetes, cancer, and other serious and life-threatening diseases. More generally, consumption of unhealthy food and beverages contributes to the development of many ailments and debilitating diseases, which increases human suffering and decreases the quality of life, while driving health care costs up.**

1                   (2)     The City is committed to promoting access to healthy, nutritious food and  
2 beverages.

3                   (3)     Positive changes in the nutritional quality of food and beverages sold on City  
4 property and served by the City can help people make healthier eating and drinking choices.

5                   (4)     As of fiscal year 2013-14, approximately 28,000 people were employed by the  
6 City and worked on City property. Giving City employees access to healthier foods in the workplace  
7 helps reduce the impact of diet-related disease, supports a healthier and more productive workforce,  
8 and reduces the City's health care expenses. Providing access to healthier food options for members of  
9 the public when they visit City property also promotes public health.

10                  (b)     Definitions. The terms used in this Section 4.9-1 shall have the meanings set forth  
11 below:

12                  "City" means the City and County of San Francisco.

13                  "Contract" means any agreement between the City and a Person to provide or procure labor,  
14 materials, equipment, supplies, goods, or services to, for, or on behalf of the City that authorizes the  
15 use, installation and/or operation of one or more Vending Machines on City property for a price to be  
16 paid out of monies deposited in the City Treasury or out of trust monies under the control of or  
17 collected by the City, but excluding agreements for a cumulative amount of \$5,000 or less per  
18 Contractor in each fiscal year.

19                  "Contractor" means a Person who enters into a Contract or Property Contract with the City  
20 that is subject to this Section 4.9-1.

21                  "Meal" means a "prepared food," as that term is defined in Section 1602(l) of the Environment  
22 Code, that is represented as or in a form commonly understood to be a breakfast, lunch, or dinner.

23                  "Person" means any natural person, corporation, sole proprietorship, partnership, association,  
24 joint venture, limited liability corporation, or other legal entity.

1 "Prepackaged Food" has the same meaning as set forth in California Health and Safety Code  
2 Section 113876, as amended.

3 "Property Contract" means a written agreement, including leases and permits, for the use of  
4 any City-owned real property, for a period exceeding 30 days, including month-to-month permits, that  
5 authorizes the use, installation and/or operation of one or more Vending Machines on City property.

6 "Property Contract" does not include an agreement for the City to use or occupy real property owned  
7 by others (i.e., City-as-tenant or City-as-permittee).

8 "Restaurant" has the meaning set forth in Section 451(s) of the Health Code.

9 "Serving" has the meaning set forth in Section 101.9(b)(1) of Title 21 of the Code of Federal  
10 Regulations, as amended.

11 "Vending Machine" has the meaning set forth in Section 4.2(a) of the Administrative Code.

12 (c) Nutritional Standards for Prepackaged Foods and Beverages Sold in Vending Machines  
13 on City Property.

14 (1) Except as stated in subsection (c)(2), Prepackaged Foods sold in Vending  
15 Machines located on City Property shall meet the nutritional standards set forth below:

16 (A) Calories: No more than 200 calories per Serving.

17 (B) Total Fat: No more than 35% of calories from fat.

18 (C) Saturated Fat: No more than one gram of saturated fat per Serving.

19 (D) Trans Fat: No trans fat and no partially hydrogenated oil on the  
20 ingredients list.

21 (E) Sugar: No more than 35% of weight from total sugars.

22 (F) Sodium: No more than 240 milligrams of sodium per Serving.

23 (G) Candy: No candy except for sugar-free mints and gum.

24 (H) Chips: No chips except for baked chips and pretzels.

1                   (2) The following Prepackaged Foods sold in Vending Machines on City property  
2 are exempt from the nutritional standards set forth in subsection (c)(1):

3                   (A) Fruits and vegetables with no added salt, sugar, or fat.

4                   (B) Nuts and seeds, including peanut butters and other nut butters, provided  
5 that a Serving of nuts or seeds does not exceed 1.5 ounces.

6                   (C) Plant based spreads, including but not limited to hummus, guacamole,  
7 and pesto dip.

8                   (D) Low-fat, reduced fat, or fat-free cheeses, including light cream cheese.  
9 For purposes of this Section 4.9-1, "low-fat," "reduced fat," and "fat free" have the meanings set  
10 forth in Section 101.62 of Title 21 of the Code of Federal Regulations, as amended.

11                   (3) Beverages sold in Vending Machines located on City Property shall meet the  
12 nutritional standards set forth below:

13                   (A) Sugar content: Not a Sugar-Sweetened Beverage, as that term is defined  
14 in Administrative Code Section 101.2.

15                   (B) Fruit Juice: 100% juice with no added sugars or sweeteners; no more  
16 than 230 milligrams of sodium per Serving; and no more than 120 calories per eight fluid ounces.

17                   (C) Milk: Low fat (1%) or fat-free (skim).

18                   (D) Beverages labeled as "diet" or sweetened with artificial sweeteners (e.g.  
19 aspartame, saccharin, sucralose): No more than 25% of beverages sold/offered in the Vending  
20 Machine may be labeled as "diet" or sweetened with artificial sweeteners.

21                   (4) Contracts and Property Contracts.

22                   (A) City departments shall include in all Contracts and Property Contracts a  
23 provision requiring compliance with subsection (c) of this Section 4.9-1, and failure to comply shall  
24 constitute a material breach.

1                   (B) The provisions of subsection (c) are intended to have prospective effect  
2 only and shall apply only to Contracts and Property Contracts entered into, or extended or renewed, on  
3 or after the effective date of this Section, provided that Contracts or Property Contracts entered into  
4 after the effective date shall also be exempted if the bid package or requests for proposals for the  
5 contract were advertised and made available to the public without these requirements prior to the  
6 effective date. Subsection (c) of this Section 4.9-1 shall not be interpreted to impair the obligations of  
7 any Contract or Property Contract existing on the effective date of this Section.

8                   (5) Enforcement. Any violation of subsection (c) of this Section 4.9-1 shall be  
9 deemed a material breach of the Contract or Property Contract, and the City may pursue all rights or  
10 remedies available to the City under the Contract or Property Contract, including but not limited to the  
11 right to terminate the Contract or the Property Contract and the right to require the removal of the  
12 Vending Machine.

13                   (d) Nutritional Guidelines for Food and Beverages Purchased with City Funds and Served  
14 at City Events and Meetings.

15                   (1) For purposes of this subsection (d), a "City Meeting" or "City-Sponsored  
16 Event" means a meeting or event that is convened, hosted or organized by the City, regardless of  
17 whether the meeting or event occurs on City property or whether the attendees are limited to City  
18 officials or staff.

19                   (2) City departments shall use their best efforts to ensure that all Prepackaged  
20 Foods and beverages that are (A) served at City Meetings or City-Sponsored Events and (B) purchased  
21 using City funds meet the nutritional standards set forth in subsection (c) of this Section 4.9-1.

22                   (3) City departments shall use their best efforts to adhere to the following  
23 recommended nutritional guidelines for food and/or beverages that are (A) served at City Meetings or  
24 City-Sponsored Events and (B) purchased using City funds:  
25

1                   (A) If beverages are served, water should be made available and accessible  
2 to all participants.

3                   (B) Food items should be served in smaller portions, where possible.

4                   (C) Vegetarian or vegan options should be offered, where possible.

5                   (D) Healthy food items should be served, such as the following:

6                         (i) Fruits, vegetables, whole grains, low fat and low calorie foods,  
7 including low fat dairy, and lean meats.

8                         (ii) Protein sources and lower fat versions of condiments (e.g., salad  
9 dressings, mayonnaise, cream cheese, sour cream dips).

10                        (iii) Minimally processed foods that are made or produced without  
11 added sugar and are "low sodium" as that term is defined in Section 101.61(b)(4) of Title 21 of the  
12 Code of Federal Regulations, as amended.

13                        (iv) Foods that are prepared by healthy cooking techniques such as  
14 baking, roasting, broiling, grilling, poaching, steaming, or stir frying instead of pan frying or deep fat  
15 frying to minimize the amount of fat added to the foods prepared.

16                        (v) Foods that contain less than 0.5 grams of trans fat per Serving.

17                   (e) Recommended Nutritional Guidelines for Food and Beverages Served by Restaurants  
18 Located on City Property.

19                        (1) Restaurants located on City property that offer for sale Prepackaged Foods  
20 and/or beverages are encouraged to meet the nutritional standards set forth in subsection (c) of this  
21 Section 4.9-1. If there is a Vending Machine located within the Restaurant, the nutritional  
22 requirements of subsection (c) shall apply to the Vending Machine.

23                        (2) Restaurants located on City property are encouraged to ensure that at least 25%  
24 of Meals offered on the menu meet the nutritional guidelines set forth below:

25                        (A) Calories: no more than 700 calories per Meal.

- 1                    (B) Total Fat: No more than 35% of calories per Meal should be from fat.
- 2                    (C) Saturated Fat: No more than five grams of saturated fat per Meal.
- 3                    (D) Trans Fat: No more than 0.5 grams of trans fats per Meal and no
- 4 "partially hydrogenated oil" on the ingredients list.
- 5                    (E) Cholesterol: No more than 105 milligrams of cholesterol per Meal.
- 6                    (F) Sugar: No more than 35% of total calories per Meal from sugar.
- 7                    (G) Sodium: No more than 800 milligrams of sodium per Meal.
- 8                    (H) Vegetables and Fruits: At least two Servings (1-1.5 cups) of vegetables
- 9 and/or fruits per Meal.
- 10                  (f) Administrative Regulations. The City Administrator, or at the City Administrator's
- 11 discretion, the Purchaser, may adopt rules, regulations, or guidelines for the implementation of this
- 12 Section 4.9-1.

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14                  Section 2. Effective Date. This ordinance shall become effective 30 days after

15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

17 of Supervisors overrides the Mayor's veto of the ordinance.

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20 APPROVED AS TO FORM:

21 DENNIS J. HERRERA, City Attorney

22 By:



23 ANNE PEARSON  
24 Deputy City Attorney

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