

[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 and calorie labeling requirements; 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; to encourage restaurants, cafeterias, and concessions located on City property to offer healthy food options; and to require the Department of Public Health (DPH) to submit a report to the Board of Supervisors if DPH concludes that nutritional standards and guidelines should be updated.

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

1 debilitating diseases, which increases human suffering and decreases the quality of life, while driving
2 health care costs up.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) Nutritional Standards and Calorie Labeling for Prepackaged Foods and Beverages
15 Sold in Vending Machines on City Property.

16 (1) Except as stated in subsections (c)(2) and (c)(6), Prepackaged Foods sold in
17 Vending Machines located on City Property shall meet the nutritional standards set forth below:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (3) Except as stated in subsection (c)(6), ~~b~~Beverages sold in Vending Machines
13 located on City Property shall meet the nutritional standards set forth below:

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

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

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

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

22 (4) Except as stated in subsection (c)(6), beginning December 1, 2016, all
23 Vending Machines located on City property shall comply with the calorie labeling requirements
24 of 21 U.S.C. Section 403(q)(5)(H)(viii), as amended from time to time, and any regulations
25 promulgated thereunder.

1 ~~(4)(5)~~ Contracts and Property Contracts.

2 (A) City departments other than the Department of Emergency
3 Management shall include in all Contracts and Property Contracts a provision requiring compliance
4 with subsection (c) of this Section 4.9-1, and failure to comply shall constitute a material breach.

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

12 (6) The nutrition standards and calorie labeling requirement set forth in
13 subsection (c) shall not apply to Vending Machines located on property occupied exclusively
14 by the Department of Emergency Management.

15 ~~(5)(7)~~ Enforcement. Any violation of subsection (c) of this Section 4.9-1 shall be
16 deemed a material breach of the Contract or Property Contract, and the City may pursue all rights or
17 remedies available to the City under the Contract or Property Contract, including but not limited to the
18 right to terminate the Contract or the Property Contract and the right to require the removal of the
19 Vending Machine.

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

22 (1) For purposes of this subsection (d), a “City Meeting” or “City-Sponsored
23 Event” means a meeting or event that is convened, hosted or organized by the City, regardless of
24 whether the meeting or event occurs on City property or whether the attendees are limited to City
25 officials or staff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (B) Total Fat: No more than 35% of calories per Meal should be from fat.

9 (C) Saturated Fat: No more than five grams of saturated fat per Meal.

10 (D) Trans Fat: No more than 0.5 grams of trans fats per Meal and no
11 “partially hydrogenated oil” on the ingredients list.

12 (E) Cholesterol: No more than 105 milligrams of cholesterol per Meal.

13 (F) Sugar: No more than 35% of total calories per Meal from sugar.

14 (G) Sodium: No more than 800 milligrams of sodium per Meal.

15 (H) Vegetables and Fruits: At least two Servings (1-1.5 cups) of vegetables
16 and/or fruits per Meal.

17 (f) Administrative Regulations. The City Administrator, or at the City Administrator’s
18 discretion, the Purchaser, may adopt rules, regulations, or guidelines for the implementation of this
19 Section 4.9-1.

20 (g) Recommended Updates to Nutrition Standards and Guidelines. The Board of
21 Supervisors recognizes that dietary guidelines evolve over time to address pressing public
22 health concerns and the nutrition needs of specific populations and to conform to advances in
23 scientific and medical knowledge. Where the Department of Public Health, in consultation
24 with the Health Service System, concludes that the nutrition standards and guidelines set forth
25 in this Section 4.9-1 should be updated to reflect new research in the field of nutrition and

1 health, it shall submit to the Board of Supervisors a report that describes the recommended
2 changes and sets forth the evidence in support of those recommendations.

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4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 ANNE PEARSON
14 Deputy City Attorney

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