

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 nonpotable water for specific purposes; 4) ~~require that new developments with~~**
9 **~~multiple buildings install an alternate water source system serving the entire development; 5)~~**
10 **modify certain administrative review fees; and 6) require the payment of excess use**
11 **charges and penalties for failure to properly use and maintain alternate water source**
12 **systems; amending the Business and Tax Regulations Code to update certain annual**
13 **license fee amounts for operating alternate water source systems; and 6) the completion**
14 **of reports on purified water, recycled water, and Non-potable District Systems; and affirming**
15 **the Planning Department's determination under the California Environmental Quality**
16 **Act.**

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

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

24 Section 1. Environmental Findings.

1 The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. 210536 and is incorporated herein by reference. The Board affirms
5 this determination.

6 Section 2. The Health Code is hereby amended by revising Article 12C, Sections
7 12C.1 through 12C.9 and 12C.11 through 12C.13, to read as follows:

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

9 The Board of Supervisors finds that:

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

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

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

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

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

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

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

1 (e) It shall be City policy that within five years of the effective date of Ordinance No.
2 109-15, adding this subsection (e) to Article 12C, the City shall use only non-potable water for
3 the purpose of irrigating and cleaning parks, streets, and other public spaces. Within two
4 years of the effective date of that ordinance, the City Administrator, in consultation as
5 appropriate with other City departments, boards, and commissions, including, among others,
6 the Recreation and Park Department, Department of Public Works, Port of San Francisco,
7 San Francisco International Airport, ~~Department~~ Division of Real Estate, and Capital Planning
8 Committee, shall study what will be required to accomplish this policy, including associated
9 costs, and report the results of the study to the Mayor and Board of Supervisors. Upon
10 receiving this study, the Board of Supervisors intends to evaluate any changes to the law and
11 Capital Plan needed to implement this policy.

12 (f) The General Manager of the San Francisco Public Utilities Commission shall submit
13 a report to the Board of Supervisors by December 31, 2021, evaluating the challenges of, and
14 opportunities for requiring the construction, operation and maintenance of Non-potable District
15 Systems at District Development Projects. The report shall also identify the opportunities for
16 the expansion of water heating systems including, but not limited to thermal solar hot water
17 preheating systems, graywater preheating systems, wastewater heat recovery systems, and
18 geo-thermal hot water preheating systems.

19 (g) In order to further determine opportunities to maximize and expand the use of nonpotable
20 sources of water, the General Manager of the San Francisco Public Utilities Commission shall
21 submit to the Board of Supervisors by June 1, 2022, a report evaluating opportunities to develop a
22 recycled water and purified water supply for San Francisco.

23 (h) The General Manager of the San Francisco Public Utilities Commission shall submit
24 a report to the Board of Supervisors by December 31, 2022, identifying the opportunities for
25

1 biogas utilization and energy recovery from the San Francisco Public Utilities Commission's
2 Biosolids Digester Facilities Project.

3 **SEC. 12C.2. DEFINITIONS.**

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

5 **100% Affordable Housing Project:** a building where 100% of the residential units (not
6 including a manager's unit) have (1) a maximum affordable purchase price or affordable rent set at
7 120% of the unadjusted area median family income as determined by the Mayor's Office of Housing
8 and Community Development on an annual basis and derived from the HUD Metro Fair Market Rent
9 Area that contains San Francisco; (2) a rent that does not exceed 30% of the applicable household
10 income limit for a rental unit, or a purchase price with an annual housing cost that does not exceed
11 33% of the applicable income limit for an owner-occupied unit, as may be adjusted for household size
12 and bedroom count; and (3) a recorded regulatory agreement, consistent with any applicable federal,
13 state, or City government regulatory requirements, to assure that the residential units are sold or
14 rented in accordance with the above criteria for the life of the project or a minimum of 55 years,
15 whichever is shorter.

16 **100% Permanent Supportive Housing Project:** a new building where 100% of the residential
17 units (not including a manager's unit) are (1) owned by a nonprofit charitable organization or qualified
18 related legal entity, (2) used for permanent supportive housing to formerly homeless households subject
19 to a recorded declaration of restriction, and (3) funded through a subsidy agreement with the
20 Department of Homelessness and Supportive Housing.

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

24 **Alternate Water Source System:** The system of facilities necessary for providing Non-
25 potable Water for use in a Development Project, including but not limited to all collection,

1 treatment, storage, and distribution facilities. Non-potable Water System shall have the same
2 meaning.

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

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

6 **Commercial Building:** *a building with a commercial use as defined in Planning Code Section*
7 *102, amended from time to time.*

8 **Condensate:** *water vapor collected from air conditioning systems.*

9 **Development Project:** Construction of a new building or buildings. Development
10 Projects are Large Development Projects and Small Development Projects. Development
11 Project does not include rehabilitation of buildings constructed prior to August 1, 2015 ~~the~~
12 ~~effective date of this Article 12C.~~ Development Project does not include (1) any 100% Affordable
13 Housing Project, 100% Permanent Supportive Housing Project, or any housing project funded or
14 constructed pursuant to the HOPE SF Program sponsored and developed by the San
15 Francisco Housing Authority and either the Mayor's Office of Housing and Community
16 Development or the Office of Community Investment and Infrastructure; (2) Hospital Buildings,
17 Health Service Buildings, and Institutional Healthcare Use Buildings; (3) Industrial Use Buildings; (4)
18 Production, Distribution, and Repair Use Buildings; (5) ~~2~~ construction of a new building that will
19 receive water service from the San Francisco Public Utilities Commission through no larger
20 than a 5/8" domestic water meter or a 5/8" recycled water domestic meter, as determined in
21 accordance with the San Francisco Public Utilities Commission's rules for water service; (6) ~~3~~
22 for District projects located within the boundaries of the Reclaimed Water Use Map,
23 construction of new buildings subject to a disposition and development agreement or similar
24 contractual agreement approved before November 1, 2015, that includes in its applicable
25 infrastructure plan the construction and operations of water treatment facilities within the

1 project boundaries that would provide recycled water to the project; (74) for District projects
2 located within the boundaries of the Reclaimed Water Use Map, construction of new buildings
3 subject to a development agreement or similar contractual agreement, within a development
4 phase or subphase, a street improvement plan, or a tentative map or vesting tentative map
5 approved before November 1, 2015; or (85) for District projects located outside the boundaries
6 of the Reclaimed Water Use Map, construction of new buildings subject to a development
7 agreement or similar contractual agreement, within a development phase or subphase, a
8 street improvement plan, or a tentative map or vesting tentative map approved before
9 November 1, 2017.

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

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

14 **District System:** An Alternate Water Source System serving a District Development
15 Pproject.

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

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

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

25

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

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

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

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

13 **Industrial Use Building:** A building with an industrial use as defined in Planning Code Section
14 102, as amended from time to time.

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

17 **Large Development Project:**

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

22 ~~(a)~~ (1) located within the boundaries of the Reclaimed Water Use Map
23 designated in accordance with Sections 1203 and 1209 of the Public Works Code and subject
24 to a site permit or building permit that is final and effective after November 1, 2015; or
25

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

4 (b) On or after January 1, 2022, a Large Development Project is the construction of a single
5 building, or construction of multiple buildings on one or more parcels in accordance with a phased
6 plan or approval, with a total Gross Floor Area for the single building or the multiple buildings of
7 100,000 square feet or more.

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

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

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

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

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

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

24 **Nonpotable Water System:** The same meaning as Alternate Water Source System.
25

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

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

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

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

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

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

22 **Rainwater:** precipitation collected from roof surfaces or other manmade, aboveground
23 collection surfaces.

24 ~~**Responsible Party:** The Project Applicant, or any subsequent owners, assignees, successors in~~
25 ~~interest or any other transferees responsible for compliance with this Article 12C. Responsible Party~~

1 ~~includes, but is not limited to, the owner of the common areas within a District Development Project~~
2 ~~and any homeowners association or similar entity that maintains the common areas within a District~~
3 ~~Development Project. Responsible Party does not include the Project Applicant, subsequent owners,~~
4 ~~assignees, successors in interests, transferees, owners of common area, homeowners associations, or~~
5 ~~any other person or entity associated with a Development Project serviced by an Alternative District~~
6 ~~System as described in Section 12C.4(d).~~

7 **Small Development Project:**

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

13 (b) On or after January 1, 2022, a Small Development Project is the construction of a single
14 building, or construction of multiple buildings on one or more parcels in accordance with a phased
15 plan or approval, with a total Gross Floor Area for the single building or the multiple buildings of
16 40,000 square feet or more, but less than 100,000 square feet.

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

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

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

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

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

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

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

15
16 **SEC. 12C.3. APPLICABILITY.**

17 (a) This Article 12C shall apply to the installation and operation of the Alternate Water
18 Source ~~systems~~ Systems at Large Development Projects, and to the voluntary installation and
19 operation of the Alternate Water Source ~~systems~~ Systems at sites containing ~~multi family~~ Multi-
20 Family Residential Building and ~~non-residential~~ Non-Residential buildings. This Article does not
21 apply to:

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

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

1 (3)-(e) Rainwater systems where Rainwater is collected solely for subsurface
2 irrigation, drip irrigation, or non-sprinkled surface applications and does not require
3 disinfection, as determined by the Director.

4 (b) Nothing in the ordinance in Board File No. 201536 amending this Article 12C is
5 intended to impair or limit any contract right that exists as of the effective date of said
6 ordinance. In connection with the application of Article 12C as it relates to development
7 agreements or similar development contracts, or approved development plans administered
8 by the Office of Community Investment and Infrastructure, the General Manager shall consult
9 with the City Attorney to determine whether the application of this Article 12C to a specific
10 Development Project will violate the terms of contracts that the City entered into before the
11 aforementioned effective date.

12 **SEC. 12C.4. DEVELOPMENT PROJECT REQUIREMENTS.**

13 (a) Large Development Projects shall be constructed, operated, and maintained in
14 compliance with the following:

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

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

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

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

10 (4) For District Development Projects that consist of any combination of
11 Commercial, Residential and Mixed-Use Residential Buildings, and that install a District
12 System, toilet and urinal flushing, clothes washing, drain trap priming, and irrigation demands
13 are required non-potable uses. The collection and reuse of Graywater and Condensate
14 (required Alternate Water Sources) shall be used for required non-potable uses to the extent
15 required by application of the Water Budget Documentation.

16 (5) For District Development Projects that consist of any combination of
17 Commercial, Residential and Mixed-Use Residential Buildings, and that install building-by-
18 building Alternate Water Source Systems, the required non-potable uses and required
19 Alternate Water Sources shall be the uses and sources for each category of building type
20 describe in subsections (a)(2) and (a)(3) of this section.

21 ~~(4) For District Development Projects consisting of solely Commercial~~
22 ~~Buildings that submit an application for a site permit after January 1, 2022, a District System~~
23 ~~shall be constructed, operated and maintained. Toilet and urinal flushing and irrigation~~
24 ~~demands are required non-potable uses. The collection and reuse of Blackwater (required~~
25

1 ~~Alternate Water Source) shall be used for required non-potable uses to the extent required by~~
2 ~~application of the Water Budget Documentation.~~

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

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

12 (1)(2) For Large Development Projects that submit an application for a site
13 permit on or prior to January 1, 2022, a Large Development Project Applicant shall use the
14 Water Budget Calculator, as provided by the General Manager's rules, to prepare a Water
15 Budget assessing the amount of Rainwater, Graywater, and Foundation Drainage produced
16 on site, and the planned toilet and urinal flushing and irrigation demands.

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

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

23 (1) For Large Development Projects that submit an application for a site permit
24 on or prior to January 1, 2022, if ~~if~~, based on the Water Budget Documentation, the available
25 supply from onsite sources exceeds the demands for toilet and urinal flushing and irrigation,

1 100% of those demands shall be met by using the available onsite sources. If, based on the
2 Water Budget Documentation, the available supply from onsite sources is less than the
3 demands for toilet and urinal flushing and irrigation, 100% of the available onsite supply shall
4 be used to meet the demands for toilet and urinal flushing and irrigation. Available
5 Blackwater or Stormwater supplies may be used instead of, or in addition to Rainwater,
6 Graywater, and Foundation Drainage to meet the available onsite supply requirements
7 calculated in accordance with the Water Budget Documentation requirements of this Section
8 12C.4~~(a)~~(c)(1).

9 (2)~~(3)~~ For Large Development Projects that submit an application for a site
10 permit after January 1, 2022, if, based on the Water Budget Documentation, the available supply from
11 required Alternate Water Sources exceeds the demand from required non-potable uses, 100% of that
12 demand shall be met by using the required Alternate Water Sources. If, based on the Water Budget
13 Documentation, the available supply from required Alternate Water Sources is less than the demand
14 from required non-potable uses, 100% of the available supply from required Alternate Water Sources
15 shall be used to meet the demand from required non-potable uses.

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

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

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

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

7 (f) Large Development Projects and District Development Projects shall not provide Non-
8 potable Water to water users or for purposes located outside the boundaries of the Large Development
9 Project or District Development Project, except (1) as permitted in the sole discretion of the General
10 Manager, or (2) when the water users or other purposes are located on property contiguous to, or
11 across a public right of way from the boundaries of the Large Development Project or District
12 Development Project, and the total amount of Non-potable Water produced by the Alternate Water
13 Source System will not exceed 125% of the Large Development Project's or District Development
14 Project's required non-potable demands as determined by the approved Water Budget
15 Documentation.

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

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

24 (2) ~~District Systems shall be operated by a single Permittee having sole control~~
25 ~~of operations of all of its facilities, including but not limited to treatment and distribution facilities.~~

1 District Systems shall be constructed in accordance with all applicable City utility standards
2 and specifications.

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

11 —(4) ~~For District Systems, the ongoing operation and maintenance~~
12 ~~responsibilities of the Responsible Party shall be held by the owner of the common areas within the~~
13 ~~District Development Project, and may be transferred to a homeowners association or similar entity~~
14 ~~that maintains the common areas within the District Development Project.~~

15 —Where a District System complies with the requirements in subsections 1 through 4 of this
16 subsection 12C.4(c), including any exceptions approved by the General Manager, individual
17 Individual buildings within a Development Projects with the District Development Project shall not
18 be required to demonstrate compliance as long as the individual buildings ~~Buildings~~
19 ~~Development Projects~~ are provided service by the an approved District System.

20 (h4) The General Manager may approve ~~alternative~~ Alternate District Systems that
21 will achieve compliance with the purposes and objectives of this Article 12C, in accordance
22 with guidelines and rules established by the General Manager. Alternative District Systems
23 may include, but are not limited to, the dedication to the City, without cost to the City, of a District
24 System's treatment and/or conveyance system that is constructed in accordance with all applicable
25 utility standards and specifications~~water purchase agreements.~~

1 (i~~e~~) City departments shall not issue an encroachment permit, a site permit, or a
2 plumbing permit for a Large Development Project or a Small Development Project, or
3 approve a Non-potable Water Engineering Report, prior to the General Manager's
4 determination that the Water Budget Documentation has been prepared in accordance with
5 the General Manager's rules for Water Budget calculations.

6 (j~~f~~) Subdivision Approvals.

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

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

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

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

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

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

24 (k) In the event that a privately owned Alternate Water Supply System approved by
25 the General Manager is subsequently determined by the California Public Utilities

1 Commission to be subject to that agency’s jurisdiction and regulation, the San Francisco
2 Public Utilities Commission may, with the consent of the affected owner, acquire and operate
3 the facilities.

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

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

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

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

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

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

20 **SEC. 12C.6. PROJECT APPLICANT AND/OR PERMITTEE DESIGN AND**
21 **CONSTRUCTION REQUIREMENTS.**

22 (a) Prior to initiating installation of any Alternate Water Source project, Project
23 Applicants shall submit to the Director an application for permits to operate Alternate Water
24 Source systems. Such applications shall comply with the requirements of this Article 12C and
25 any regulations the Director has issued. Project Applicants shall pay a non-refundable permit

1 application fee to cover the costs of investigation and processing the application and issuing
2 the permit. Each project application submitted to the Director shall include a Non-potable
3 Water Engineering Report that provides project information the Director determines to be
4 necessary for complete review of the proposed project. City departments may not approve or
5 issue permits for any site installing an Alternate Water Source system unless and until the
6 Director has approved the Non-potable Water Engineering Report.

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

11 (b) System Design. All buildings using Non-potable Water from Alternate Water
12 Source systems shall include:

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

15 (2) A flow meter on the potable make-up water pipeline to the Alternate Water Source
16 System;

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

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

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

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

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

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

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

17 **SEC. 12C.7. FEES.**

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

20	(1) Rainwater, <u>Stormwater, Foundation Drainage</u>	<u>\$2,616.28</u> \$1,544.00
21	(2) NSF 350 systems	\$2,688.00
22	(3) Foundation Drainage	\$5,032.00
23	(24) Graywater	<u>\$8,142.66</u> \$5,032.00
24	(35) Blackwater	<u>\$13,958.84</u> \$9,034.00
25	(46) Transfer of any permit	<u>\$226</u> 229.00

1 (~~57~~) District Scale, the applicable amount above, plus \$226191.00 per
2 hour for plan review
3 and/or on-site
4 inspection.

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

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

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

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

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

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

23 When the Director determines the Project Applicant ~~applicant~~ has satisfied all the
24 requirements of this Article 12C, the Director may issue an operations permit for an
25 Alternative Water Source system. Permittees shall timely submit all water quality monitoring

1 information required by the provisions of this Article and the Department of Public Health's
2 rules and regulations. Permittees shall conduct ongoing backflow prevention and cross
3 connection testing in accordance with this Article, the rules and regulations of the Department
4 of Public Health, and all applicable ~~local~~ City, state, and federal laws.

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

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

9
10
11 **SEC. 12C.11. INSPECTION ~~AND NOTICES OF VIOLATION.~~**

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

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

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

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

23 (a) Any Permittee, or other person otherwise subject to the requirements of this Article 12C,
24 who violates any provision of this Article or any applicable rule or regulation shall be subject to an
25 administrative penalty imposed by order of the Director, not to exceed \$1,000. Each day or portion

1 thereof that a violation exists constitutes a separate and distinct violation for which an administrative
2 penalty may be imposed. In assessing the amount of the administrative penalty, the Director may
3 consider any one or more of the following: the nature and seriousness of the misconduct, the number of
4 violations, the persistence of the misconduct, the length of time over which the misconduct occurred,
5 and the willfulness of the violator's misconduct.

6 (b) If the Director determines that any Permittee, or other person otherwise subject to the
7 requirements of this Article 12C, is in violation of any provision of this Article or any applicable rule
8 or regulation, the Director shall issue a Notice of Violation to the person. The Notice of Violation shall
9 contain the following information: a description of circumstances or condition constituting the
10 violation; the date by which the person must correct the violation; the amount of the administrative
11 penalty that the Director will impose daily until such time as the person has demonstrated to the
12 satisfaction of the Director that the violation has been corrected; and the right to seek administrative
13 review of the Notice of Violation by filing an appeal within 30 days of the date that the Notice of
14 Violation is served to challenge the Director's determination and/or the proposed administrative
15 penalty.

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

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

24 **SEC. 12C.13. REVOCATION AND SUSPENSION OF PERMIT.**
25

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

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

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

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

9
10 Section 3. Article 2 of the Business and Tax Regulations Code is hereby amended by
11 revising Section 249.24, to read as follows:

12
13 **SEC. 249.24. NON-POTABLE WATER SYSTEMS.**

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

- 19 (a) Rainwater, Stormwater, and Foundation Drainage ~~\$1,613.45~~\$472.00
- 20 ~~(b) NSF 350 systems~~ ~~\$ 929.00~~
- 21 ~~(c) Foundation Drainage~~ ~~\$1,387.00~~
- 22 (~~a~~b) Graywater \$2,195.07~~\$1,387.00~~
- 23 (~~c~~) Black water \$2,195.07~~\$1,844.00~~

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

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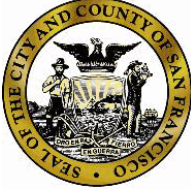
Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in 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 within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By: /s/ John Roddy /s/
JOHN RODDY
Deputy City Attorney

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City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 210536

Date Passed: September 28, 2021

Ordinance amending the Health Code to 1) lower the threshold, from 250,000 to 100,000 square feet of gross floor area, for requiring that new buildings be constructed, operated, and maintained using specified alternate water sources for required non-potable uses; 2) exempt certain affordable housing projects and property uses from that requirement; 3) require that certain categories of new buildings use specific sources of nonpotable water for specific purposes; 4) modify certain administrative review fees; 5) require the payment of excess use charges and penalties for failure to properly use and maintain alternate water source systems; and 6) the completion of reports on purified water, recycled water, and Non-potable District Systems; amending the Business and Tax Regulations Code to update certain annual license fee amounts for operating alternate water source systems; and affirming the Planning Department's determination under the California Environmental Quality Act.

July 08, 2021 Public Safety and Neighborhood Services Committee - CONTINUED TO CALL OF THE CHAIR

September 09, 2021 Public Safety and Neighborhood Services Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 09, 2021 Public Safety and Neighborhood Services Committee - RECOMMENDED AS AMENDED

September 21, 2021 Board of Supervisors - PASSED ON FIRST READING


Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 28, 2021 Board of Supervisors - FINALLY PASSED


Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210536

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on 9/28/2021 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



London N. Breed
Mayor

10/8/21

Date Approved