Ordinance amending the Environment Code to modify restrictions on the sale or distribution on City property of drinking water in single service containers, to educate City departments regarding the restrictions, and making environmental findings.

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 Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 161290 and is incorporated herein by reference. The Board affirms this determination.

Section 2. The San Francisco Environment Code is hereby amended by revising Chapter 24, Sections 2402, 2403, 2404, 2405, 2406, and 2407, to read as follows:

SEC. 2402. DEFINITIONS.

For purposes of this Chapter,
"Bottled Water" means drinking water in a sealed Rigid Plastic Bottle having a capacity of 21 fluid ounces or less.

"City Property" means real property, including any buildings thereon, owned or leased by the City and County of San Francisco ("City"), and in the City's possession or in the possession of a public or private entity under contract with the City to perform a public purpose, including but not limited to the following property: recreational and park property including but not limited to Golden Gate Park, the San Francisco Zoo, and San Francisco's parks and playgrounds, plazas including but not limited to United Nations Plaza and Hallidie Plaza, community centers such as Ella Hill Hutch Community Center, and property of the Department of Recreation and Parks, the Port, and the Public Utilities Commission. "City Property" includes a "City Street."

"City Funds" means all monies or other assets received and managed by, or which are otherwise under the control of, the Treasurer, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the City and County.

"City Street" means the public right-of-way owned by the City, including any area across, along, on, over, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, streets, and ways within the City.

"Event" means any gathering held on City Property, including a City Street, and subject to a City permit, where more than 100 people attend or participate.

"Mineral water" means drinking water containing more than 500 milligrams per liter of total dissolved solids and/or one or more chemical constituents in excess of the concentrations listed in the Federal Bottled Water Quality Standards (Title 21, Code of Federal Regs., Sec. 165.110).
"Packaged Water" means drinking water in a sealed box, bag, can, glass bottle, Rigid Plastic Bottle or other container intended primarily for single service use and having a capacity of one liter or less.

"Participant Athletic Event" means an athletic event in which a group of people collectively walk, jog, run, or bicycle or otherwise participate in a sport on City Property, including a City Street.

"Rigid Plastic Bottle" means any formed or molded container comprised predominantly of plastic resin, having a relatively inflexible fixed shape or form, having a neck that is smaller than the container body, and intended primarily as a single service container. "Rigid Plastic Bottle" includes a compostable plastic bottle meeting these criteria.

"Water" includes: natural spring or well water; water taken from municipal or private utility systems or other sources; distilled, deionized, filtered, or other purified water; or any of the foregoing to which chemicals may be added. "Water" does not include: mineral water; carbonated or sparkling water; soda, seltzer, or tonic water; or flavored water, also marketed as fitness water, vitamin water, enhanced water, energy water, or other similar products. "Water" does not include those food ingredients that are listed in ingredient labeling as "water," "carbonated water," "disinfected water," or "filtered water."

SEC. 2403. SALE OR DISTRIBUTION OF BOTTLED WATER PACkAGED WATER ON CITY PROPERTY RESTRICTED.

(a) Starting October 1, 2014, no person may sell or distribute Bottled Water at an Event held indoors on City Property.

(b) Starting October 1, 2014, no person may sell or distribute Bottled Water at an Event held outdoors on City Property, including a City Street, where the permitting officer, department, or agency (collectively, "department") allows the Event sponsor access to reliable
on-site potable water connections adequate to meet the hydration needs of the Event participants or attendees. By July 1, 2014, departments that issue permits for Events on their properties and in their facilities shall, in consultation with the San Francisco Public Utilities Commission ("SFPUC"), determine which properties that are frequently used for Events have a reliable on-site supply of drinking water that could be used by Event sponsors.

(c) Starting October 1, 2016, no person may sell or distribute Bottled Water at an Event held outdoors on City Property, including a City Street.

(d) Starting March 1, 2017, the above subsections (a), (b) and (c) of this Section 2403 shall apply to restrict the sale and distribution of Packaged Water.

(dde) The provisions of this Section 2403 shall not apply to the sale or distribution of Bottled Water or Packaged Water to participants in a Participant Athletic Event. The provisions of this Section 2403 shall not apply where the City grants the general public access to enter or use City Property in question, including a City Street, without requiring issuance of a permit.

(ef) This Section 2403 shall not apply to an event held prior to January 1, 2018 that is sponsored by a not-for-profit entity and that has over 250,000 attendees or participants.

SEC. 2404. NEW LEASES, PERMITS, AND AGREEMENTS; MOBILE FOOD FACILITIES.

(a) Starting October 1, 2014, all new leases, permits, management agreements or other agreements awarded by the City allowing any person to use City Property, including a City Street, for purposes that contemplate or would allow the sale or distribution of beverages (collectively, "permits") shall specifically require that the permittee comply with this Chapter. This requirement shall also apply to any such permit renewed, extended, or materially amended after October 1, 2014.

(b) Starting October 1, 2014, no City officer or department shall issue a bid proposal or solicitation, request for bid or proposal, or contract for vendors or concessions to be operated
on City Property that would require or permit the sale or distribution of Bottled Water on such

property.

(c) Starting March 1, 2017, the above subsections (a) and (b) of this Section 2404 shall apply
to restrict the sale and distribution of Packaged Water.

(d) No person shall sell, provide, or otherwise distribute Packaged Water as part of its
performance of a City contract or grant unless specifically exempted from or allowed to do so under
this Chapter.

(ee) This Section 2404 does not apply to concessions/vendors at San Francisco Airport
facilities. This Section 2404 does not apply to permits for the use of City Property, including a
City Street, for a Participant Athletic Event, if the permit provides that the Event sponsor may
only sell or distribute Bottled Water Packaged Water, or allow the sale or distribution of Bottled
Water Packaged Water, to participants in the Participant Athletic Event and not to any other
persons. This Section 2404 will not apply to concessions/vendors at the Moscone Center
facility until (1) the City Administrator certifies to the Board of Supervisors that the first phase
of the expansion of the facility, the plans for which include installation of bottle filling stations,
has been completed, or (2) January 1, 2018, whichever is sooner.

(dff) Starting October 1, 2016, all Mobile Food Facility permits issued or renewed under
Article 5.8 of the Public Works Code shall specifically provide that the permittee shall not sell
or distribute or allow the sale or distribution of Bottled Water Packaged Water as part of the
operation of the Facility.

SEC. 2405. BARRING USE OF CITY FUNDS FOR PURCHASE OF BOTTLED
WATERPACKAGED WATER.

(a) No City officer, department, or agency (collectively, "department") shall use City
Funds to purchase Bottled Water Packaged Water for its own general use. A department may
use City Funds to purchase Bottled Water Packaged Water for uses specifically exempted from or allowed under this Chapter.

(b) It shall be City policy not to have drinking water systems in City offices or facilities that use plastic water bottles of any size where satisfactory alternatives exist and are feasible at the location under consideration. It shall further be City policy to conform drinking water systems in City offices or facilities to this goal where reasonable by the end of 2016.

SEC. 2406. WAIVERS AND EXCLUSIONS.

(a) A City officer, department, or agency (collectively, "department") responsible for permitting an Event on or issuing a lease for City Property may seek from the Department of the Environment ("DOE") a waiver of the requirements of Sections 2403 and 2404 in full or in part if the Event sponsor or lessee demonstrates to the satisfaction of the department/DOE that strict application of the requirement would not be feasible, would create an undue hardship or practical difficulty, or that circumstances otherwise warrant granting of the waiver. The department/DOE's decision to grant a waiver shall be in writing and shall be final. If no response is received from the DOE within 60 days of a waiver request, the request shall be deemed approved.

(b) The provisions of Sections 2403 and 2404 shall not apply where the department finds that the inclusion or application of such provisions would violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

(c) The provisions of Sections 2403, 2404, and 2405(a) shall not apply where the department finds that relying on Bottled Water Packaged Water is necessary in a given situation.
to protect the public health, safety and welfare, and no reasonable alternative to Bottled Water Packaged Water will serve the same purpose.

(d) Departments shall annually report all waivers granted under subsection (a) and determinations of non-applicability made under subsections (b) and (c) to the Director of the Department of the Environment, and include the reason for each waiver.

**SEC. 2407. IMPLEMENTATION.**

(a) This Chapter shall not apply to an Event held on City Property, including a City Street, where the sponsor applied for or received the permit prior to July 1, 2014. Nothing in this Chapter shall be construed to impair a contract, lease, management agreement or other legally-binding agreement to which the City is a party on the effective date of this Chapter, April 20, 2014. In addition, none of the amendments to this Chapter restricting the sale or distribution of Packaged Water enacted as part of the ordinance in Board File No. 161249 shall be construed to impair a contract, lease, management agreement or other legally-binding agreement to which the City is a party on the effective date of that ordinance.

(b) The Department of the Environment and the Public Utilities Commission shall take appropriate steps to educate and inform City departments about the requirements of this Chapter.

(c) The Director of the Department of the Environment shall submit an annual report to the Mayor and the Board of Supervisors on the implementation of this Chapter. The report shall include the number of waivers granted by City officers or departments under Section 2406(a) and determinations of non-applicability made under Section 2406(b) and (c), and a brief explanation of the justifications for the same. The report shall also summarize efforts taken to educate and inform City departments about the requirements of this Chapter, and include plans to continue doing so over the coming year.
Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. 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.

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.

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

By: NEHA GUPTA
Deputy City Attorney
Ordinance amending the Environment Code to modify restrictions on the sale or distribution on City property of drinking water, to educate City departments regarding the restrictions, and making environmental findings.

December 08, 2016 Public Safety and Neighborhood Services Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

December 08, 2016 Public Safety and Neighborhood Services Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

December 13, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8

December 13, 2016 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8

January 10, 2017 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Tang, Yee and Sheehy
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/10/2017 by the Board of Supervisors of the City and County of San Francisco.

[Signature]
Angela Calvillo
Clerk of the Board

Mayor
Date Approved

An incorrect version of the Ordinance was signed and approved by the Mayor on January 20, 2017. The correct version was then re-transmitted to the Mayor for signature. The effective date of the Ordinance shall be determined by the original signature date of January 20, 2017; hereby effectuating the Ordinance on February 19, 2017.

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/10/2017 by the Board of Supervisors of the City and County of San Francisco.

[Signature]
Angela Calvillo
Clerk of the Board

Mayor
Date Re-Approved