

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

Section 1. Title

This Ordinance shall be known and may be cited as the “Water Sustainability and Environmental Restoration Planning Act of 2012.”

Section 2. Findings & Declarations

- (a) Water is an essential natural resource that San Francisco depends on for its health, well-being, and public safety. San Francisco should develop a sustainable water system that will provide reliable supplies to meet needs throughout the city in anticipation of the effects of global warming and the probabilities of droughts and earthquakes, as well as other natural and unnatural disasters.
- (b) The primary source of water for the City of San Francisco is the Tuolumne River. Many people believe the city’s primary water source is the Hetch Hetchy Reservoir in Yosemite National Park because the system is called the Hetch Hetchy system. In fact, Hetch Hetchy Reservoir is just one of nine reservoirs that store water for San Francisco.
- (c) San Francisco’s rights to use Tuolumne River water were established in 1890 and exist independent of its storage facilities in the Tuolumne River watershed. Nothing in this ordinance shall weaken these rights.
- (d) San Francisco does not recycle any water; comparatively, the Municipal Water District of Orange County recycles 92 million gallons a day.
- (e) In 1930, San Francisco used 14.5 million gallons a day from its groundwater wells; today, San Francisco uses only 2.2 million gallons a day as it has failed to maintain and manage its groundwater basin.
- (f) San Francisco receives an average annual rainfall of 20 inches which is the equivalent of roughly half of San Francisco’s annual water consumption. Currently, virtually all of the City’s rainfall is directed into the sewage system, treated with chemicals and discharged into the San Francisco Bay and the Pacific Ocean.
- (g) Increased development of water resources within San Francisco and the Bay Area would diversify San Francisco’s regional water system, and improve system reliability in the event of drought or outages caused by earthquake or other events.

- (h) San Francisco does not currently filter most of its drinking water supply. The San Francisco Department of Public Health warns consumers with compromised immune systems such as HIV to consult a doctor prior to drinking tap water.
- (i) In 2010, the incident rate of giardia, a pathogen commonly found in rivers and reservoirs, among residents of San Francisco was 370% higher than the state average. The incident rate of giardia in San Mateo County, where almost all water service is provided by San Francisco, was 65% higher than the state average.
- (j) Federal law requires San Francisco to develop and utilize all local water resources before importing water from its existing facilities that store its Tuolumne River supplies.
- (k) The San Francisco water system as it is currently configured requires significant, on-going habitat destruction within Yosemite National Park.
- (l) The Hetch Hetchy Valley, which is currently used as a water storage facility by the City of San Francisco, is located in Yosemite National Park at the entry point to the Grand Canyon of the Tuolumne River. It is a glacier-carved granite canyon with large waterfalls cascading down the canyon walls. John Muir referred to Hetch Hetchy Valley as an exact counterpart to Yosemite Valley.
- (m) San Francisco is the only city in the country which has been allowed to construct a reservoir within an existing National Park. Restoration of Hetch Hetchy Valley will create jobs, draw tourists from around the world and allow school children to experience a unique environmental restoration project of awe-inspiring scale.
- (n) The San Francisco water system was conceived in the 19th century and constructed in the early 20th century. Generations of Native American cultural artifacts lie at the bottom of the reservoir.
- (o) The San Francisco water system can be changed to improve public health, ensure reliability of essential water supplies, and restore the environmental damage caused by the existing water system, and these changes can take place without adversely affecting ratepayers, water rights, or energy supply.

Section 2. Purpose & Intent

- (a) Develop a long-term plan for creating a more sustainable water system that improves water quality through filtration of all supplies and improve reliability through increased adoption of efficiency practices and development of local water resources. The plan must provide for 21st Century best practices including water recycling, water reclamation, conservation, improved storm water capture and increased development, including recharge capability, of

groundwater sources. The plan will also include opportunities for developing additional supplies and/or storage beyond the Bay Area. In addition, the plan will provide for reducing the amount of carbon released into the atmosphere by offsetting any increased energy use or reduction in hydropower resulting from modifications to the water system with power generated from renewable sources such as wind and solar energy.

- (b) Develop a long-term plan for reversing the environmental damage caused by the San Francisco water system in the 20th century that could be undertaken subsequent to the increased development of local water resources and/or development of alternative water supplies and storage locations. The plan must provide for sufficient water resource to increase salmon populations on the lower Tuolumne River, decrease polluted storm water runoff into the San Francisco Bay and allow for the Hetch Hetchy Valley to be returned to the National Park Service and restored as part of Yosemite National Park.
- (c) Consider a wide variety of potential mechanisms for financing plan implementation, including funds provided by State, Federal and private sources.
- (d) Complete the planning process by November 2015 in time for the San Francisco Board of Supervisors or a group of citizens to propose a charter amendment to be voted on at the November 2016 election, which if passed would authorize implementation of the plan.

Section 3. The Water Sustainability and Environmental Restoration Plan

The San Francisco Municipal Code, Part I (Administrative Code) is hereby amended by adding Chapter 116 to read as follows:

Section 116.1. The Water Sustainability and Environmental Restoration Plan

- (a) A Water Sustainability and Environmental Restoration Plan shall be developed for the purpose of providing a comprehensive plan for improving San Francisco's water system and restoring the environmental damage caused by the current water system.
- (b) The plan shall provide for two phases.
 - (1) The first phase shall be a Water Sustainability Plan that provides for the creation and maintenance of a sustainable water system that increases system reliability by developing local and more diversified water sources.

- (2) The second phase shall be an Environmental Restoration Plan that provides for reversing the environmental damage caused by the Hetch Hetchy water system since 1913.
- (c) The Water Sustainability and Environmental Restoration Plan, and each phase therein, shall provide sufficient detail to initiate programmatic and project review under the California Environmental Quality Act and the National Environmental Protection Act if the voters of San Francisco choose to implement the plan.
- (d) Upon completion of the Water Sustainability and Environmental Restoration Plan, the San Francisco voters shall have the opportunity to adopt a charter amendment that would authorize implementation of the plan.

Section 116.2. Requirements of the Plan

- (a) The first phase of the Water Sustainability and Environmental Restoration Plan shall be the Water Sustainability Plan, which shall provide for the increased development of local and regional water supplies that will ensure reliability of water resources through implementation and completion of phase 2 of the plan. The Water Sustainability Plan will, at minimum:
 - (1) Identify and prioritize measures that will enable San Francisco to create a sustainable water system within city limits that uses additional local water resources as a supplement to water currently diverted from the Tuolumne River. These measures will be designed, at minimum, to:
 - i. Increase groundwater recharge and groundwater use to pre-1930 levels;
 - ii. Develop water recycling capacity to one half of the current per person production available in Orange County, California;
 - iii. Expand and improve storm water harvesting capacity;
 - iv. Expand the reuse of water through gray water systems;
 - v. Reduce per person water use through cost-effective conservation and efficiency; and
 - vi. Improve water quality by expanding water treatment capacity to accommodate filtration of all potable supplies.

- (2) Identify and prioritize additional water supply options for all retail and wholesale customers of San Francisco's regional water system, including but not limited to:
 - i. The increased development of local resources identified in Section 116.2(a)(1);
 - ii. Additional storage opportunities, above or below ground;
 - iii. Potential long-term purchase agreements;
 - iv. Additional conservation opportunities; and
 - v. Cooperative agreements to develop supply and/or storage with other water suppliers.

- (3) Develop sufficient renewable energy sources, as defined by the State of California, such as wind, solar or energy efficiency measures, to offset any reduction in hydropower resulting from the consolidation of water storage facilities. At a minimum, this section of the plan shall identify:
 - i. Potential sites for additional wind, solar, and other energy efficiency infrastructure;
 - ii. Technologies to achieve improved wind, solar, and other energy efficiency measures; and
 - iii. Investment opportunities to secure additional renewable energy sources.

- (4) Provide a timeline that allows for San Francisco to complete implementation of this phase of the plan no later than 2025.

- (b) The second phase of the Water Sustainability and Environmental Restoration Plan shall be the Environmental Restoration Plan. The Environmental Restoration Plan will, at minimum, evaluate how to:
 - (1) Improve flows on the lower Tuolumne River in support of efforts to increase the salmon and steelhead trout populations;
 - (2) Decrease polluted storm water discharge into the San Francisco Bay and Pacific Ocean; and

- (3) Consolidate the nine reservoirs on which San Francisco relies for water storage into eight and return the Hetch Hetchy Valley in Yosemite National Park to the National Park Service so it may be restored.
- (4) Provide a timeline that allows for San Francisco to complete implementation of this phase of the plan no later than 2035
- (c) In addition to the requirements set forth above, the Water Sustainability and Environmental Restoration Plan shall include:
 - (1) Separately identified costs for implementing both phases of the plan.
 - (2) Separately identified revenues sources for implementing both phases of the plan, including but not limited to federal, state and private funds.

Section 116.3. Guiding Principles

The process for developing the Water Sustainability and Environmental Restoration Plan must be guided by the following principles:

- (a) Establish the most effective, environmentally responsible, and economically feasible strategies that will increase local water supply resources and protect the San Francisco ratepayer.
- (b) Achieve maximum public input. All aspects of each plan shall be developed in an open and transparent way.
- (c) Obtain total cooperation of the San Francisco Public Utilities Commission and its staff, the San Francisco Department of Environment and its staff, the Office of the Controller and his or her staff, and the Office of the Mayor and his or her staff.
- (d) Provide maximum outreach to key state and federal stakeholders, including but not limited to the Modesto Irrigation District, the Turlock Irrigation District, the United States Department of Interior, the California Natural Resources Agency, the Bay Area Water Supply and Conservation Agency, and Native American tribes that could be affected by water system reform efforts.
- (e) Determine accurate and comprehensive cost projections for both phases separately.

Section 116.4. Implementation & Oversight

- (a) The development of the Water Sustainability and Environmental Restoration Plan shall be overseen by a task force consisting of five (5) members, serving without compensation, comprised of the following:
- (1) The General Manager of the San Francisco Public Utilities Commission, or his or her designated representative;
 - (2) The General Manager of the Bay Area Water Supply and Conservation Agency, or his or her designated representative;
 - (3) An individual appointed by the Board of Supervisors from a university or college in the San Francisco water system service area and who is recognized as an expert in water sustainability, recycling, storage, and conservation.
 - (4) An individual appointed by the Board of Supervisors from a local non-profit environmental organization who is an expert in water sustainability, recycling, storage, and conservation and has a broad knowledge of the Hetch Hetchy Regional Water System.
 - (5) An individual appointed by the Board of Supervisors from a national non-profit environmental organization who is an expert in habitat restoration in the Sierra Nevada.
- (b) The members of the task force shall be appointed no later than January 31, 2013 and shall convene its first meeting before February 28, 2013.
- (c) The task force shall conduct regular meetings that are open and available to the public in accordance with local and state laws.
- (d) Until such time as the task force has independent resources, the San Francisco Department of Environment shall provide a full-time staff person to perform administrative duties for the task force. The San Francisco Department of Environment shall provide that staff person with whatever facilities and equipment are necessary to perform said duties.
- (e) The task force shall no later than June 30, 2013 contract with and manage one or more independent and qualified consultants to develop the Water Sustainability and Environmental Restoration Plan. Contracts shall be entered into in accordance with San Francisco's public contracting laws, as provided in Chapter 6 of the Administrative Code. The task force shall have the authority to appoint the staff person in sub-paragraph (d) of this section, or another qualified individual, to fulfill the department head duties for purposes of complying with the public contracting requirements of Chapter 6 of the Administrative Code.

- (f) All contract provisions shall be publicly available and consistent with all applicable laws.
- (g) The Water Sustainability and Environmental Restoration Plan shall be completed, approved and submitted by the task force to the City Attorney by November 1, 2015.
- (h) The City Attorney shall prepare and make available to the public a Charter Amendment that proposes implementation of the Water Sustainability and Environmental Restoration Plan no later than December 15, 2015. The Board of Supervisors shall conduct a public hearing at which it shall consider whether to place the Charter Amendment before the voters at the next statewide general election. Such hearing shall be conducted no later than January 31, 2016.

Section 116.5. Costs of Plan Development

- (a) The City and County of San Francisco hereby appropriates from any legally available funds an amount sufficient to pay for the development of the Water Sustainability and Environmental Restoration Plan, but in no case shall total appropriations exceed 0.5% of funds previously authorized by voters for the Water System Improvement Program.
- (b) Funds from other governmental or private sources, if available, may be used to supplement funds appropriated by this section.

Section 116.5. Severability

If any provision of this Ordinance, or the application thereof, is found to be unenforceable by a court of competent jurisdiction, it may be severed and the balance of the Ordinance will remain in effect. Each section, subsection, sentence, phrase, part, or portion of this Ordinance would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional.

Section 116.6. Amendments

This Ordinance shall not be amended except by a vote of the board of supervisors that furthers the purpose and intent of the Ordinance, or by a vote of the electorate.