

BOARD of SUPERVISORS



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MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Nicole Elliott, Mayor's Office

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: November 3, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Cohen on October 20, 2015:

File No. 151077

Ordinance amending the Administrative Code to remove prohibition on the advertising of sugar-sweetened beverages on City property.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
Todd Rydstrom, Office of the Controller
Crezia Tano, Office of Economic and Workforce Development

1 [Administrative Code - Advertising Sugar-Sweetened Beverages on City Property]

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3 **Ordinance amending the Administrative Code to remove prohibition on the advertising**
4 **of sugar-sweetened beverages on City property.**

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

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

13 Section 1. The Administrative Code is hereby amended by revising Section 4.20 to
14 read as follows:

15 **SEC. 4.20. TOBACCO PRODUCT, AND ALCOHOLIC BEVERAGE, ~~AND SUGAR-~~**
16 **~~SWEETENED BEVERAGE~~ ADVERTISING PROHIBITION.**

17 (a) No advertising of cigarettes or tobacco products, or alcoholic beverages, ~~or Sugar-~~
18 ~~Sweetened Beverages~~ shall be allowed on any property owned by or under the control of the City
19 and County of San Francisco, except as ~~exempted~~ stated in subsections (c) and (d) below. For
20 purposes of this Section 4.20, "alcoholic beverage" shall be as defined in California Business
21 and Professions Code section 23004 and shall not include cleaning solutions, medical
22 supplies, and other products and substances not intended for drinking, ~~and "Sugar-Sweetened~~
23 ~~Beverages" shall be as defined in subsection (e) below.~~

24 (b) This prohibition shall include the placement of the name of a company producing,
25 ~~selling, or distributing~~ cigarettes or tobacco products or alcoholic beverages, ~~the name of a~~

1 ~~company producing Sugar Sweetened Beverages,~~ or the name of any cigarette or tobacco product,
2 ~~or~~ alcoholic beverages, ~~or Sugar Sweetened Beverages,~~ in any promotion of any event or
3 promotion of any product or beverage on property owned by or under the control of the City
4 and County of San Francisco. ~~This prohibition shall not apply to any advertisement sponsored by a~~
5 ~~state, local, nonprofit or other entity designed to (1) communicate the health hazards of cigarettes and~~
6 ~~tobacco products, alcoholic beverages or Sugar Sweetened Beverages, (2) encourage people not to~~
7 ~~smoke or to stop smoking, or encourage people not to drink or to stop drinking alcohol or Sugar~~
8 ~~Sweetened Beverages, or (3) provide or publicize drug or alcohol treatment or rehabilitation services;~~
9 ~~nor shall this prohibition apply to the inclusion of the name of a company producing Sugar Sweetened~~
10 ~~Beverages, or the name of a charitable foundation containing any such company's name, on signage~~
11 ~~listing sponsors of a charitable event occurring on City property.~~

12 (c) All leases, permits, or agreements awarded by the City and County of San
13 Francisco allowing any person to use City property shall specifically provide that there shall be
14 no advertising of cigarettes or tobacco products; ~~or~~ alcoholic beverages; ~~or Sugar Sweetened~~
15 ~~Beverages~~ as set forth in this Section 4.20. These prohibitions on advertising shall only apply to
16 those leases, permits, or agreements entered into, renewed, or materially amended from and
17 after the effective date of the ordinance establishing the prohibition.

18 (d) City property used for operation of a restaurant, concert or sports venue, or other
19 facility or event where the sale, production, or consumption of alcoholic beverages is
20 permitted, shall be exempt from the alcoholic beverage advertising prohibition in subsections
21 (a) through (c) above, ~~and City property used for operation of a restaurant, concert or sports venue,~~
22 ~~or other facility or event where the sale or production of Sugar Sweetened Beverages is permitted,~~
23 ~~shall be exempt from the Sugar Sweetened Beverage advertising prohibition in subsections (a) through~~
24 ~~(c) above,~~ but ~~either of the~~ prohibitions may be made applicable by lease, permit, or agreement.

25 ~~(e) For purposes of this Section 4.20,~~

1 —~~"Caloric Substance" means a substance that adds calories to the diet of a person who~~
2 ~~consumes that substance.~~

3 —~~"Caloric Sweetener" means any Caloric Substance suitable for human consumption that~~
4 ~~humans perceive as sweet and includes, but is not limited to, sucrose, fructose, high fructose corn~~
5 ~~syrup, glucose and other sugars.~~

6 —~~"Medical Food" means medical food as defined in Section 109971 of the California Health~~
7 ~~and Safety Code, including amendments to that Section.~~

8 —~~"Milk" means natural liquid milk, natural milk concentrate or dehydrated natural milk~~
9 ~~(whether or not reconstituted) regardless of animal source or butterfat content. For purposes of this~~
10 ~~definition, "Milk" includes flavored milk containing no more than 40 grams of total sugar (naturally~~
11 ~~occurring and from added Caloric Sweetener) per 12 ounces.~~

12 —~~"Natural Fruit Juice" means the original liquid resulting from the pressing of fruit, the~~
13 ~~liquid resulting from the complete reconstitution of natural fruit juice concentrate, or the liquid~~
14 ~~resulting from the complete restoration of water to dehydrated natural fruit juice.~~

15 —~~"Natural Vegetable Juice" means the original liquid resulting from the pressing of~~
16 ~~vegetables, the liquid resulting from the complete reconstitution of natural vegetable juice concentrate,~~
17 ~~or the liquid resulting from the complete restoration of water to dehydrated natural vegetable juice.~~

18 —~~"Nonalcoholic Beverage" means any beverage that is not subject to tax under Part 14~~
19 ~~(commencing with Section 32001) of the California Revenue and Tax Code.~~

20 —~~"Sugar Sweetened Beverage" means any Nonalcoholic Beverage sold for human~~
21 ~~consumption that has one or more added Caloric Sweeteners and contains more than 25 calories per~~
22 ~~12 ounces of beverage, or any powder or syrup with added Caloric Sweetener that is used for mixing,~~
23 ~~compounding, or making Sugar Sweetened Beverages. Notwithstanding the foregoing sentence,~~
24 ~~"Sugar Sweetened Beverage" does not include any of the following:~~

25 —~~(1) Milk.~~

1 —(2) ~~Milk alternatives, including but not limited to non-dairy creamers or beverages~~
2 ~~primarily consisting of plant based ingredients (such as soy, rice, or almond milk products), regardless~~
3 ~~of sugar content.~~

4 —(3) ~~Any beverage that contains solely 100 percent Natural Fruit Juice, Natural Vegetable~~
5 ~~Juice, or combined Natural Fruit Juice and Natural Vegetable Juice.~~

6 —(4) ~~Any product sold for consumption by infants, which is commonly referred to as "infant~~
7 ~~formula," or any product whose purpose is infant rehydration.~~

8 —(5) ~~Medical Food.~~

9 —(6) ~~Any product designed as supplemental, meal replacement, or sole source nutrition that~~
10 ~~includes proteins, carbohydrates, and multiple vitamins and minerals.~~

11 —(7) ~~Any product sold in liquid form designed for use as an oral nutritional therapy for~~
12 ~~persons who may have a limited ability to absorb or metabolize dietary nutrients from traditional food~~
13 ~~or beverages.~~

14 —(8) ~~Any product sold in liquid form designed for use for weight reduction.~~

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

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21 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
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1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

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

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By: 
FRANCESCA GESSNER
Deputy City Attorney

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