



Sugar-Sweetened Beverage
Product Panel of Experts Commission

**Sugar-Sweetened Beverage Product
Panel of Experts Commission**
Thursday, February 18, 2021 – 4:30 to 6:30 pm

Virtual Meeting (ZOOM)

<https://us02web.zoom.us/j/84962084828?pwd=U2VLYjJlK1VTUFC3NlMxZ0Q1QzBMQT09>

Meeting ID: 849 6208 4828
Passcode: 462984

APPROVED AGENDA
(Please note the virtual meeting time)

Preliminary Matters

1. Roll Call
2. Approval of Draft Minutes from 1/21/2021 meeting - ***Attachment 1***

The public may comment virtually about any item **not** on the agenda. Public comments are limited to two minutes per speaker. Public comments regarding agenda items will be heard while the Commission is discussing the item.

Action Items

Public comments regarding agenda items will be heard while the Commission is discussing the item. Public comments are limited to two minutes per speaker.

1. **Subcommittee Reports:**
 - a. Prevention, Strategies and Outcomes
2. **Presentation: City Data Services Training** – 4:15-5pm.
3. **Action 1:** Discuss and approve the proposed scoring criteria questions for Berkeley Unified School District application for FY22 and FY23. (Commissioner Rose) – ***Attachment 2***
4. **Action 2:** Approve election of the Officers: Chair and Vice-Chair. (Commissioner Scheider)
5. **Action 3:** Discuss and approve the following recommendation regarding the City of Berkeley Sugar-Sweetened Beverage Procurement Resolution:

The SSBPPE recommends that the Berkeley City Council follow the example of the City and County of San Francisco and include all City sponsored events in the Procurement Resolution such that all City Contracts and Grants include the following language:

*“No person shall sell, provide, or otherwise distribute Sugar-Sweetened Beverages (as defined in the Sugar-Sweetened Beverage Product Distribution Tax - Chapter 7.72 .030 of the Berkeley Muni Code) as part of its performance of a City Contract or Grant.” – **Attachments 3a-c.***

A Vibrant and Healthy Berkeley for All

1947 Center Street, 2nd Floor, Berkeley, CA 94704 Tel: 510. 981.5300 TDD: 510.981.6903 Fax: 510. 981.5395
E-mail: publichealth@ci.berkeley.ca.us - <http://www.cityofberkeley.info/health/>

6. **Action 5:** For the good of the order. (Commissioner Scheider)

Information Items

1. Approved Meeting Minutes from 12/10/2020 – **Attachment 4**
2. FY2015-FY2021 City of Berkeley SSB Tax Revenues – **Attachments 5a-c**

CONFLICT OF INTEREST INFORMATION: City commissioners, pursuant to Government Code section 1090, are responsible for recusing themselves from all commission discussions and actions in which they may have a conflict of interest. If your affiliation, paid or unpaid, with other agencies has changed since the last meeting of this commission, your ability to participate in commission activities may have changed. Individual guidance is available from the City Attorney's Office (CAO). Commissioners are encouraged to consult with the CAO if they have questions, concerns, or would like clarification about matters related to potential conflicts of interest.

The CAO may be reached at:

Email: attorney@cityofberkeley.info

TEL: (510) 981-6950 TDD: (510) 981-6903, FAX: (510) 981-6960

2180 Milvia Street 4th Floor, Berkeley, CA 94704 - Office Hours: Mon-Fri, 8am-5pm

The next ZOOM meeting will be on Thursday, March 18, 2021 at the same time.

Please visit the City of Berkeley's Commission webpage

<http://www.cityofberkeley.info/commissions> for meeting details and updates.

AMERICAN DISABILITIES ACT DISCLAIMER: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 DISCLAIMER:

Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at the Public Health Division located on 1947 Center Street, Berkeley, CA 94704.

COMMUNICATION DISCLAIMER:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your

e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the commission secretary for further information.



Sugar-Sweetened Beverage Product Panel of Experts Commission

Thursday, January 21, 2021. 4:30 – 6:30 PM

Zoom Meeting

<https://us02web.zoom.us/j/81091200344?pwd=S1h3Z001ZUw3SXJxNG9ibEdhcVFvQT09>

Meeting ID: 810 9120 0344

Passcode: 331747

DRAFT MEETING MINUTES

The meeting convened at 4:37 pm.

ROLL CALL

Present: Commissioners Browne (5:10pm), Crawford (4:50pm), Gallegos-Castillo, Moore (5:15pm), Morales, Namkung, Rose, and Scheider

Absent: None.

Excused: None

Staff present: Kelly Wallace, Janice Chin, and Dechen Tsering

COMMENTS FROM THE PUBLIC

Jezra Thompson, Berkeley Unified School District
Dr. Vicki Alexander, Healthy Black Families

ACTION ON MINUTES

Approval of Minutes - Moved to approve the draft minutes of the meeting on 12/10/2020.

M/S/C: Commissioners Morales/Scheider

Ayes: Commissioners Gallegos-Castillo, Morales, Namkung, Rose, and Scheider

Noes: None

Abstain: None

Absent from vote: Commissioners Browne, Crawford, Moore

Recused: None

Excused: None

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ACTION ITEMS

- 1. Approved to adopt the proposed schedule of SSBPPE meeting dates in 2021 with proposed edits: move July meeting to March 20, 2021 at 10am.**

M/S/C: Commissioners Scheider/Gallegos-Castillo

Ayes: Commissioners Crawford, Gallegos-Castillo, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne and Moore
Recused: None
Excused: None

- 2. Approve to nullify the previous (#1) approval of SSBPPE meeting dates and adopt the revised 2021 meeting dates as follows:**

Month	Meeting Day and Date	Time
January 2021	Thursday 1/21/2021	4:30 pm
February 2021	Thursday 2/18/2021	4:30 pm
March 2021	Thursday 3/18/2021 Saturday 3/20/2021	4:30 pm 10:00am
April 2021	Thursday 4/1/2021	4:30 pm
May 2021	Thursday 5/20/2021	4:30 pm
June 2021	Thursday 6/17/2021	4:30 pm

Month	Meeting Day and Date	Time
July 2021	Moved to 3/20/2021	
August 2021	No Meeting	
September 2021	Thursday 9/16/2021	6:30 pm
October 2021	Thursday 10/21/2021	6:30 pm
November 2021	Thursday 11/18/2021	6:30 pm
December 2021	No Meeting	

M/S/C: Commissioners Scheider/Namkung

Ayes: Commissioners Browne, Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: None
Recused: None

Excused: None

- 3. Approve the proposed SSBPPE FY21 Work Plan with edits including deleting #2 and #3 in the Policy Subcommittee's draft work plan.**

M/S/C: Commissioners Scheider/Namkung

Ayes: Commissioners Browne, Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider

Noes: None

Abstain: None

Absent from vote: None

Recused: None

Excused: None

This meeting adjourned at 6:30 pm.

NEXT ONLINE (ZOOM) SPECIAL MEETING:

The next meeting is scheduled for **Thursday, February 18, 2021**. Please check the SSBPPE Commission page on the City of Berkeley Commission webpage for updated information.

Respectfully Submitted, Dechen Tsering, Commission Secretary
Minutes will be approved at the February 18, 2021 meeting.

Selection Criteria and Screening Questions for Berkeley Unified School District for RFP FY22 and FY23

REVIEWER:

APPLICANT: BUSD

		Lowest Score Level				Highest Score Level	Max. Score per Criteria
1	Does the proposal propose to decrease access to sugary drinks and/or improve access to drinking water (15%)	0.00	5.00	10.00	15.00	20.00	20.00
1.1	Does the proposed intervention decrease access to sugary drinks?	No	Minimal	Some	Yes but not explicitly	Explicitly	
1.2	Does the proposed intervention improve access to drinking water?	No	Minimal	Some	Yes but not explicitly	Explicitly	
1.3	Does the proposal include a policy to improve the beverage environment to reduce access to SSBs or increase access to water ?	None	mentions role of policy but no policy stated	mentions policy though not clear	clear policy not yet adopted	already adopted a clear policy	
2	Does the proposal increase or strengthen SSB policies in school and outside of school? (20%)	0.00	5.00	10.00	15.00	20.00	20
2.1	Does the proposal include policy change?	No	Minimal	Some	Yes but not explicitly	Explicitly	
2.2	Does the proposal help strengthen SSB policies in/outside schools?	No	Minimal	Some	Yes but not explicitly	Explicitly	
2.2	Does the proposal articulate clear strategies to improve the beverage environment inside and/or outside schools?	No	mentions importance of strategy but none articulated	mentions strategies though not clear what they are or how they improve the beverage env.	clear strategies articulated to improve the beverage env.	very clearly described strategies with demonstrated success in the past	
3	Does the proposal support the annual administration of the Berkeley adopted Youth Risk Behaviour Survey to evaluate students' SSB knowledge, consumption, access and policy perceptions? (20%)	0	5	10	15	20	20
3.1	Are the proposed activities informed by evidence-based research (EBR)?	No/Can't tell	Mentions EBR but doesn't link to the proposed program.	Mentions evidence with some link to program	Clearly linked to and informed by EBR	Very clearly articulated and informed by EBR with example	
3.2	Does the proposal address changes in knowledge, consumption, access and/or perceptions among BUSD students?	No	Minimal	Some	Yes but not explicitly	Explicitly	



Sugar-Sweetened Beverage
Product Panel of Experts Commission

ACTION CALENDAR
November 19, 2019

To: Honorable Mayor and Members of the City Council
From: Sugar Sweetened Beverage Product Panel of Experts (SSBPPE)
Submitted by: Poki Namkung, Chairperson, SSBPPE Commission
Subject: Recommendation that the City Council pass a resolution regarding procurement, sales and serving of sugar-sweetened beverages.

RECOMMENDATION

The Sugar Sweetened Beverage Product Panel of Experts recommends that the Berkeley City Council adopt a Resolution that City of Berkeley departments and City food services contractors shall not:

- 1) serve sugar-sweetened beverages at City meetings and events on City property;
- 2) procure sugar-sweetened beverages with City funds; or,
- 3) sell sugar-sweetened beverages on City property, including in vending machines.

FISCAL IMPACTS OF RECOMMENDATION

Cost of promulgating information, notifying City Departments and revising clauses in City contracts.

CURRENT SITUATION AND ITS EFFECTS

Currently, the City of Berkeley has no policy regarding either the procurement of sugar-sweetened beverages with City funds or the sales or distribution of sugar-sweetened beverages at City meetings and events or on City property.

Definitions: Sugar-sweetened beverages or SSBs refer to all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, as defined in Chapter 7.72 of the City of Berkeley Municipal Code.¹ SSBs include juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks. These drinks offer little or no nutritional value, but include massive quantities of added sugar. For instance, a single 20-ounce bottle of soda typically contains the equivalent of approximately 16 teaspoons of sugar.

In BMC Chapter 7.72, SSBs exclude 100% juice, diet drinks, waters, and milk drinks as well as medical drinks and baby formula.

BACKGROUND

In November of 2014, the Berkeley voters passed Measure D with 76% of the vote, which requires both the collection of a 1 cent-per-ounce tax on the distribution of SSBs in the City of Berkeley and the convening of the Sugar Sweetened Beverage Products Panel of Experts (SSBPPE) to recommend investments to both reduce the consumption of SSBs as well as to address the health consequences of the consumption of SSBs including diabetes, dental caries, heart disease and obesity.ⁱⁱ

To accomplish these goals, the SSBPPE recommended that the City create the Healthy Berkeley program to reduce the consumption of sugar-sweetened beverages (“SSB”) in Berkeley and to address the effects of SSB consumption. The City Council unanimously adopted this recommendation on November 29, 2016 and awarded a \$1.5 million per year investment to be granted to community agencies and the Berkeley Unified School District garden and nutrition program. \$225,000, or 15%, of this funding is allocated to the City Public Health Division to administer and evaluate the Healthy Berkeley Program. See November 29, 2016, Council agenda items 33a and 33b.ⁱⁱⁱ

The City of Berkeley requires that all Healthy Berkeley funded programs (including the school district) adopt an organizational policy curtailing the service, procurement and sale of SSBs. The purpose of these organizational policies is to change norms in our community about consuming sugary drinks and support the educational work of these programs.

We know from the public health campaigns to reduce tobacco use, that institutional policies that change norms have a powerful impact on behavior and are a vital tool to improving health in our communities. Education and media campaigns are not enough to change behaviors, especially when pervasive and persuasive marketing by corporations influence choices that people make, and when there is an addictive aspect to the behavior as is the case with both tobacco and sugar.^{iv}

ENVIRONMENTAL SUSTAINABILITY

None

RATIONALE FOR RECOMMENDATION

In 2014, Berkeley voters overwhelmingly passed Measure D and since then the City of Berkeley has led the effort to reduce the consumption of sugary drinks and resulting health impacts and disparities, not only in Berkeley but also in the Bay Area and nationwide. Sales of sugary beverages have decreased and school and community groups have been funded to continue the effort to reduce sugary drink consumption and improve health. Now is an opportune time for the City to once again provide leadership for City employees and the community by enacting a healthy beverage policy for the City that restricts procurement of sugary drinks as well as the serving and sales of sugary drinks at City events. This policy would be responsive to the will of the voters, supportive of school and community efforts to improve Berkeley residents' health, and a

model to other cities. This policy will align the City with Healthy Berkeley grantees who have already adopted similar policies. The SSBPPE encourages the City to take this step to set an example and demonstrate its own commitment to the further reducing sugary drink consumption and improvement in community health.

ALTERNATIVE ACTIONS CONSIDERED

In January 2018, the SSSBPPE voted to recommend that the Berkeley City Council adopt an Ordinance amending the Administrative Code to direct the City of Berkeley departments and City food services contractors to refrain from: 1) Procuring sugar-sweetened beverages with City funds; 2) Selling sugar-sweetened beverages on City property, including in vending machines; and, 3) Serving sugar-sweetened beverages at City meetings and events on City property. On March 27, 2018, the City Council voted to refer the recommendation to the City Manager and request that the City Manager draft an ordinance for consideration by the City Council. In June 2018, the City Council ranked this ordinance around 32 among items to develop for the City. No further action was taken until May of 2019, when Council Member Harrison reached out to Holly Scheider, her appointee on the SSBPPE, and suggested that the Commission put forward a Resolution in place of an Ordinance with the same content.

CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission's Report. [OR] Refer to the budget process.

Note: If the City Manager does not (a) concur, (b) takes any other position, or (c) refer to the budget process, a council action report must be prepared. Indicate under the CITY MANAGER heading, "See companion report."

CONTACT PERSON

Dechen Tsering

Attachment:

1: Resolution

Exhibit A: RESOLUTION ESTABLISHING CITY POLICY / AMENDING THE ADMINISTRATIVE CODE TO DIRECT CITY OF BERKELEY DEPARTMENTS AND CONTRACTORS TO REFRAIN FROM PROCURING, SERVING OR SELLING SUGARY DRINKS

RESOLUTION NO. ##,###-N.S.

RESOLUTION ESTABLISHING CITY POLICY / AMENDING THE ADMINISTRATIVE CODE TO DIRECT CITY OF BERKELEY DEPARTMENTS AND CONTRACTORS TO REFRAIN FROM PROCURING, SERVING OR SELLING SUGARY DRINKS

WHEREAS, the City of Berkeley is known for its commitment to reducing inequities in diet and disease and in promoting access to healthy food and beverages.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of becoming diabetic.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of early death from cardiovascular disease.

WHEREAS, city employees deserve a healthy work environment, with an increased variety of healthier low-sugar alternative beverages such as flavored waters, plain or carbonated water, 100% juice, milk drinks, diet drinks, unsweetened or artificially sweetened iced teas and coffee drinks.

WHEREAS, it is recognized that city staff are free to bring and consume their own sugary beverages at work.

WHEREAS, other public institutions that have completely eliminated the sales of sugar sweetened beverages on their premises and have demonstrated that as a result, positive changes have been documented in the staff's metabolic disease indicators associated with lower risk of diabetes and heart disease

WHEREAS, giving City employees access to healthier beverages in the workplace will increase healthy beverage consumption and reduce the impact of diet-related disease, thus reducing the City's health care expenses.

WHEREAS, the City of Berkeley requires that *all* organizations receiving funding from Healthy Berkeley not serve or sell sugar sweetened beverages on their premises.

WHEREAS, the Berkeley Unified School District does not serve or sell soda to students of all ages and students on their premises and this contributes to positive adult role modeling regarding healthy beverage consumption.

WHEREAS, Chapter 7.72 of the City of Berkeley Municipal Code^v has already defined sugar-sweetened beverages as all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, including juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks which offer little or no nutritional value, but include massive quantities of added sugar and in addition,

Berkeley Municipal Code Chapter 7.72 also defines exemptions and thus excludes waters, 100% juice, milk drinks, diet drinks, as well as medical drinks and baby formula.

THEREFORE BE IT RESOLVED that the City of Berkeley and City food services contractors **shall not**:

- 1) serve sugar-sweetened beverages at City meetings and events on City property,
- 2) procure sugar-sweetened beverages with City funds; and,
- 3) sell sugar-sweetened beverages on City property, including in vending machines.

ⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley

ⁱⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley

ⁱⁱⁱ Berkeley Nov. 29, 2016 agenda:

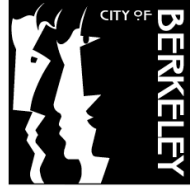
https://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/City_Council_11-29-2016_-_Regular_Meeting_Agenda.aspx Language in the Nov. 29, 2016 Resolution, Agenda item 33a, pages 9 and 11, follows:

“BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses.”

“Funded organizations must have in place or agree to adopt prior to being funded an organizational policy prohibiting serving SSBs at organization sponsored events or meetings.”

^{iv} <https://www.theatlantic.com/health/archive/2014/01/the-sugar-addiction-taboo/282699/>

^v B.M.C. 7388-NS § 7.72, 2014, City of Berkeley



**BERKELEY CITY COUNCIL HEALTH, LIFE ENRICHMENT, EQUITY &
COMMUNITY COMMITTEE
REGULAR MEETING MINUTES**

**Monday, February 24, 2020
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Councilmembers Rashi Kesarwani, Ben Bartlett, and Sophie Hahn
Alternate: Councilmember Rigel Robinson

Roll Call: 10:06 a.m. Councilmember Kesarwani absent.

Public Comment on Non-Agenda Matters – 2 speakers

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - February 10, 2020

Action: M/S/C (Bartlett/Hahn) to approve the minutes of January 10, 2020.

Vote: Ayes – Bartlett, Hahn; Noes – None; Abstain – None; Absent – Kesarwani.

Councilmember Kesarwani present at 10:08 a.m.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

Committee Action Items

2. **Listening Session on Homelessness (15 minutes) – 2 speakers**
3. **Healthy Checkout Ordinance** *(Item contains revised materials)*
From: Councilmembers Harrison and Hahn
Referred: October 28, 2019
Due: April 26, 2020
Recommendation: 1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Item continued to next meeting on March 9, 2020.
- 4a. **Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales and Serving of Sugar-Sweetened Beverages.**
From: Sugar Sweetened Beverage Product Panel of Experts
Referred: January 21, 2020
Due: June 9, 2020
Recommendation: The Sugar Sweetened Beverage Product Panel of Experts recommends that the Berkeley City Council adopt a Resolution that City of Berkeley departments and City food services contractors shall not: 1. Serve sugar-sweetened beverages at City meetings and events on City property; 2. Procure sugar-sweetened beverages with City funds; or, 3. Sell sugar-sweetened beverages on City property, including in vending machines.
Financial Implications: See report
Contact: Dechen Tsering, Commission Secretary, (510) 981-5300
- 4b. **Companion Report: Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales, and Serving Sugar-Sweetened Beverages**
From: City Manager
Referred: January 21, 2020
Due: June 9, 2020
Recommendation: Recommend that the City Council adopt an amended resolution that recognizes the important principles in the Commission recommendation, clarifies the intent of the measure and provides some flexibility for City programs and staff while still emphasizing availability of healthy options. This amended resolution would require that the majority of all beverages provided or sold at any City event or on any City property (including vending machines) be non-sugar sweetened beverages (as defined in chapter 7.72 of the Berkeley Municipal Code) and education materials be provided to all COB staff to actively discourage the consumption of sugar-sweetened beverages and encourage the consumption of water.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Committee Action Items

Action: 3 speakers. Discussion held. M/S/C (Hahn/Bartlett) to move an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause:

Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and
2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

Vote: All Ayes.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

5a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: Housing Advisory Commission

Referred: October 29, 2019

Due: April 27, 2020

Recommendation: Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

1. Increase staffing to implement enforcement of the ordinance as part of the next budget;
2. Improve signage related to the ordinance in residential buildings;
3. Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge;
4. Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
5. Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

5b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: City Manager

Referred: October 29, 2019

Due: April 27, 2020

Recommendation: The City Manager appreciates the Housing Advisory Commission’s efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Items for Future Agendas

- **Discussion of items to be added to future agendas**
 - Add a presentation item to the March 23, 2020, agenda regarding the public health implications for the unsanitary conditions in Aquatic Park.
- **Discussion of future hearings and open forums**

Adjournment

Adjourned at 12:17 p.m.

I hereby certify that this is a true and correct record of the Health, Life Enrichment, Equity & Community Committee meeting held on February 24, 2020.

April Richardson, Assistant City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.

SUBSTITUTE
5/19/2015

FILE NO. 150243

ORDINANCE NO. 99-15

1 [Administrative Code - Barring City Departments from Purchasing and City Contractors or
2 Grantees from Selling or Distributing Sugar-Sweetened Beverages]

3 **Ordinance amending the Administrative Code to bar City departments from using City**
4 **funds to purchase sugar-sweetened beverages and to bar the sale or distribution of**
5 **sugar-sweetened beverages under City contracts and grants.**

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

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

15 Section 1. The Administrative Code is hereby amended by adding Chapter 101,
16 Sections 101.1 through 101.7, to read as follows:

17 **CHAPTER 101. RESTRICTING THE PURCHASE, SALE, OR DISTRIBUTION**
18 **OF SUGAR-SWEETENED BEVERAGES BY OR FOR THE CITY.**

19 Section 101.1. Title.

20 Section 101.2. Definitions.

21 Section 101.3. Barring City Departments From Using City Funds To Purchase
22 Sugar-Sweetened Beverages.

23 Section 101.4. Barring the Sale, Provision, or Distribution of Sugar-Sweetened Beverages
24 Under a City Contract or Grant.

25 Section 101.5. Waivers and Exclusions.

Section 101.6. Enforcement and Penalties.

1 Section 101.7. Administrative Regulations.

2
3 **SEC. 101.1. TITLE.**

4 The title of this Chapter 101 shall be the Sugar-Sweetened Beverage Funding Ban Ordinance.

5
6 **SEC. 101.2. DEFINITIONS.**

7 For purposes of this Chapter 101,

8 “Base Product” means the same as Powder.

9 “Beverage Dispensing Machine” means an automated device that mixes Concentrate with one
10 or more other ingredients and dispenses the resulting mixture into an open container as a ready-to-
11 drink beverage.

12 “Caloric Substance” means a substance that adds calories to the diet of a person who
13 consumes that substance.

14 “Caloric Sweetener” means any Caloric Substance suitable for human consumption that
15 humans perceive as sweet and includes, but is not limited to, sucrose, fructose, high fructose corn
16 syrup, glucose and other sugars.

17 “City” means the City and County of San Francisco.

18 “Concentrate” means a Syrup, Powder, or Base Product that is used for mixing, compounding,
19 or making Sugar-Sweetened Beverages in a Beverage Dispensing Machine. Notwithstanding the
20 foregoing sentence, “Concentrate” does not include the following:

21 (a) Any product that is designed to be used primarily to prepare coffee or tea.

22 (b) Any product that is sold and is intended to be used for the purpose of an individual
23 consumer mixing, compounding, or making a Sugar-Sweetened Beverage.

24 (c) Any product sold for consumption by infants, which is commonly referred to as
25 “infant formula,” or any product whose purpose is infant rehydration.

1 (d) Medical Food.

2 (e) Any product designed as supplemental, meal replacement, or sole-source nutrition
3 that includes proteins, carbohydrates, and multiple vitamins and minerals.

4 “Contract” means any agreement between the City and a person to provide or procure
5 labor, materials, equipment, supplies, or services to, for, or on behalf of the City for a price to be paid
6 out of monies deposited in the City Treasury or out of trust monies under the control of or collected by
7 the City, but excluding agreements for a cumulative amount of \$5,000 or less per vendor in each fiscal
8 year.

9 “Grant” means any agreement between the City and a nonprofit entity to provide services to the
10 public or a portion of the public, whether the agreement is funded by the City or by Federal or State
11 grant funds.

12 “Medical Food” means medical food as defined in Section 109971 of the California Health and
13 Safety Code, including amendments to that Section.

14 “Milk” means natural liquid milk, natural milk concentrate, or dehydrated natural milk
15 (whether or not reconstituted), regardless of animal source or butterfat content. For purposes of this
16 definition, “Milk” includes flavored milk containing no more than 40 grams of total sugar
17 (naturally-occurring and from added Caloric Sweetener) per 12 ounces.

18 “Natural Fruit Juice” means the original liquid resulting from the pressing of fruit, the liquid
19 resulting from the complete reconstitution of natural fruit juice concentrate, or the liquid resulting from
20 the complete restoration of water to dehydrated natural fruit juice.

21 “Natural Vegetable Juice” means the original liquid resulting from the pressing of vegetables,
22 the liquid resulting from the complete reconstitution of natural vegetable juice concentrate, or the
23 liquid resulting from the complete restoration of water to dehydrated natural vegetable juice.

24 “Nonalcoholic Beverage” means any beverage that is not subject to tax under Part 14
25 (commencing with Section 32001) of the California Revenue and Taxation Code.

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

3 "Powder" means a solid or liquid mixture of ingredients with added Caloric Sweetener used in
4 making, mixing, or compounding Sugar-Sweetened Beverages by mixing the Powder with any one or
5 more other ingredients, including, without limitation, water, ice, Syrup, Simple Syrup, fruits,
6 vegetables, fruit juice, vegetable juice, or carbonation or other gas.

7 "Simple Syrup" means a mixture of sugar and water.

8 "Sugar-Sweetened Beverage" means any Nonalcoholic Beverage sold for human consumption
9 that has one or more added Caloric Sweeteners and contains more than 25 calories per 12 ounces of
10 beverage. Notwithstanding the foregoing sentence, "Sugar-Sweetened Beverage" does not include any
11 of the following:

12 (a) Milk.

13 (b) Milk alternatives, including but not limited to non-dairy creamers or beverages
14 primarily consisting of plant-based ingredients (such as soy, rice, or almond milk products), regardless
15 of sugar content.

16 (c) Any beverage that contains solely 100 percent Natural Fruit Juice, Natural
17 Vegetable Juice, or combined Natural Fruit Juice and Natural Vegetable Juice.

18 (d) Any product sold for consumption by infants, which is commonly referred to as
19 "infant formula," or any product whose purpose is infant rehydration.

20 (e) Medical Food.

21 (f) Any product designed as supplemental, meal replacement, or sole-source nutrition
22 that includes proteins, carbohydrates, and multiple vitamins and minerals.

23 (g) Any product sold in liquid form designed for use as an oral nutritional therapy for
24 persons who may have a limited ability to absorb or metabolize dietary nutrients from traditional food
25 or beverages.

1 (h) Any product sold in liquid form designed for use for weight reduction.

2 “Syrup” means the liquid mixture of ingredients used in making, mixing, or compounding
3 Sugar-Sweetened Beverages using one or more ingredients, including, without limitation, water, ice, a
4 Base Product, Powder, Simple Syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or
5 other gas.

6
7 **SEC. 101.3. BARRING CITY DEPARTMENTS FROM USING CITY FUNDS TO PURCHASE**
8 **SUGAR-SWEETENED BEVERAGES.**

9 No City officer, department, or agency (collectively, "department") shall use City funds to
10 purchase Sugar-Sweetened Beverages in any form, except as specifically exempted from or allowed
11 under this Chapter 101.

12
13 **SEC. 101.4. BARRING THE SALE, PROVISION, OR DISTRIBUTION OF SUGAR-**
14 **SWEETENED BEVERAGES UNDER A CITY CONTRACT OR GRANT.**

15 No person shall sell, provide, or otherwise distribute Sugar-Sweetened Beverages, in any form,
16 as part of its performance of a City Contract or Grant.

17
18 **SEC. 101.5. WAIVERS AND EXCLUSIONS.**

19 (a) A City officer, department, or agency (collectively, "department"), with the approval of the
20 Purchaser, may waive the requirements of Sections 101.3 and 101.4 in full or in part if the department
21 determines that strict application of the requirement would not be feasible, would create an undue
22 hardship or practical difficulty, or that similar circumstances otherwise warrant granting of the waiver.
23 The department's decision to grant a waiver shall be in writing.

24 (b) The provisions of Sections 101.3, 101.4, or both, shall not apply where the department
25 makes a written finding that the application or inclusion of such provisions would violate or be

1 inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State
2 of California or the United States or the instructions of an authorized representative of any such
3 agency with respect to any such grant, subvention or contract.

4 (c) The provisions of Sections 101.3 shall not apply to the purchase by the Department of
5 Public Health of Sugar-Sweetened Beverages for its patients, to be used in cases where a medical
6 professional has determined that providing such beverages is part of the appropriate course of
7 treatment for the patient. The provisions of Sections 101.4 shall not apply to the sale, provision, or
8 other distribution of Sugar-Sweetened Beverages to patients as part of the performance of a Contract
9 with or a Grant from the Department of Public Health in cases where a medical professional has
10 determined that supplying such beverages is part of the appropriate course of treatment for the patient.

11 (d) Nothing in this Chapter 101 shall be construed to impair a contract, lease, management
12 agreement or other agreement to which the City is a party on the effective date of this Chapter.

13 (e) Departments shall annually report all waivers granted under subsection (a) and
14 determinations of non-applicability made under subsections (b) and (c) to the City Administrator, and
15 include the reason for each waiver.

16
17 **SEC. 101.6. ENFORCEMENT AND PENALTIES.**

18 (a) Any person that sells, provides, or otherwise distributes Sugar-Sweetened Beverages in
19 violation of Section 101.4 may be subject to administrative fines imposed by the City Administrator in
20 the amount of:

21 (1) Up to \$500 for the first violation;

22 (2) Up to \$750 for a second violation within a twelve-month period; and,

23 (3) Up to \$1,000 for a third and subsequent violations within a twelve-month period.

24 (b) Except as provided in subsection (a), setting forth the amount of administrative fines,
25 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as

1 may be amended from time to time, is hereby incorporated in its entirety and shall govern the
2 imposition, enforcement, collection, and review of administrative citations issued by the Director to
3 enforce this Chapter 101 or any administrative regulation adopted under this Chapter.

4 (c) Any person that sells, provides, or otherwise distributes Sugar-Sweetened Beverages in
5 violation of Section 101.4 shall be deemed to have committed a material breach of the Contract or
6 Grant and, after a noticed hearing, the person or entity may be barred for two years from receiving any
7 City contract, grant agreement, or loan agreement.


8
9 **SEC. 101.7. ADMINISTRATIVE REGULATIONS.**

10 The City Administrator, or at the City Administrator's discretion, the Purchaser, may adopt
11 rules, regulations, or guidelines for the implementation of this Chapter 101.

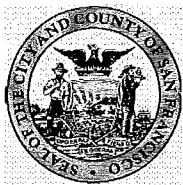
12
13 Section 2. Effective and Operative Dates. This ordinance shall become effective 30
14 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
15 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
16 or the Board of Supervisors overrides the Mayor's veto of the ordinance. The operative date
17 of this ordinance shall be September 1, 2015.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21
22 By:


23 THOMAS J. OWEN
24 Deputy City Attorney

25 n:\egana\as2015\1500454\01015759.docx



City and County of San Francisco

Tails
Ordinance

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

File Number: 150243

Date Passed: June 16, 2015

Ordinance amending the Administrative Code to bar City departments from using City funds to purchase sugar-sweetened beverages and to bar the sale or distribution of sugar-sweetened beverages under City contracts and grants.

June 01, 2015 Land Use and Transportation Committee - RECOMMENDED

June 09, 2015 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

June 16, 2015 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150243

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/16/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

6/25/15

Date Approved



Sugar-Sweetened Beverage Product Panel of Experts Commission

Thursday, December 10, 2020. 4:30 – 6:30 PM

Zoom Meeting

<https://us02web.zoom.us/j/81091200344?pwd=S1h3Z001ZUw3SXJxNG9ibEdhcVFvQT09>

Meeting ID: 810 9120 0344

Passcode: 331747

APPROVED SPECIAL MEETING MINUTES

The meeting convened at 4:37 pm.

ROLL CALL

Present: Commissioners Crawford (4:50pm), Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Absent: Commissioner Browne.
Excused: None

Staff present: Dechen Tsering

COMMENTS FROM THE PUBLIC None

ACTION ON MINUTES

Approval of Minutes - Moved to approve the draft minutes of the meeting on 11/19/2020.

M/S/C: Commissioners Rose/Gallegos-Castillo

Ayes: Commissioners Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioners Browne and Crawford
Recused: None
Excused: None

A Vibrant and Healthy Berkeley for All

ACTION ITEMS

- 1. Approved the draft Request for Proposal (RFP) presented by the Prevention, Strategies and Outcomes subcommittee.**

M/S/C: Commissioners Namkung/Gallegos-Castillo

Ayes: Commissioners Crawford, Gallegos-Castillo, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: Commissioner Moore
Absent from vote: Commissioner Browne
Recused: None
Excused: None

- 2. Approve to extend the meeting till 6:45pm.**

M/S/C: Commissioners Rose/Scheider

Ayes: Commissioners Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne
Recused: None
Excused: None

- 3. Approve the RFP scoring tool with proposed language and with the public health staff finalizing the format and point tabulation system.**

M/S/C: Commissioners Rose/Moore

Ayes: Commissioners Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne
Recused: None
Excused: None

- 4. Absent the previous motion approving the Request for Proposal (RFP) and move to approve the amended RFP with added edits agreed to during the discussion about the scoring tool.**

M/S/C: Commissioners Namkung/Scheider

Ayes: Commissioners Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne
Recused: None
Excused: None

5. Approve to extend the meeting till 7pm.

M/S/C: Commissioners Scheider/Rose

Ayes: Commissioners Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne
Recused: None
Excused: None

6. Approve to share the scoring tool along with the RFP for the public.

M/S/C: Commissioners Moore/Crawford

Ayes: Commissioners Crawford, Gallegos-Castillo, Moore, Morales, Namkung, Rose, and Scheider
Noes: None
Abstain: None
Absent from vote: Commissioner Browne
Recused: None
Excused: None

This meeting adjourned at 7:00 pm.

NEXT ONLINE (ZOOM) SPECIAL MEETING:

The next meeting is scheduled for **Thursday, January 21, 2021**. Please check the SSBPPE Commission page on the City of Berkeley Commission webpage for updated information.

Respectfully Submitted, Dechen Tsering, Commission Secretary
Minutes were approved at the January 21, 2021 meeting.



City of Berkeley
Soda Tax Revenue; Actual vs. Estimated Revenue
For the Months of FY 2015 - FY 2021
Presentation to SSBPPE Commission on 1.21.2021

	Actual Revenue	Est. Revenue	Variance	Total Variance
FY 2015	\$ 242,986.39			
FY 2016	\$ 1,757,271.70			
FY 2017	\$ 1,578,389.00			
FY 2018	\$ 1,517,949.28	\$ 1,500,000.00		
FY 2019	\$ 1,606,177.23	\$ 1,500,000.00		
FY2020 (Gross)	\$ 1,378,196.46	\$ 1,500,000.00		
FY2020 (Net)*	\$ 1,308,632.53	\$ 1,500,000.00	\$ (191,367.47)	
<i>Budgeted</i>				\$ (781,989.35)
FY2021 (Est. Gross)	\$ 970,794.00	\$ 1,500,000.00		
FY2021 (Est. Net)	\$ 909,378.12	\$ 1,500,000.00	\$ (590,621.88)	
Estimated revenue:	Gross	Net		
FY22	\$ 1,401,278	\$ 1,331,252		
FY23	\$ 1,401,278	\$ 1,331,252		
	\$ 2,802,556	\$ 2,662,505		

* - FY20 first year to show net figures, all years prior, through FY19 = gross figures.

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City of Berkeley
Soda Tax Revenue-FY 2020

For the Months of July 2019 - June 2020
Presented to the SSBPPE Commission on 1.21.2021

Month	Amount	
Jul-19	117,276.00	
Aug-19	136,505.87	
Sep-19	129,384.50	
Oct-19	113,242.67	
Nov-19	146,773.53	
Dec-19	146,013.74	
Jan-20	121,333.67	
Feb-20	125,336.18	
<i>Mar-20</i>	<i>92,675.68</i>	<i>Post-shutdown</i>
<i>Apr-20</i>	<i>101,524.50</i>	
<i>May-20</i>	<i>64,301.87</i>	
<i>Jun-20</i>	<i>83,828.25</i>	
Gross Revenue	\$ 1,378,196.46	
Less: 2% Fees	\$ (27,563.93)	
Less: Finance	\$ (42,000.00)	
Net Revenue	\$ 1,308,632.53	

FY 2015	\$ 242,986.39
FY 2016	1,757,271.70
FY 2017	1,578,389.00
FY 2018	1,517,949.28
FY 2019	-
<i>FY 2020</i>	<i>1,308,632.53</i>
Total	\$ 6,405,228.90

* Italicized years are net, not gross revenue figures.

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City of Berkeley
Soda Tax Revenue-FY 2021
For the Months of July 2020 - June 2021
Presented to the SSBPPE Commission on 1/21/2021

Month	Amount
Jul-20	77,220.73
Aug-20	76,953.28
Sep-20	108,071.92
Oct-20	87,711.55
Nov-20	
Dec-20	
Jan-21	
Feb-21	
Mar-21	
Apr-21	
May-21	
Jun-21	
Gross Revenue	\$ 349,957.48
Less: 2% Fees	\$ (6,999.15)
Less: Finance	\$ (14,000.00)
Net Revenue	\$ 328,958.33

(2% of gross revenue collected)
 (1/3 of \$42,000)

FY 2015	\$ 242,986.39
FY 2016	\$ 1,757,271.70
FY 2017	\$ 1,578,389.00
FY 2018	\$ 1,517,949.28
FY 2019	\$ 1,606,177.73
FY 2020 (net)	\$ 1,308,632.53
FY 2021 (net YTD)	\$ 328,958.33
Total	\$ 8,340,364.96

Variance FY20 pre-COVID to FY21 post shutdown

FY20	Actual Rev	Var. from FY21
Jul-19	\$ 117,276.00	\$ (40,055.27)
Aug-19	\$ 136,505.87	\$ (59,552.59)
Sep-19	\$ 129,384.50	\$ (21,312.58)
Oct-19	\$ 113,242.67	\$ (25,531.12)
	\$ 496,409.04	\$ (146,451.56)

-30%