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The City of Berkeley, Health, Life Enrichment, Equity & Community Policy Committee
Webpage:

https://www.cityofberkeley.info/Clerk/Home/Policy_Committee_Health,_Life_Enrichment,_Equity_Community.aspx

ORDINANCE NO. -N.S.

ADDING CHAPTER 9.82 TO THE BERKELEY MUNICIPAL CODE "HEALTHY CHECKOUT"

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code is amended to read as follows:

9.82.010. Findings and Purpose.

The City of Berkeley hereby finds and declares as follows:

- A. Diets with an excess of added sugars and sodium are correlated to chronic health issues including diabetes, high blood pressure, and stroke.
- B. Grocery stores are Americans' top source for food and beverages, contributing an average of 60% of caloric intake.
- C. Food choices are strongly affected by the environments in which they are made. The placement of unhealthy snacks near a register increases the likelihood that consumers will purchase those foods and drinks, thus undermining consumer health choices and public health initiatives.
- D. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
- E. This Chapter is consistent with the General Provisions of Environmental Health of the City (Berkeley Municipal Code 11.04).

9.82.020. Definitions.

- A. Added Sugars shall mean sugars added during the processing of food and beverages, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, as defined in Section [101.9](#) of Title 21 of the Code of Federal Regulations.
- B. Artificial Sweetener shall mean sweeteners with few to no calories that have a higher intensity of sweetness per gram than sucrose.
- C. Category List shall mean the list of foods and beverages which meet the standards of BMC 9.82.030.
- D. Checkout Area shall mean any area that is accessible to a customer of the Large Retail Store that is
 - i. within **XX** feet of any Register; or
 - ii. in an area in the Large Retail Store which is designated only for

customers to wait in line to make a purchase.

- E. "Register" shall mean a device used for monetary transactions that calculates the sales of goods and displays the amount of sales for the customer.
- F. "Large Retail Store" shall mean a commercial establishment selling goods to the public with a total floor area of 2,500 square feet or more and selling 25 linear feet or more of food.

9.82.030. Healthy Checkout Areas.

Each Large Retail Store shall, at all hours during which the Large Retail Store is open to the public, ensure that the only foods and beverages available in all checkout areas meet the standards in Sec 9.82.030 A-B:

- A. Beverages with no added sugars and no artificial sweeteners.
- B. Food items with no more than XX calories, XX grams of added sugars, and XX grams of sodium.

9.82.040. Enforcement.

- A. The City is hereby authorized to issue all rules and regulations consistent with this ordinance, including, but not limited to, fees for re-inspection.
- B. Compliance with this Chapter shall be administered by the City during regular inspections of qualifying Large Retail Stores. The City may require a Large Retail Store to provide such information as may be necessary to determine the Large Retail Store's compliance with this Chapter.

9.82.050. Violation--Penalty.

- A. A Large Retail Store that violates any provision of this chapter may be subject to administrative citations pursuant to Chapter [1.28](#) of this Code.
- B. This section shall not limit the City from recovering all costs associated with implementing this chapter or investigating complaints pursuant to fee resolution.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

9.82.060. Effective Date.

This ordinance and the legal requirements set forth herein shall take effect and be in force XX.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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- D. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
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- B. "Checkout area" means any area that is accessible to a customer of the Retail Store that is
 - 1. within **XX** feet of any Register; or
 - 2. in an area where the Retail Store directs customers to wait in line to make a purchase.
- C. "Hermetically sealed" means a container that is designed and intended to be

