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March 24, 2016

RE: Adopt a Resolution On the City Council's Own Motion Submitting To the November 2016 Statewide General Election, A Proposed Ordinance to Create An Excise Tax On The Distribution Of Sugar Sweetened Beverage Products And Creating A Sugar Sweetened Beverage Products Distributors' Tax Advisory Board; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The November 8, 2016 Statewide General Election.

Dear Fellow City Councilmembers,

Presented here is a report and resolution to submit a proposed ordinance creating an excise tax on the distribution of sugar sweetened beverage products to the November 2016 ballot and creating a Sugar Sweetened Beverage Products Distributors' Tax Advisory Board. We look forward to a discussion at the Rules & Legislation Committee and respectfully request that the Committee move this item forward to the full City Council for consideration in a timely manner.

The Sugar Problem

We are currently facing a public health crisis in Oakland and across the country. One third of all children and nearly half of African-American and Latino children are predicted to develop diabetes in their lifetimes. Dental decay in children is the most common chronic childhood disease, affecting more than two thirds of our children in Alameda County and in California. Dental decay is a leading cause of school absences in school-aged children.

Currently 37% of Oakland adolescents are overweight or obese which puts them at risk of developing diabetes and other chronic diseases. This health burden falls more heavily on our low-income communities and communities of color.

In February 2013, results of a ground-breaking, large epidemiological study conducted at UCSF were released, suggesting that sugar has a direct, independent link to diabetes. The study provided the first large-scale, population-based evidence for the idea that not all calories are equal from a diabetes-risk standpoint. Specifically, more sugar was correlated with more diabetes. In addition, diabetes rates dropped over time when sugar availability dropped, independent of changes to consumption of other calories and physical activity or obesity rates.

Likewise, tooth decay is caused by bacteria in the mouth using sugar from foods and drinks to produce acids that dissolve and damage the teeth. Sugar sweetened beverages have high levels of sugar and drinking these can significantly contribute to tooth decay. Sodas, sports drinks, energy drinks, fruit juices, fruit drinks and cordials also have high acid levels that can cause tooth erosion.

Sugar Sweetened Beverages

A Sugar Sweetened Beverage (SSB) is any non-alcoholic beverage with an added sugar-based, caloric sweetener, including sucrose, fructose, glucose, and other sugars (including high fructose corn syrup). This includes, but is not limited to: soda, non-100%-fruit drinks, sports drinks, flavored water, energy drinks, and pre-sweetened tea.

SSBs have a lot of calories, but they have no nutritional value. SSBs do not make people feel full, so they end up drinking more calories than they need. Sweet beverages can change children's taste preferences for the rest of their lives, causing less sweet, healthier foods to be unappealing.

Soda and sugary drinks are the number one source of added sugar in the American diet and *account for half of all consumed sugar*. Sugar-sweetened beverages are staples of today's American diet. These beverages are inexpensive, abundant, high in calories, deliver little or no nutrition, and appeal to our taste for sweetness.

They are heavily marketed, especially to children, often using celebrities, sports stars, and cartoon characters. In 2013, the industry spent \$886 million on advertising unhealthy drinks targeting children and teens.

As a result, one in seven Oakland youth drink two or more sodas per day. And there is growing scientific evidence that it's the most dangerous way to consume added sugar. In fact, drinking just one 12-oz can of soda per day can increase your risk of dying from heart disease by nearly one-third. Other studies show that people who drink one to two sugar-sweetened beverages per day have a 26 percent higher risk of developing Type 2 diabetes, compared to people who drink

less than one per month. Every additional sugary beverage consumed daily increases a child's risk for obesity by 60%.

Americans consume three to six times more added sugar than the maximum recommended by nutritional experts. Studies also show that when we drink high-calorie beverages, we don't feel as full as we would if we had eaten the same number of calories. So it's easy to down 9 teaspoons (38 grams) of sugar in a single soda – about twice as many as in an apple – and hardly notice.

More than for any category of food, rigorous scientific studies have shown that consumption of Sugar Sweetened Beverages contributes to poor diet, and risk for obesity, diabetes and a number of other serious health problems. Chronic diseases related to poor diet cost the United States billions of health care dollars each year.

Reducing Sugar Consumption and the Sugar Sweetened Beverage Excise Tax

Unfortunately, sugar is in everything. Focusing on sugary drinks is probably the most promising approach to significantly reducing sugar consumption. Parents are the policy makers for their own families, and they can be most effective by eliminating sugary drinks, including all sodas, fruit drinks, sports drinks and energy drinks, from their homes. Policies to limit sugary beverages' presence in schools and government buildings have also been successful at limiting consumption.

Soda taxes are also a promising strategy. Since a tax on sugary drinks was adopted in Mexico, there has already been a 12% decline in overall consumption, and a 17% decline in consumption in low income communities. A recent survey found that the vast majority of Californians support soda taxes, especially if the money goes to health and obesity prevention programs for children. The taxes proposed are minimal so far but, like for tobacco, taxes can help reduce demand by making sugary drinks more expensive and also help to offset, at least a little bit, the extra costs borne by society for extra medical and dental care, waste, pollution and even greenhouse gases associated with the production of sugary drinks.

Taxing certain classes of products to reduce consumption is a proven strategy, as we have seen with tobacco taxes. Thirty-four states and Washington, D.C. now have sales taxes on Sugar Sweetened Beverages but the taxes are too small to affect consumption. In many cases, consumers do not know the taxes exist, and revenues are not used for programs to promote good nutrition. Policymakers are turning to larger excise taxes, with revenues dedicated to public health programs, as the next step toward improving the nation's health.

Taxing Sugar Sweetened Beverages (SSBs) is considered by many public health experts and policymakers to be one of the best strategies to improve the nation's nutrition, raise revenue for health programs, and recover the medical and insurance costs of treating diet-related diseases.

Since 2009, policymakers in approximately 24 states and 6 cities have proposed SSB taxes, and more than 25 national and state organizations have recommended or endorsed them. Other countries, including Denmark, Finland, France, and Hungary, have taxes on SSBs.

Support for SSB Taxes

In 2014, Berkeley put a tax on sugar-sweetened beverages on the ballot. The tax passed in Berkeley where 76% of the voters supported Measure D. The Measure was supported by the Berkeley NAACP, Latinos Unidos de Berkeley, Berkeley Federation of Teachers, the California Nurses Association, the Heart Association and many others. As of November 2015, after nine months of tax implementation, \$1,093,778 revenue was paid to the City of Berkeley from the Sugar Sweetened Beverage Tax. So far, funds generated from Berkeley's SSB tax have been allocated for school based nutrition education and community programs.

Both the medical and dental communities have endorsed efforts to mitigate the effects of sugar sweetened beverage consumption. The Alameda County Dental Society has prioritized support of policies to support reduction of SSB consumption within its current strategic plan. The California Dental Association has consistently supported legislation to reduce SSB consumption. The American Academy of Pediatrics, Center for Disease Control (CDC), American Public Health Association and the Alameda County Public Health Commission have all endorsed a number of policies to limit access to SSB and reduce consumption of SSB.

November 2016 Ballot Measure for an Oakland Sugar Sweetened Beverage Excise Tax

We propose that the City Council vote affirmatively to place a Sugar-Sweetened Beverage Excise Tax on the November 2016 Ballot. The SSB tax will be calculated as follows: one cent (\$0.01) per fluid ounce of a bottled sugar sweetened beverage, upon the initial distribution within the City of Oakland.

Revenues collected from this tax are estimated to be in the range of \$10-12 million annually and can be used to support health education programs and efforts to improve children's health across Oakland, especially in neighborhoods most impacted by the chronic diseases associated with sugar intake.

The general excise tax would require a 50% plus one vote of the Oakland voters in order to pass. The revenue collected would be designated for the General Purpose Fund and the Advisory Board would provide guidance to the City Council on how to spend the funds.

Endorsements

We are pleased to share that there is strong, early support from the Oakland community for this initiative.

A partial list of endorsers is shown here:

Elected Officials

Senator Loni Hancock

Assemblymember Rob Bonta

Karen Monroe, Alameda County Board of Education, Superintendent of Schools

Alameda County Supervisor Wilma Chan

Alameda County Supervisor Keith Carson

Oakland Mayor Libby Schaaf

Antwan Wilson, Superintendent of Oakland Unified School District (OUSD)*

OUSD School Board Director James Harris

OUSD School Board Director Jody London

OUSD School Board Director Aimee Eng

OUSD School Board Director Jumoke Hinton Hodge

OUSD School Board Director Nina Senn

OUSD School Board Director Roseann Torres

OUSD School Board Director Shanthi Gonzales

Faith Leaders

Allen Temple Health and Human Services

Rev. Gerald Agee

Rev. George Cummings

Rev. Russell Duley

Bishop Bob Jackson

Rev. L.J. Jennings

Rev. Dr. Harold Mayberry

Community Partners

Alameda Contra Costa County Medical Association

California Dental Society

Public Health Institute

Asian Health Services

La Clinica de la Raza

Alameda Health Consortium

Communities for a Better Environment (CBE)

100 Black Men

EBAYC (East Bay Asian Youth Center)

Oakland Food Policy Council

Youth UpRising

Acta Non Verba
HOPE Collaborative
California Diabetes Association – East Bay Component
American Heart Association
Dr. David Kittams, Kiwi Pediatrics
George Holland, President, NAACP, Oakland Branch*
Former Alameda County Health Officers Dr. Art Chen and Dr. Tony Iton
Former Alameda County Public Health Director Arnold Perkins
Bert Lubin, CEO of Children’s Hospital*
Oakland Firefighters (Local 55)
Oakland Police Officers Association
* Title listed for identification purposes only.

Sugar Sweetened Beverage Products Distributors’ Tax Advisory Board

The Ordinance proposes the formation of a Sugar Sweetened Beverage Products Distributors’ Tax Advisory Board. The Beverage Products Distributors’ Tax Advisory Board will advise and make recommendations to the City Council on the effectiveness of the Sugar Sweetened Beverage Tax. The Board will make recommendations on how the City Council should establish and/or fund programs to prevent or reduce the consequences of the consumption of sugar sweetened beverages on health in Oakland communities. Programs funded by the excise tax can improve community nutrition, reduce childhood obesity and tooth decay, increase physical activity and prevent diabetes in children and families, especially those most affected by health disparities.

The Board will evaluate the impact of the Tax on beverage prices, consumer purchasing behavior, and public health impacts.

The Advisory Board will consist of nine members who are all residents of Oakland. The City Councilmembers shall make recommendations for members to the Mayor. Members of the Board shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter Section 601.

The membership of the Advisory Board is proposed as follows:

- a) At least three (3) members of the Board will be residents who live in areas, as defined by the most current census tracts, which are disproportionately impacted by diseases related to the consumption of sugar sweetened beverages, as measured by the most recent data available to the Alameda County Department of Public Health;
- b) At least two (2) members of the Board will be one medical and one dental professional who have public health experience or who engage in prevention, diagnosis, treatment, or

research of, or education about, chronic diseases linked to the consumption of sugar sweetened beverages;

- c) At least two (2) members of the Board will represent the Oakland Unified School District (OUSD) as follows: there shall be one (1) OUSD Parent Representative and one (1) OUSD Teacher Representative; and
- d) At least two (2) members will have experience in addressing public health issues related to diabetes, obesity and sugary drink consumption, community-based youth food and nutrition programs, oral health or early childhood nutrition.

The Advisory Board must publish an annual report to the Oakland City Council including the following:

- a) Recommendations on how to allocate the City's general funds to reduce the consumption of sugar sweetened beverages in Oakland and to address the results of such consumption;
- b) How and to what extent the City Council and Mayor have implemented the recommendations presented by the Board;
- c) Information, if available, concerning the impact of the Chapter on the public health of the residents of the City; and
- d) Any additional information deemed appropriate.

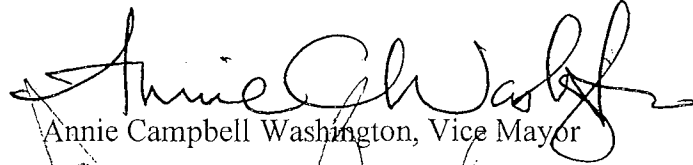
Intended Impacts of the SSB Tax

The Sugar Sweetened Beverage Tax is expected to:

- 1.) Raise awareness. The public deserves the right to know about the link between sugary drinks, diabetes and other diseases, and how the beverage industry targets its marketing towards youth and communities of color.
- 2.) Raise revenue for community programs that combat the impact of sugary drink marketing. Revenue from the tax could fund community and school-based programs across Oakland that give families tools to make healthy choices about what they eat and drink.
- 3.) Reduce consumption. Studies coming out of Mexico are showing the tax has led to a significant reduction in consumption. These reductions could prevent deadly diseases and save billions in health care costs.

The draft legislation is included for discussion purposes. Final draft legislation will be presented at the time that the item is scheduled for the full City Council.

Sincerely,



Annie Campbell Washington, Vice Mayor



Desley Brooks, City Councilmember, District 6



Rebecca Kaplan, City Councilmember, At-Large

2016 MAR 24 PM 3:40

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY VICE MAYOR ANNIE CAMPBELL WASHINGTON,
COUNCILMEMBER DESLEY BROOKS AND COUNCILMEMBER REBECCA KAPLAN

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE NOVEMBER 8, 2016 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE TO ____; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 8, 2016 STATEWIDE GENERAL ELECTION

WHEREAS, ...; and,

WHEREAS, ... and,

WHEREAS, ...; and,

WHEREAS, ...; and,

WHEREAS, ..., and

WHEREAS, ...; and

WHEREAS, ... and,

WHEREAS, ...; now, therefore be it

RESOLVED, that the Oakland City Council finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED, that the Oakland City Council does hereby submit to the voters, at the November 8, 2016, Statewide General Election, an Ordinance that reads as follows:

The people of the City of Oakland do ordain as follows:

Section 1. TITLE.

Title. This Ordinance shall be referred to as the "Sugar-Sweetened Drinks Distributor Tax Ordinance."

Section 2. FINDINGS AND PURPOSE.

The people of the City are concerned with protecting the health and wellbeing of its residents; and

40% of all children aged 3-14 years, and over 50% of African American girls and Latino children in this age group, are predicted to develop diabetes in their lifetimes; and

More than 37% of Oakland adolescents are overweight or obese, which puts them at risk of developing diabetes and other chronic diseases; and

Diabetes rates have greatly increased in both adults and children to the point where 7.6% of Oakland adult residents are diagnosed with diabetes and Alameda County had an estimated 94,000 people living with diabetes in 2010; and

This burden falls far more heavily on our low-income communities and people of color; and

The costs for diabetes-related healthcare in Alameda County alone was estimated at \$560 million dollars in 2010; and

People who consume sugary drinks are at risk for long-term health problems including diabetes, obesity, cancer, stroke, and heart disease; and

Sugary drinks are the largest contributors of added sugar in the American diet and are associated with increased risk of type 2 diabetes, cardiovascular disease, dental cavities, osteoporosis and obesity; and

Sugary drinks are widely available and the industry spent over \$2 billion in marketing carbonated beverages alone in 2009, including hundreds of millions in marketing directed at children and youth; and

One in seven Oakland youth drink 2 or more sodas per day; and

Every additional sugary beverage consumed daily increases a child's risk for obesity by 60%, and one or two sugary beverages per day increases the risk of type 2 diabetes by 26%; and

Children who frequently consume sugary beverages are at increased risk of tooth decay, the most common childhood disease, experienced by 50% of kindergarten and 69% of third grade children in Alameda County, and dental problems are a major cause of missed school days and poor school performance, as well as pain, infection, and tooth loss in California; and

Mexico, where an average of 163 liters of Sugar Sweetened Beverages are consumed per person each year, successfully passed an excise tax on sugary drinks, reducing the purchase of taxed Sugar Sweetened Beverages by 12% at the end of the first year and by 17% among low-income Mexicans; and

The City of Berkeley became the first city in the United States to follow Mexico's footsteps and passed a penny per ounce general tax on distributors of Sugar Sweetened Beverages within the city limits in 2014 which is working well.

Section 3. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (chapter and section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 4. Code Amendment. That a new Article 4.52 is added to the Oakland Municipal Code to read as follows:

Chapter 4.52 – Sugar-Sweetened Drinks Distributor Tax Ordinance

4.52.010 – Short Title.

This chapter shall be known as the "Sugar-Sweetened Drinks Distributor Tax Ordinance."

4.52.020 – Definitions.

Except where the context otherwise requires, the following definitions govern the construction of this chapter.

"Beverage for Medical Use" means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution formulated to prevent or treat dehydration due to illness. "Beverage for Medical Use" also means a "medical food" as defined in Section 109971 of the California Health and Safety Code. "Beverage for Medical Use" shall not include beverages commonly referred to as "sports drinks" or any other common names that are derivations thereof.

"Bottle" means any closed or sealed container regardless of size or shape, including, without limitation, those made of glass, metal, paper, plastic, or any other material or combination of materials.

"Bottled Sugar-Sweetened Beverage" means any Sugar-Sweetened Beverage contained in a Bottle that is ready for consumption without further processing, such as, and without limitation, dilution or carbonation.

"Business Entity" means any Person except for a natural person.

"Caloric Sweetener" means any substance or combination of substances that is suitable for human consumption that humans perceive as sweet, and that adds calories to the diet of any human who consumes it. "Caloric Sweetener" includes, but is not limited to, sucrose, fructose, glucose, other sugars, and high fructose corn syrup.

"City" means the City of Oakland, California.

"Community Advisory Board" means the Sugar-Sweetened Beverage Distributor Tax Advisory Board described in Section 4.52.070.

"Distribution" means the transfer of title or possession: (a) from one Business entity to another for consideration; or (b) within a single Business entity, such as by a wholesale or warehousing unit to a retail outlet or between two or more employees or contractors. "Distribution" or "Distribute" shall not mean the retail sale to a consumer.

"Distributor" means any person engaged in the business of Distribution of Sugar-Sweetened Beverage Products.

"Milk Product" means: (a) any beverage whose principal ingredient by weight is natural milk secreted by an animal; and (b) any plant-based substance or combination of substances in which (i) water and (ii) grains, nuts, legumes, or seeds, constitute the two greatest ingredients by volume. For purposes of this definition, "natural milk" includes natural milk concentrate and dehydrated natural milk, whether or not reconstituted. For purposes of this definition, "Milk Product" includes, but is not limited to, soy milk, almond milk, rice milk, coconut milk, hemp milk, oat milk, hazelnut milk, flax milk.

"Nonalcoholic Beverage" means any beverage that is not subject to tax under California Revenue and Taxation Code Sections 32001 et seq. as "beer, wine or distilled spirits."

"Person" means any natural person, partnership, cooperative, association, Limited Liability Company, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Powder" means any solid mixture, containing one or more Caloric Sweetener as an ingredient, intended to be used in making, mixing, or compounding a Sugar-Sweetened Beverage by combining the Powder with one or more other ingredients.

"Retailer" means any Person who sells, serves, or provides a Sugar-Sweetened Beverage Product to a Consumer.

"Small Business" means any Business Entity with less than \$100,000 in annual gross receipts in the most recent calendar year that sells sugar sweetened beverage products directly to final consumers.

"Sugar-Sweetened Beverage" means any Nonalcoholic Beverage intended for human consumption that contains added Caloric Sweetener, and contains more than 25 calories per 12 fluid ounces of beverage, including but not limited to drinks and beverages commonly referred to as "soda," "pop," "cola," "soft drinks," "sports drinks," "energy drinks," "slushies," "sweetened ice teas," or any other common names that are derivations thereof. "Sugar-Sweetened Beverage" does not include: (a) any beverage sold for consumption by infants, which is commonly referred to as "infant formula" or "baby formula," or oral rehydration fluids for children; (b) any Beverage for Medical Use; (c) any beverage designed as supplemental, meal replacement, or sole-source nutrition that includes proteins, carbohydrates, and multiple vitamins and minerals; (d) Milk Products; or (e) 100 percent natural fruit or vegetable juice, with no added caloric sweetener. These exclusions do not exempt from taxation beverages commonly referred to as "sports drinks," or any other common names that are derivations thereof, which are defined as Sugar-Sweetened Beverages.

"Sugar-Sweetened Beverage Distributor Tax" or "Tax" is the general excise tax imposed under Section 4.52.030.

"Sugar-Sweetened Beverage Product(s)" means a Bottled Sugar-Sweetened Beverage, Syrup or Powder.

"Syrup" means any liquid or frozen mixture, containing one or more Caloric Sweeteners as an ingredient, intended to be used in making, mixing, or compounding a Sugar-Sweetened Beverage by combining the Syrup with one or more other ingredients.

"Tax Administrator" means the Director of Finance for the City of Oakland or designee of the Director of Finance.

4.52.030 – Imposition of Tax.

A. For the privilege of engaging in the business of making an initial Distribution within the City of a Sugar-Sweetened Beverage Product, the City imposes a tax, which shall be a general excise tax, on the Distributor making the initial Distribution of a Sugar-Sweetened Beverage Product.

B. The Tax shall be calculated as follows:

1. One cent (\$0.01) per fluid ounce of a Bottled Sugar-Sweetened Beverage upon the initial Distribution within the City of the Bottled Sugar Sweetened Beverage; and

2. One cent (\$0.01) per fluid ounce of a Sugar-Sweetened Beverage that could be produced from Syrup or Powder upon the initial Distribution of Syrup or Powder. The Tax for Syrups and Powders shall be calculated using the largest volume of Sugar-Sweetened Beverage that would typically be produced by the amount of Syrup or Powder based on the manufacturer's instructions or, if the Distributor uses the Syrup or Powder to produce a Sugar-Sweetened Beverage, the regular practice of the Distributor.

C. The Tax shall not apply to:

1. The Distribution of any Bottled Sugar-Sweetened Beverage if the Tax has been paid on a previous Distribution of the Bottled Sugar-Sweetened Beverage, or on the Distribution of Syrup or Powder used to make the Bottled Sugar-Sweetened Beverage.

2. The Distribution of any Sugar-Sweetened Beverage Product by a Small Business.

4.52.040 – Administration of Tax.

A. It shall be the duty of the Tax Administrator to collect and receive all taxes imposed by this Chapter, and to keep an accurate record thereof.

B. The Tax Administrator is hereby charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Chapter. Such rules and regulations may include, but are not limited to:

1. The reexamination and correction of returns and payments, and for reporting.

2. The frequency with which a Distributor must calculate and pay the tax. This determination shall not constitute an increase of the tax.

3. How a Distributor must register with the City.

4. Whether and how a Distributor or a retailer who receives, in the City, a Sugar-Sweetened Beverage Product from a Distributor must report to the City the name of that Distributor and the volume of Sugar-Sweetened Beverage Products.

5. Other documentation to be created or maintained by a Distributor or a retailer.

6. Whether and how Small Businesses may be exempted from registration, reporting, and documentation requirements.

C. The Tax Administrator shall annually verify that the taxes owed under this Chapter have been properly applied, exempted, collected and remitted.

4.52.050 – Collection of Tax and Registration of Distributors.

A. Every Distributor shall register with the City.

B. The amount of any tax, penalty, and interest imposed under the provisions of this Chapter shall be deemed a debt to the City. Any Distributor owing money under the provisions of this Chapter shall be liable in an action brought in the name of the City for the recovery of such amount.

C. In order to aid in the City's collection of taxes due under this Chapter, any Distributor or Retailer that receives or sells Sugar-Sweetened Beverage Products shall, in accordance with rules and regulations promulgated by the Tax Administrator pursuant to Section 4.52.040, inform the City in relation to the distribution of these products.

D. The City Council is authorized to have the taxes imposed by this Chapter collected by the County of Alameda or the California Board of Equalization in conjunction with the collection of other taxes for the City. If the City Council exercises this authorization, the duties and responsibilities of the City Administrator shall be given, as appropriate, to the County of Alameda or the California Board of Equalization, which may delegate such duties and responsibilities as necessary and as authorized by law.

4.52.060 – Credits and Refunds.

A. The Tax Administrator shall refund or credit to a Distributor the Tax that is paid with respect to the initial Distribution of a Bottled Sugar-Sweetened Beverage, Syrup, or Powder:

1. That is shipped to a point outside the City for Distribution outside the City.
2. On which the Tax has already been paid by another Person; or
3. That has been returned to the Person who distributed it and for which the entire purchase price has been refunded in cash or credit.

B. No refund shall be paid under this Section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

4.52.070 – Community Advisory Board.

There is hereby established a Sugar-Sweetened Beverage Distributor Tax Advisory Board.

A. The Community Advisory Board shall advise and make recommendations to the City Council on the effectiveness of the Sugar-Sweetened Beverage Distributor Tax. The Advisory Board shall make recommendations on how and to what extent the City Council should establish and/or fund programs to prevent or reduce the health consequences of the consumption of Sugar-Sweetened Beverages in

Oakland communities, including but not limited to programs and projects to improve community nutrition, reduce childhood obesity and tooth decay, increase physical activity and prevent diabetes in children and families, especially those most affected by health disparities.

B. The Community Advisory Board shall evaluate the impact of the Tax on beverage prices, consumer purchasing behavior, and public health.

C. The Community Advisory Board shall consist of nine (9) members who are all residents of the City. City Councilmembers shall make recommendations for members to the Mayor. Members of the Advisory Board shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter section 601.

1. At least three (3) members will be residents who live in areas, as defined by the most current census tracts, which are disproportionately impacted by diseases related to the consumption of Sugar-Sweetened Beverages, as measured by the most recent data available to the Alameda County Department of Public Health.

2. At least two (2) members will be one medical and one dental professional who have public health experience or who engage in whole or in part in the prevention, diagnosis, treatment, or research of, or education about, chronic diseases linked to the consumption of Sugar-Sweetened Beverages.

3. At least two (2) members will represent the Oakland Unified School District (OUSD), as follows: be one (1) OUSD parent representative and one (1) OUSD teacher. The parent representative shall have a student enrolled in an OUSD school at the commencement of the initial term and any subsequent term.

4. At least two (2) members will have experience in addressing public health issues related to diabetes, obesity and sugary drink consumption, community-based youth food and nutrition programs, school-based food and nutrition programs, oral health or early childhood nutrition.

D. Members shall serve two (2) year terms. No member shall serve more than three (3) consecutive two (2) year terms. The initial two (2) year term for each of the initial members shall commence as of the date that six (6) members have been appointed, which is when the Advisory Board may begin its work. A quorum of the Advisory Board shall be five (5) members. Absence from three (3) consecutive regular meetings, or four (4) regular meetings during a single fiscal year, shall constitute resignation from the Advisory Board.

E. Members of the Community Advisory Board shall serve without pay.

F. The Tax Administrator shall provide clerical assistance and administrative support and the Controller shall provide technical assistance to the Community

Advisory Board. All City departments, boards, and commissions shall reasonably assist and cooperate with the Community Advisory Board.

G. The Community Advisory Board shall meet at least four (4) times per fiscal year.

H. Unless otherwise reauthorized by the City Council, this Section shall expire by operation of law, and the Community Advisory Board shall terminate, as of December 31, 2028. After that date, the City Attorney shall cause this Section to be removed from the Administrative Code.

I. The Community Advisory Board shall publish an annual report that includes the following: 1) Recommendations on how to allocate the City's general funds to reduce the consumption of sugar sweetened beverages in Oakland and to address the results of such consumption; 2) How and to what extent the City Council and Mayor have implemented the recommendations presented by the Board; 3) Information, if available, concerning the impact of this Chapter on the public health of the residents of the City; and 4) Any additional information that the Panel deems appropriate.

J. Within 15 days of receipt of the publication of the Advisory Board's annual report, the Tax Administrator shall cause the report to be published on the City's Internet website and to be transmitted to the City Council.

4.52.080 – Effective Date.

This Chapter shall become operative on July 1, 2017.

Section 5. Conflicting Measures.

This measure is intended to be comprehensive. It is the intent of the people of the City of Oakland that in the event this measure and one or more measures relating to the taxation of Sugar-Sweetened Beverages shall appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot regarding taxation of Sugar-Sweetened Beverages, this measure shall take effect to the extent not in conflict with said other measure or measures.

Section 6. Liberal Construction.

This measure is an exercise of the initiative power of the people of the City of Oakland for the protection of the health, safety, and welfare of the people, and shall be liberally construed to effectuate its purposes.

Section 7. Municipal Affair.

The People of the City of Oakland hereby declare that the taxation of the Distribution of Sugar-Sweetened Beverage Products and the public health impact of Sugar-Sweetened Beverages separately and together constitute municipal affairs. The People of the City of Oakland hereby further declare their desire for this measure to coexist with any similar tax adopted at the county or state levels.

Section 8. Not a Sales and Use Tax.

The tax imposed by this chapter is a general excise tax on the privilege of conducting business within the City of Oakland. It is not a sales tax or use tax or other excise tax on the sale, consumption, or use of sugar-sweetened beverages.

Section 9. EFFECTIVE DATE.

This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

Section 10. Council Amendments.

The City Council of the City of Oakland is hereby authorized to amend Chapter 4.52 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the rate of the Sugar-Sweetened Drinks Distributer Tax or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

Section 11. SAVINGS CLAUSE.

If any provision, sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall affect only such provision, sentence, clause, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared that this Ordinance would have adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

; and be it

FURTHER RESOLVED, that each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

[TITLE]

MEASURE _____

Measure __. [...?] [FINAL QUESTION SUBJECT TO FINAL CITY ATTORNEY APPROVAL]	Yes	
	No	

; and be it

FURTHER RESOLVED, that the City Council does hereby submit to the qualified voters of the City, at the November 8, 2016 election, the ordinance and ballot measure set forth herein. The City proposes to ... if a majority of all qualified voters voting on the ballot measure vote in favor thereof; and be it

FURTHER RESOLVED, that the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 8, 2016, to file with the Alameda County Clerk certified copies of this Resolution; and be it

FURTHER RESOLVED, that the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED, that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3 of the Oakland Municipal Code, the Government Code and the Election Code of the State of California; and be it

FURTHER RESOLVED, that in accordance with the Elections Code and the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED, that certain sections of this Ordinance may be codified into the City of Oakland Municipal Code at the direction of the City Clerk upon approval by the voters; and be it

FURTHER RESOLVED, that this resolution shall be effective immediately upon approval by five members of the Council.

IN COUNCIL, OAKLAND, CALIFORNIA _____, 2016

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GUILLEN, KALB, KAPLAN, REID, CAMPBELL WASHINGTON,
PRESIDENT GIBSON MCELHANEY

NOES

ABSENT

ABSTENTION

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
Of the City of Oakland, California

DRAFT