

1 [Initiative Ordinance - Business and Tax Regulations Code - Tax on Sugar-Sweetened
2 Beverages to Fund Food and Health Programs]

3 **Motion ordering submitted to the voters at an election to be held on November 4, 2014**
4 **an ordinance amending the Business and Tax Regulations Code by adding a new**
5 **Article 8, imposing a tax of two cents per ounce on the distribution of sugar-sweetened**
6 **beverages, to fund City-operated programs and City grants for active recreation and**
7 **improving food access, health, and nutrition, and to fund San Francisco Unified School**
8 **District physical education, after school physical activity, health, or nutrition programs,**
9 **and school lunch and other school nutrition programs.**

10
11 MOVED, That the Board of Supervisors hereby submits the following ordinance to the voters
12 of the City and County of San Francisco, at an election to be held on November 4, 2014:

13
14 **Ordinance amending the Business and Tax Regulations Code by adding a new**
15 **Article 8, imposing a tax of two cents per ounce on the distribution of sugar-sweetened**
16 **beverages, to fund City-operated programs and City grants for active recreation and**
17 **improving food access, health, and nutrition, and to fund San Francisco Unified School**
18 **District physical education, after school physical activity, health, or nutrition programs,**
19 **and school lunch and other school nutrition programs.**

20
21 **NOTE:** **Unchanged Code text and uncodified text** are in plain font.
22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

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

2
3 Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this
4 ordinance shall be submitted to the qualified electors of the City and County of San Francisco,
5 at the November 4, 2014 consolidated general election.
6

7 Section 2. The Business and Tax Regulations Code is hereby amended by adding
8 Article 8, to read as follows:
9

10 **ARTICLE 8:**

11 **THE SUGAR-SWEETENED BEVERAGE TAX ORDINANCE**

12
13 **SEC. 550. SHORT TITLE.**

14 *This Article shall be known as the "Sugar-Sweetened Beverage Tax Ordinance."*
15

16 **SEC. 551. FINDINGS AND PURPOSE.**

17 *Human consumption of Sugar-Sweetened Beverages (SSBs) is linked to a myriad of serious*
18 *health problems including, but not limited to: weight gain, obesity, coronary heart disease, diabetes,*
19 *cavities, tooth decay, and other health problems. Scientific evidence shows that underlying these*
20 *chronic health problems is metabolic syndrome (MetS). MetS is characterized by changes in a body's*
21 *normal biochemistry that can lead to obesity, insulin resistance, hypertension, dyslipidemia (high*
22 *cholesterol), and visceral fat. SSBs are linked to excess weight and obesity, which are putting more*
23 *Americans on the path to MetS. Heavy added sugar consumption may itself be a direct cause of MetS*
24 *by increasing the risk for hypertension, dyslipidemia and visceral fat. While most people with MetS are*
25 *obese, normal-weight individuals can acquire the syndrome as well, given poor dietary habits. Heavy*

1 consumption of sugary drinks has been linked to MetS through a variety of biological pathways, and is
2 therefore a risk factor in chronic disease.

3 The 2010 U.S. Dietary Guidelines for Americans report that sugary drinks are the single
4 greatest source of added sugar in the American diet, constituting 36.6 percent of added sugars typically
5 consumed, making them an ideal target for public health protections. Sugar-sweetened soda, and fruit
6 drinks containing less than 100 percent juice by volume, are major sources of added sugars in
7 American diets, contributing an average of 10.58 teaspoons of added sugars each day. The American
8 Heart Association recommends that adult women consume no more than six teaspoons of added sugars
9 daily, that adult men consume no more than nine teaspoons, and that children consume no more than
10 three teaspoons of added sugars (not including naturally occurring sugars in whole foods such as fruit
11 and plain milk) per day, which is about 50 calories. However, most Americans consume more than
12 19.6 teaspoons of added sugars per day. Even regular, moderate consumption of sugary drinks (one
13 12-ounce can a day) increases the risk of cardiovascular disease mortality by nearly one third.

14 Obese children suffer more often from sleep apnea, asthma, joint problems, fatty liver disease,
15 gallstones, and acid reflux (heartburn). Obese children are more likely to become obese adults, further
16 increasing their risks for higher rates of type 2 diabetes, heart disease, and some cancers later in life.
17 Profound mental health and quality of life impacts are seen in children with severe obesity. As of 2010,
18 nearly one-third (31.7 percent) of children and adolescents in San Francisco were either obese or
19 overweight. Among adults, consumption of SSBs is associated with a risk of weight gain and obesity,
20 cardiovascular disease, a significantly higher risk of stroke, high blood pressure, type 2 diabetes,
21 dental erosion, and the risk of pancreatic cancer. In 2011-2012, 41.8 percent of adults in
22 San Francisco were either obese or overweight.

23 Low-income families are more likely to be affected by obesity and diabetes. For example, the
24 Bayview-Hunters Point neighborhood had more per capita emergency room visits due to diabetes
25 between 2009 and 2011 than any other neighborhood in San Francisco. Eighteen percent of three- to

1 four-year-olds enrolled in San Francisco Head Start were obese, with an additional 13 percent being
2 overweight. Head Start serves children of low-income families.

3 According to the American Dental Association, a steady diet of sugary foods and drinks,
4 including juice and sports drinks, can damage teeth. Cavity-causing bacteria in the mouth feed on
5 sugar and produce acids that attack tooth enamel for up to 20 minutes after eating or drinking. Sipping
6 sugary beverages or eating sugary foods all day results in repeated acid attacks that weaken tooth
7 enamel and lead to cavities. In extreme cases, softer enamel combined with improper brushing,
8 grinding of the teeth, or other conditions can lead to tooth loss.

9 The annual cost of being overweight and obese to California families, employers, the health
10 care industry, and the government is estimated to be \$21 billion. The San Francisco Budget and
11 Legislative Analyst estimates that up to \$61.8 million in costs incurred by San Franciscans with obesity
12 and diabetes are attributable to sugary beverage consumption. The total national cost of diabetes in
13 2007 was \$174 billion.

14 Research shows that lifestyle interventions are more cost-effective than medications in
15 preventing or delaying type 2 diabetes. SSBs have been targeted as part of a tax policy to reduce
16 caloric intake, improve diet and health, and generate revenue that governments can use to address
17 obesity-related health and economic burdens. The Institute of Medicine and other beverage tax
18 advocates suggest that tax revenues could be used to promote healthier eating and reduce or prevent
19 obesity. In 2009, the Institute of Medicine recommended that local governments implement a tax
20 strategy for calorie-dense, nutrient-poor food and beverages to discourage consumption. Likewise, in
21 2010, the White House Task Force on Childhood Obesity recommended that federal, state, and local
22 governments analyze the effects of taxes on less healthy, energy-dense foods, such as SSBs.

23 The purpose of taxing SSBs is to make San Franciscans healthier by discouraging consumption
24 of the main source of added dietary sugars, and by raising funds to support health promotion and
25 obesity prevention, particularly targeting children in San Francisco's low-income communities. Plain

1 water and—unless advised otherwise by a pediatrician—low-fat (one percent) or nonfat milk are the
2 most appropriate beverages for healthy children older than the age of two. Yet, 17.2 percent of
3 San Francisco children and adolescents consume two or more glasses of soda or sugary drink per day.
4 Within this, there are significant variations by ethnicity, with 24.2 percent of Asian and 33.9 percent of
5 Latino, and only 4.4 percent of white children, consuming two or more glasses of soda or sugary drink
6 per day. On average, children consumed 11.96 teaspoons of added sugars from sodas and fruit drinks
7 per day – 47 percent of their total intake of added sugars. A single 12-ounce can of soda contains eight
8 to ten teaspoons of sugar, and typical container sizes of popular sugary drinks marketed to children far
9 exceed recommended amounts.

10 Assessing a tax on SSBs is intended to help address the high levels of obesity, type 2 diabetes,
11 and other diseases by reducing consumption and providing a revenue stream for City-directed and
12 grant-funded physical activity and nutrition programs in schools, parks, community centers, and
13 through community-based organizations.

14
15 **SEC. 552. DEFINITIONS.**

16 Unless otherwise defined in this Article 8, terms that are defined in Article 6 of the Business and
17 Tax Regulations Code shall have the meanings provided therein.

18 “Active Recreation Programs” are programs where participants are able to engage in exercise
19 or physical activity.

20 “Base Amount” means the Controller’s calculation of the amount of the City expenditures for
21 Eligible Programs for the Baseline Year, as described in Section 557.

22 “Base Product” means the same as Powder.

23 “Baseline” means the fiscal year July 1, 2014 through June 30, 2015, described in Section 557.
24
25

1 "Beverage Dispensing Machine" means an automated device that mixes Concentrate with one
2 or more other ingredients and dispenses the resulting mixture into an open container as a ready-to-
3 drink beverage.

4 "Caloric Substance" means a substance that adds calories to the diet of a person who
5 consumes that substance.

6 "Caloric Sweetener" means any Caloric Substance suitable for human consumption that
7 humans perceive as sweet and includes, but is not limited to, sucrose, fructose, high fructose corn
8 sweetener, glucose, and other sugars.

9 "City" means the City and County of San Francisco.

10 "Committee" means the Healthy Nutrition and Physical Activity Access Fund Committee
11 described in Section 558.

12 "Concentrate" means a Syrup, Powder, or Base Product that is used for mixing, compounding,
13 or making Sugar-Sweetened Beverages in a Beverage Dispensing Machine. Notwithstanding the
14 foregoing sentence, "Concentrate" does not include the following:

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

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

18 (c) 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 (d) Medical Food.

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

23 "Distribution" includes:

24 (a) The transfer in the City for consideration of physical possession of Sugar-
25 Sweetened Beverages or Concentrate by any person other than a common carrier. "Distribution" also

1 includes the transfer of physical possession in the City by any person other than a common carrier
2 without consideration for promotional or any other commercial purpose.

3 (b) The possession, storage, ownership, or control in the City, by any person other
4 than a common carrier, of Sugar-Sweetened Beverages or Concentrate for resale in the ordinary
5 course of business, obtained by means of a transfer of physical possession outside the City or from a
6 common carrier in the City.

7 (c) "Distribution" does not include the return of any Sugar-Sweetened Beverages or
8 Concentrate to a person, if that person refunds the entire amount paid in cash or credit.

9 "Distribution" does not include a retail sale or use.

10 "Distributor" means any person engaged in the business of Distribution of Sugar-Sweetened
11 Beverages or Concentrate. A "Distributor" does not include a common carrier. Where a common
12 carrier obtains physical possession of Sugar-Sweetened Beverages or Concentrate outside the City and
13 transfers physical possession of the Sugar-Sweetened Beverages or Concentrate in the City, the
14 transferee of the Sugar-Sweetened Beverages or Concentrate is a Distributor.

15 "Eligible Programs" means City-operated programs and City grants for active recreation
16 and/or improving food access, health, and nutrition, and San Francisco Unified School District
17 physical education, after school physical activity, health, or nutrition programs, school lunch, and
18 other school nutrition programs. Eligible Programs shall include only programs described in
19 Section 557(a)(3)(A) through (D) of this Article 8.

20 "Fund" is the Active Recreation, Nutrition, and Public Health Fund described in Section 553.

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

23 "Milk" means natural liquid milk, natural milk concentrate (whether or not reconstituted) or
24 dehydrated natural milk (whether or not reconstituted), regardless of animal source or butterfat

1 content. For purposes of this definition, "Milk" includes flavored milk containing no more than 40
2 grams of total sugar (naturally-occurring and from added Caloric Sweetener) per 12 ounces.

3 "Natural Fruit Juice" means the original liquid resulting from the pressing of fruit, the liquid
4 resulting from the complete reconstitution of natural fruit juice concentrate, or the liquid resulting from
5 the complete restoration of water to dehydrated natural fruit juice.

6 "Natural Vegetable Juice" means the original liquid resulting from the pressing of vegetables,
7 the liquid resulting from the complete reconstitution of natural vegetable juice concentrate, or the
8 liquid resulting from the complete restoration of water to dehydrated natural vegetable juice.

9 "New Programs" means the New Programs as described in Section 557.

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

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

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

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

21 (a) Milk.

22 (b) Milk alternatives, including but not limited to non-dairy creamers or beverages
23 primarily consisting of plant-based ingredients (e.g., soy, rice, or almond milk products), regardless of
24 sugar content.

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

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

5 (e) Medical Food.

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

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

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

12 "Sugar-Sweetened Beverage Tax" is the Tax imposed under Section 553.

13 "Syrup" means the liquid mixture of ingredients used in making, mixing, or compounding
14 Sugar-Sweetened Beverages using one or more ingredients, including, without limitation, water, ice, a
15 Base Product, Powder, Simple Syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or
16 other gas.

17 "Tax" is the Sugar-Sweetened Beverage Tax.

18
19 **SEC. 553. IMPOSITION OF TAX; DEPOSIT OF PROCEEDS.**

20 (a) For the privilege of engaging in the business of making initial Distributions of Sugar-
21 Sweetened Beverages or Concentrate in the City, the City imposes a Sugar-Sweetened Beverage Tax on
22 the Distributor making the initial Distribution of Sugar-Sweetened Beverages or Concentrate in the
23 City.

24 (b) The Tax shall be calculated as follows:
25

1 (1) Two cents (\$0.02) per fluid ounce of Sugar-Sweetened Beverage upon the initial
2 Distribution of the Sugar-Sweetened Beverage in the City; and

3 (2) Two cents (\$0.02) per fluid ounce of Sugar-Sweetened Beverage that could be
4 produced from Concentrate upon the initial Distribution of Concentrate in the City. For purposes of
5 calculating the Tax for Concentrate, the Tax shall be calculated using the largest volume of Sugar-
6 Sweetened Beverage that could result from the use of the Concentrate according to any manufacturer's
7 instructions. If the Tax is paid with respect to the Distribution of Concentrate in the City, then no Tax
8 shall be due with respect to the Distribution in the City of any Sugar-Sweetened Beverage produced
9 from such Concentrate.

10 (c) All monies collected pursuant to the Tax shall be deposited to the credit of the Active
11 Recreation, Nutrition, and Public Health Fund. The Fund shall be maintained separate and apart from
12 all other City funds and shall be appropriated by annual or supplemental appropriation.

13
14 **SEC. 554. REGISTRATION OF DISTRIBUTORS; DOCUMENTATION; ADMINISTRATION.**

15 (a) Each Distributor shall register with the Tax Collector.

16 (b) Each Distributor shall keep and preserve all such records as the Tax Collector may
17 require for the purpose of ascertaining and determining compliance under this Article 8.

18 (c) Except as otherwise provided under this Article 8, the Sugar-Sweetened Beverage Tax
19 shall be administered pursuant to Article 6 of the Business and Tax Regulations Code.

20
21 **SEC. 555. CREDITS AND REFUNDS.**

22 The Tax Collector shall refund or credit to a Distributor the Tax that is paid with respect to the
23 initial Distribution in the City of a Sugar-Sweetened Beverage or Concentrate that is shipped to a point
24 outside the City for Distribution outside the City, or on which the Tax has already been paid by another
25

1 (1) Two cents (\$0.02) per fluid ounce of Sugar-Sweetened Beverage upon the initial
2 Distribution of the Sugar-Sweetened Beverage in the City; and

3 (2) Two cents (\$0.02) per fluid ounce of Sugar-Sweetened Beverage that could be
4 produced from Concentrate upon the initial Distribution of Concentrate in the City. For purposes of
5 calculating the Tax for Concentrate, the Tax shall be calculated using the largest volume of Sugar-
6 Sweetened Beverage that could result from the use of the Concentrate according to any manufacturer's
7 instructions. If the Tax is paid with respect to the Distribution of Concentrate in the City, then no Tax
8 shall be due with respect to the Distribution in the City of any Sugar-Sweetened Beverage produced
9 from such Concentrate.

10 (c) All monies collected pursuant to the Tax shall be deposited to the credit of the Active
11 Recreation, Nutrition, and Public Health Fund. The Fund shall be maintained separate and apart from
12 all other City funds and shall be appropriated by annual or supplemental appropriation.

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14 **SEC. 554. REGISTRATION OF DISTRIBUTORS; DOCUMENTATION; ADMINISTRATION.**

15 (a) Each Distributor shall register with the Tax Collector.

16 (b) Each Distributor shall keep and preserve all such records as the Tax Collector may
17 require for the purpose of ascertaining and determining compliance under this Article 8.

18 (c) Except as otherwise provided under this Article 8, the Sugar-Sweetened Beverage Tax
19 shall be administered pursuant to Article 6 of the Business and Tax Regulations Code.

20
21 **SEC. 555. CREDITS AND REFUNDS.**

22 The Tax Collector shall refund or credit to a Distributor the Tax that is paid with respect to the
23 initial Distribution in the City of a Sugar-Sweetened Beverage or Concentrate that is shipped to a point
24 outside the City for Distribution outside the City, or on which the Tax has already been paid by another
25

1 person, or which has been returned to the person who sold it and the entire purchase price has been
2 refunded in cash or credit.

3
4 **SEC. 556. TECHNICAL ASSISTANCE TO THE TAX COLLECTOR.**

5 (a) The Department of Public Health shall provide to the Tax Collector technical assistance
6 to identify Sugar-Sweetened Beverages or Concentrate subject to the Tax.

7 (b) All City Departments shall provide to the Tax Collector technical assistance to identify
8 Distributors of Sugar-Sweetened Beverages or Concentrate.

9
10 **SEC. 557. EXPENDITURE OF PROCEEDS.**

11 (a) Monies in the Fund shall be used exclusively for the purposes specified in this Article 8.
12 No monies from the Fund shall be appropriated or expended for any funding requirement imposed by
13 The Arts, Music, Sports, and Pre-School for Every Child Amendment of 2003 (Charter Sec. 16.123-1
14 et seq.) or any successor legislation. Subject to the budgetary and fiscal provisions of the City Charter,
15 monies in the Fund shall be appropriated on an annual basis to the following departments and used
16 solely for the following purposes:

17 (1) Administrative Costs. Up to two percent of the proceeds of the Tax, in any
18 proportion, to the Tax Collector and other City Departments for administration of the Tax, and to the
19 City Administrator for administration of the Committee, and for the Committee's evaluation of
20 programs funded by the Tax, and development of strategic and expenditure plans.

21 (2) Refunds of any overpayments of the Tax imposed under this Article 8.

22 (3) Funding of Eligible Programs that are "New Programs," as defined in this
23 Section 557, that are consistent with the findings, purpose, and goals stated in this Article 8, in the
24 following proportions:

1 (A) 40 percent to the San Francisco Unified School District for (i) student
2 nutrition services; school-based gardens, nutrition classes, and cooking classes for students and
3 parents; teacher training and curricular support in nutrition education; and after-school programs,
4 including but not limited to nutrition education, healthy snacks, school-based gardening, and cooking
5 classes; and (ii) expansion and improvement of physical education, which may include teachers,
6 education specialists, athletic equipment, training, and programming, provided that programs under
7 both subsections (i) and (ii) are each appropriated no less than one-quarter of this 40 percent; and

8 (B) 25 percent, in any proportion, to the Department of Public Health and
9 the Public Utilities Commission for (i) healthy food access initiatives; (ii) drinking fountains and water
10 bottle filling stations; (iii) oral health services; (iv) chronic disease prevention; and (v) public
11 education campaigns, provided that programs under each subsection (i) through (v) are each
12 appropriated no less than one-tenth of this 25 percent; and

13 (C) 25 percent to the Recreation and Park Department for recreation centers,
14 organized sports, and athletic programming, provided that up to two-fifths of this 25 percent may be
15 allocated by the Recreation and Park Department to community-based organizations for Active
16 Recreation Programs, with a priority on programs serving low-income and underserved communities;
17 and

18 (D) 10 percent to be allocated through the Department of Public Health to
19 fund grants to community-based organizations for programs that support (i) healthy food access;
20 (ii) active recreation; (iii) oral health; (iv) chronic disease prevention; and for public education
21 campaigns.

22 Should any of the above governmental entities cease to exist, or if Eligible Programs are
23 transferred from any of these entities to another department or agency, then the Mayor and the Board
24 of Supervisors are authorized to expend the proceeds of this Tax to any department or agency that is a
25 successor to that entity and that operates Eligible Programs, or to a department or agency to which

1 those Eligible Programs are transferred, for expenditures that would otherwise be authorized under
2 this Article 8.

3 (b) Any balance remaining in the Fund at the close of any fiscal year shall be deemed to
4 have been provided for a specified purpose within the meaning of Section 9.113(a) of the Charter and
5 shall be carried forward and accumulated in the Fund for the purposes and goals recited in this
6 Article 8.

7 (c) Goals. The goals of expenditures from the Fund shall be to:

8 (1) Promote active recreation, health, nutrition, and food access programs among
9 all San Francisco residents;

10 (2) Improve physical activity, health, and nutrition programs in the San Francisco
11 Unified School District; and

12 (3) Give special consideration to communities that are disproportionately affected
13 by diseases related to Sugar-Sweetened Beverage consumption, including obesity, diabetes, and
14 coronary disease, as measured by the most recent data available to the Department of Public Health.

15 (d) New Programs. The intent of this Section 557 is to provide dedicated revenues to
16 increase Eligible Programs. Therefore, except as otherwise specified in this Article 8, revenues in the
17 Fund may only be appropriated to the extent that the Controller certifies that appropriations contained
18 in the adopted budget from other funding sources exceed those in a given year, as measured and
19 adjusted by the Controller pursuant to this Section 557, subsection (e).

20 Notwithstanding the preceding paragraph, Eligible Programs shall not include:

21 (1) Any program for which a fixed or minimum level of expenditure is mandated by
22 state or federal law, to the extent of the fixed or minimum level of expenditure;

23 (2) Acquisition of any capital item not for primary and direct use of participants in
24 an Eligible Program;

1 (3) Acquisition (other than by lease for a term of ten years or less) of any real
2 property; or

3 (4) Maintenance, utilities, or any similar operating costs of any facility not used
4 primarily and directly by participants in Eligible Programs, or a library, hospital, or any recreation or
5 park facility that is a zoo.

6 (e) Expenditure After Baseline Year. No Funds shall be expended pursuant to
7 subsection (a)(3) in any fiscal year following a fiscal year in which the amounts appropriated for
8 Eligible Programs (not including appropriations from the Fund and exclusive of expenditures
9 mandated by state or federal law) is below the amount expended for City-operated Eligible Programs
10 and City-funded grants for Eligible Programs in the Baseline Year, as adjusted in the manner provided
11 in the following sentences (the "Base Amount"). All funds unexpended in accordance with the
12 preceding sentence shall be held in the Fund and may be expended in any future fiscal year in which
13 other expenditures from the Fund may be made. The Controller shall adjust the Base Amount for each
14 fiscal year after the Baseline Year based on calculations consistent from fiscal year to fiscal year by the
15 percentage increase or decrease in aggregate City discretionary revenues. In determining aggregate
16 City discretionary revenues, the Controller shall only include revenues received by the City that are
17 unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful
18 City purpose. The method used by the Controller to determine discretionary revenues shall be
19 consistent with the method used by the Controller to determine the Library and Children's Fund
20 Baseline calculations, as provided in Charter Section 16.108(g). The change in aggregate
21 discretionary revenues will be adjusted at year end when final revenues are known.

22 (f) Commencing January 1, 2017, the Controller shall file annually with the Board of
23 Supervisors, by January 1 of each year, a report containing the following:

24 (1) The amount of funds collected and expended, and the allocation of expenditures
25 from the Fund, during the prior fiscal year.

1 (2) The status of any Eligible Program required or authorized to be funded under
2 this Article 8.

3 (3) Such other information as the Controller, in the Controller's sole discretion,
4 shall deem relevant to the operation of this Article 8.

5
6 **SEC. 558. OVERSIGHT COMMITTEE.**

7 (a) There is hereby established a Healthy Nutrition and Physical Activity Access Fund
8 Committee that shall consist of fifteen members. Members shall have two-year terms but shall serve at
9 the pleasure of their respective appointing authorities. No member shall serve more than three
10 consecutive two-year terms. The initial two-year term for each of the initial members shall commence
11 as of the date that nine members have been appointed, which is when the Committee may begin its
12 work. Notwithstanding the previous sentence, a quorum of the Committee shall be eight members.
13 Absence from three consecutive regular meetings, or four regular meetings during a fiscal year,
14 constitutes resignation from the Committee.

15 (b) Members of the Committee shall be appointed as follows:

16 (1) Seats One through Five by the Board of Supervisors. Seats One and Two shall
17 be residents of neighborhoods disproportionately impacted by diseases related to the consumption of
18 Sugar-Sweetened Beverages, as measured by the most recent data available to the Department of
19 Public Health. Seats Three and Four shall be representatives of different local medical institutions that
20 engage in whole or in part in the diagnosis, treatment, or research of, or education about, chronic
21 diseases linked to the consumption of Sugar-Sweetened Beverages. Seat Five shall be a small business
22 owner.

23 (2) Seat Six by the Food Security Task Force, who may be a member of the Food
24 Security Task Force.

1 (3) Seats Seven and Eight by the San Francisco Youth Commission, who may be
2 members of the Youth Commission. Appointees to Seats Seven and Eight must be 18 years of age or
3 younger at the commencement of the initial term, and at the commencement of any succeeding term.

4 (4) Seats Nine and Ten by the San Francisco Unified School District. Seat Nine
5 shall be a School District employee working in the area of Nutrition Services; Seat Ten shall be a
6 School District employee working in the area of physical education.

7 (5) Seats Eleven and Twelve by the Department of Public Health. Seat Eleven shall
8 be a professional employee in that Department; Seat Twelve shall be an expert in oral health issues.

9 (6) Seat Thirteen by the Department of Children, Youth, and their Families, who
10 shall be a professional employee in that Department.

11 (7) Seat Fourteen by the Recreation and Park Department, who shall be a
12 professional employee in that Department.

13 (8) Seat Fifteen by the San Francisco Unified School District's Parent Advisory
14 Council.

15 (c) Members of the Committee shall serve without pay, but may be reimbursed for expenses
16 actually incurred. The City Administrator shall provide clerical assistance and administrative support
17 to the Committee, and the Controller shall provide it with technical assistance. All City departments,
18 boards, and commissions shall reasonably assist and cooperate with the Committee.

19 (d) The Committee shall meet at least six times per fiscal year, except that during the fiscal
20 year ending June 30, 2015, it shall meet at least three times.

21 (e) The Committee shall evaluate the impact of the Tax on beverage prices, consumer
22 purchasing behavior, and health outcomes. The Committee shall advise and make recommendations to
23 the Mayor, Board of Supervisors, and City departments receiving monies from the Fund, on the use and
24 expenditure of monies from the Fund consistent with the findings, purpose, and goals stated in this
25 Article 8.

1 (f) The Committee shall evaluate existing and past programming to identify existing and
2 emerging needs and shall adopt a strategic plan by December 1 of each fifth year to inform the use of
3 the Fund. The initial strategic plan shall be adopted by December 1, 2016.

4 (g) The Committee shall submit to the Board of Supervisors, no later than March 15 of each
5 fiscal year, an annual expenditure plan for the Fund based on the strategic plan adopted pursuant to
6 this Section. The initial annual expenditure plan shall be submitted no later than March 15, 2017.

7 (h) Unless otherwise reauthorized by the Board of Supervisors, this Section shall expire by
8 operation of law, and the Committee shall terminate, as of December 31, 2020. After that date, the City
9 Attorney shall cause this Section to be removed from the Administrative Code.

10
11 **SEC. 559. AMENDMENT OF ARTICLE.**

12 The Board of Supervisors may only amend or repeal this Article 8 without a vote of the people
13 in response to an agency or court ruling concerning the validity or scope of the Tax. Any amendment
14 that increases the amount or rate of tax beyond the levels authorized by this Ordinance, or that changes
15 the allocation of funds for which the proceeds of the Tax are expended, may not take effect unless
16 approved by a two-thirds vote of the people.

17
18 **SEC. 560. SEVERABILITY.**

19 If any section, subsection, sentence, clause, phrase, or word of this Article 8 is for any reason
20 held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not
21 affect the validity of the remaining portions of the Article. If imposition of the Tax on any person or
22 activities is held to be invalid or unconstitutional by any court of competent jurisdiction, the Tax shall
23 continue to be imposed in all other respects. The people of the City and County of San Francisco
24 hereby declare that they would have enacted this Article and each and every section, subsection,
25 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether

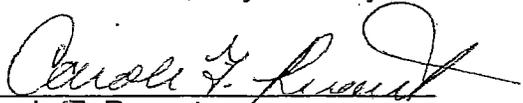
1 any other portion of this Article would be subsequently declared invalid or unconstitutional and would
2 have imposed this Tax in all other respects.

3
4 **SEC. 561. OPERATIVE DATE.**

5 This Article 8 shall become operative on January 1, 2016, except that Sections 556 and 558 of
6 this Article 8 shall become operative on January 1, 2015.

7
8 Section 3. Effective Date. The effective date of this ordinance shall be ten days
9 after the date the official vote count is declared by the Board of Supervisors.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: 
14 Carole F. Ruwart
15 Deputy City Attorney

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