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

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

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

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

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

SEC. 4.20. TOBACCO PRODUCT, AND ALCOHOLIC BEVERAGE, AND SUGAR-SWEETENED BEVERAGE ADVERTISING PROHIBITION.

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

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

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

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

(e) For purposes of this Section 4.20;
— “Caloric Substance” means a substance that adds calories to the diet of a person who consumes that substance.

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

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

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

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

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

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

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

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

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

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

— (5) Medical Food.

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

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

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

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

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

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

By:  
FRANCESCA GESSNER  
Deputy City Attorney
File Number: 151077  Date Passed: December 08, 2015

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

November 16, 2015 Land Use and Transportation Committee - RECOMMENDED

December 01, 2015 Board of Supervisors - PASSED, ON FIRST READING
 Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 08, 2015 Board of Supervisors - FINALLY PASSED
 Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee and Peskin

File No. 151077

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/8/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved

12/16/15