

Oakland – Measure 1

Ordinance #: 86161

Measure __. Shall the City of Oakland impose a 1 cent per ounce general tax on the distribution of sugar-sweetened beverages, including products such as sodas, sports drinks, sweetened teas, energy drinks, but exempting: milk products, 100% juice, baby formula, diet drinks, or drinks taken for medical reasons; and providing an exemption for small businesses?

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE HH

A PROPOSED ORDINANCE IMPOSING A ONE CENT PER OUNCE TAX ON THE DISTRIBUTION OF SUGAR-SWEETENED BEVERAGE PRODUCTS IN OAKLAND

This measure would impose a tax on the distribution of Sugar-Sweetened Beverage Products in Oakland. Sugar-Sweetened Beverage Products are defined as Sugar-Sweetened Beverages or Caloric Sweeteners. The tax would be one cent per fluid ounce. The tax would be collected starting on July 1, 2017. Revenue from the tax would be deposited into the City's general fund.

Sugar-Sweetened Beverages are defined as any beverage to which one or more Caloric Sweeteners have been added and that contain 25 or more calories per 12 fluid ounces of beverage. The tax would be imposed on any such beverage that has added sugar such as soda, soft drinks, sports drinks, energy drinks, and sweetened ice teas. The tax would not be imposed on infant or baby formula, beverages for medical use, supplemental, meal replacement or nutritional beverages, milk products, fruit or vegetable juices with no added sweeteners, or alcoholic beverages.

Caloric Sweeteners, i.e., added-calorie sweeteners that are used to make or mix sugar-sweetened beverages, also would be taxed. The tax would not be imposed on the distribution of Natural Common Sweeteners, defined as granulated white sugar, brown sugar, honey, molasses, xylem sap of maple trees, or agave nectar.

The tax would not be imposed on any distributor that is not subject to taxation by the City. The tax also would not apply to any business that distributes sugar-sweetened beverages directly to consumers if the business is a small business with less than \$100,000 in yearly gross sales.

The measure would require that any distributor of sugar-sweetened beverages register with the City. The measure details the method by which the tax will be collected, administered, and enforced.

The measure also would establish a Community Advisory Board. The Board would be responsible for making recommendations to the City Council on setting up and/or funding programs that prevent or reduce the health consequences of consuming sugar-sweetened beverages. The Board would provide reports on the implementation of the measure. The Board would consist of nine Oakland residents who would be appointed by the Mayor and confirmed by the City Council. The Board would include at least (1) three residents of areas that are disproportionately impacted by diseases related to the consumption of sugar, (2) two medical and dental professionals, (3) two parents of students in Oakland public schools, and (4) two members with experience in public health related to certain health and nutrition issues.

s/BARBARA J. PARKER
City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE HH

Currently the City of Oakland does not tax sugar-sweetened beverages. This measure would impose a City excise tax of one cent per fluid ounce on the distribution of sugar-sweetened beverages in Oakland, as well as added-calorie sweeteners that are used to make sugar-sweetened beverages. "Distribution" would include the sale of beverages or sweeteners by one business to another (such as a sale from a wholesale business to a retail business) or the transfer of beverages or sweeteners from a wholesale unit of a business to one of its retail units. "Distribution" would not include retail sales to customers. The distribution of sugar-sweetened beverages would not be taxed more than once in the chain of commerce.

The tax would be imposed starting on July 1, 2017. Revenue from the tax would be deposited into the City's general fund, and the City could use the revenue for any lawful governmental purpose.

The measure defines the beverages that qualify and do not qualify as "sugar-sweetened beverages." The measure requires that any distributor of sugar-sweetened beverages or beverage sweeteners register with the City. The measure also identifies the distributors that would be required to collect the tax. The tax would not apply to any distributor that the City has no legal authority to tax. The tax also would not apply to any distributor that is a small business. "Small Business" is defined as a business with less than \$100,000 in yearly gross sales, if the business distributes sugar-sweetened beverages directly to consumers.

The measure includes various administration and enforcement provisions. The City's Tax Administrator would establish rules and regulations for administration and enforcement. The measure imposes penalties on distributors who fail to pay the tax and authorizes the City to examine distributors' books and records. The measure requires that the City keep certain information and documents in connection with the tax confidential.

The measure would establish a new nine-member Community Advisory Board with specific membership requirements. Board members would be appointed by the Mayor and confirmed by the City Council in accordance with City Charter section 601. The Board would be responsible for (1) making recommendations to the City Council on setting up and/or funding programs that prevent or reduce the health consequences of consuming sugar-sweetened beverages, and (2) reporting on the implementation of the measure. However, the City Council would have final authority to determine the use of revenue from the beverage tax.

The Oakland City Council placed this measure on the ballot. A "yes" vote for the measure supports the passage of the tax; a "no" vote opposes the tax. A majority vote (i.e. more than 50% of the votes cast) is required to pass the measure.

s/BARBARA J. PARKER
City Attorney

CITY AUDITOR’S IMPARTIAL ANALYSIS OF MEASURE HH

Resolution No. 86161 will impose a one cent (\$0.01) per fluid ounce tax on the distribution of sugar-sweetened beverages. A sugar-sweetened beverage is any beverage intended for human consumption to which one or more caloric sweeteners are added and contains 25 or more calories per 12 fluid ounces of beverage.

The distributors of sugar-sweetened beverages are responsible for paying the tax.

Applicability and Exemptions

Beverages subject to the tax include, but are not limited to sodas, sports drinks, sweetened teas, energy drinks, non-100% fruit drinks, etc. Beverages exempt from the tax include milk products, 100% juice, baby formula, diet drinks, or drinks taken for medical reasons.

Community Advisory Board

The ordinance proposes the formation of a Community Advisory Board, which will advise and make recommendations to the City Council on the effectiveness of the Sugar-Sweetened Beverage Tax, including how and to what extent the City Council should establish and fund programs to prevent or reduce the health consequences of consuming sugar-sweetened beverages in Oakland communities. The nine member board will be comprised of Oakland residents, and will include medical and dental professionals, Oakland Unified School District parent representatives and public health professionals.

Revenue

The revenue from this tax will be designated for the General Purpose Fund. The Community Advisory Board will give recommendations to the City Council on ways to spend the funds. This measure requires a majority vote in order to pass.

Estimated Costs

We estimate the administrative cost of this measure to be approximately 2% of the revenue, which represents the support for the advisory board and administration and collection of the tax.

A “YES” VOTE MEANS: you support the City to collect a tax of 1 cent per fluid ounce from distributors of sugar-sweetened beverages.

A “NO” VOTE MEANS: you do not support the collection of this tax.

s/BRENDA D. ROBERTS
City Auditor

ARGUMENT IN FAVOR OF MEASURE HH

Vote YES on MEASURE HH to protect our children's health.

Overwhelming scientific evidence shows that sugary drinks causes widespread health problems, starting in childhood. One-third of all children, and nearly half of African-American and Latino children, are predicted to develop diabetes in their lifetimes. In addition to diabetes, tooth decay, heart disease and strokes are linked to sugary drink consumption.

Companies like Coca Cola and Pepsi spend hundreds of millions of dollars to aggressively market unhealthy sugary drinks to children.

Measure HH places a 1¢ per ounce tax on the distributors of high-calorie, low-nutrition sugary drinks. Despite the lies of the soda industry, Measure HH does not tax "groceries."

Measure HH establishes a community advisory board of health professionals, parents, and community residents. The board will advise the City Council on how best to support education and prevention programs.

Berkeley passed a similar measure that has been a huge success. Studies show it raises almost two million dollars per year for vital health and nutrition programs, with no negative impacts on businesses or jobs.

A wide range of organizations, healthcare and community leaders endorse Measure HH, Including the American Heart Association, EVERY Oakland elected official, the Alameda County Dental Society, the American Academy of Pediatrics, and the California Diabetes Association.

Don't be fooled, the campaign against Measure HH comes from the corporate giants Coca Cola and PepsiCo who have spent millions of dollars to confuse the manipulate voters. Even small business owners who appear in their advertising now say they were lied to by the Soda Industry.

Vote Yes on Measure HH to fund education programs for children and adults about diseases related to sugar-sweetened beverages. It's time the beverage industries invest in Oakland's communities and not profit off them.

Mayor, Libby Schaaf

Vice-Mayor, Annie Campbell Washington

Arthur M. Chen, M.D., President, Alameda-Contra Costa County Medical Association

Jane Garcia, CEO, La Clinica

Brittini Chicuata, American Heart Association

Rebuttal to Proponent Argument for Measure HH

The proponents don't seem to understand their proposal. Several statements in their ballot argument are inaccurate.

Local governments cannot place a sales tax on most beverages. That's why this is NOT a direct sales tax on beverages but a tax on "distributors" of the beverages, which include your local store owners.

The politicians say the tax will not be passed on to consumers. But the truth is that store owners report they will pass on the tax in order to stay in business by raising prices on a variety of food and grocery items.

Please do the research for yourself. You will find:

This is a tax on groceries because store owners can pass this tax on by increasing the price of anything they sell.

This is a tax on groceries that the politicians can spend on ANYTHING they want.

This tax on groceries hurts low-income people and seniors the most because they spend greater percentage of their income on food and groceries.

Oakland is already one of the most expensive cities in America more and more people and small businesses are being priced out. Big box stores might be able to absorb this tax, but not the hundreds of small businesses and their customers that have united together to oppose the grocery tax.

Enough is enough: The politicians should focus on our real problems like safety, affordability and transit- not making our groceries more expensive. Vote NO on HH.

www.NoOaklandGroceryTax.com

Jobs and Housing Coalition
Bishop Bob Jackson
Oakland Chinatown Chamber of Commerce
Asian Americans for Political Advancement
Abdul Taleb, Owner, Mi Carnal Market

Oakland has so many pressing problems and higher priorities-the last thing we need is a tax on groceries.

The politicians call it a tax on sodas. If you do the research for yourself you will find that is not true.

Instead of being imposed directly on beverages, this tax is imposed on “distributors,” including small business owners. This is because state law **restricts** the ability of local governments to impose a sales tax directly on most beverages. Nothing prevents this tax from being passed on to any item in our grocery stores and restaurants.

Small business will end up **passing this tax on to customers**-meaning higher food and grocery prices.

So even if consumers don't buy sodas, their grocery bills could still go up.

Senator Bernie Sanders disagrees with these types of regressive taxes, saying it is “... a regressive grocery tax that would disproportionately affect low-income and middle-class Americans.”

The politicians say this tax is about health, but not one penny is dedicated to health programs. The official measure states, “Revenue from the tax would be deposited into the City's general fund, and the City could use the revenue for any lawful governmental purpose.”

Hundreds of neighborhood grocers, restaurant owners, and concerned residents oppose Measure HH because it is a tax on food and groceries.

We have many more important problems to solve in Oakland. The last thing we need is a grocery tax that will make Oakland even more expensive.

Enough is enough-Vote NO on the Grocery Tax, **No on Measure HH.**

You can do your own research and learn the facts yourself at www.NoOaklandGroceryTax.com.

Jobs and Housing Coalition
Bishop Robert L. Jackson
Oakland Chinatown Chamber of Commerce
Asian Americans for Political Advancement
Abdul Taleb, Mi Carnal Market

Measure HH rebuttal to argument against.

Big Soda companies have spent millions of dollars attempting to convince you that Measure HH is a “grocery tax.” It is not. Simply and truthfully, it is a 1¢ per ounce tax on sugary beverages and ONLY sugary beverages. The tax is paid by the distributors of sugary beverages.

Distributors are companies that deliver sugary beverages to retailers like grocery stores and restaurants. Most are big businesses; for those to prevent diabetes, obesity, tooth decay and other health problems of Oakland Children.

Measure HH will produce over \$6 million a year that can fund Oakland education, health, nutrition and recreation programs designed to prevent diabetes, obesity, tooth decay and other health problems of Oakland children.

Voters in Berkeley approved a measure just like this in 2014 and it has been a huge success. American Journal of Public Health reports that there was a 21% drop in drinking unhealthy sugary beverages in low-income neighborhoods, and that local residents increased consumption of water by 63%.

Take a look at who is supporting Measure HH and who is against. Who do you believe? The soda companies or over 100 Oakland health organizations and community leaders?

www.oaklandvsbigsoda.com

Measure HH is supported by American Heart Association, American Diabetes Association, Alameda County Health Consortium, Asian Health Services, California Medical Association, California Black Health Network and Children Now.

Sherry Hirota, Asian Health Services

Jared Fine, DDS, MPH

Tanya Holland, Chef, Owner

Louise Rotham-Reimer, League of Women Voters

Rev. Dr. Harold Mayberry

FULL TEXT OF MEASURE HH

Section 1. TITLE.

Title. This Ordinance shall be referred to as the “Sugar-Sweetened Beverage Distribution Tax Ordinance.”

Section 2. 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 3. Code Amendment. ~~That a new Article~~Chapter 4.52, Sugar-Sweetened Beverage Distribution Tax Ordinance -is added to Title 4, Revenue And Finance the Oakland Municipal Code to read as follows:

Chapter 4.52 – SUGAR-SWEETENED BEVERAGE DISTRIBUTION TAX ORDINANCE

4.52.010 – Short Title.

This chapter shall be known as the “Sugar-Sweetened Beverage Distribution Tax Ordinance.”

4.52.020 – Definitions.

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

- A. “Alcoholic Beverage” means any beverage that is subject to taxation as an Alcoholic beverage under California Revenue and Taxation Code, Sections 32001 et seq., as may be amended from time to time.
- B. “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.

- C. “Business Entity” means any Person except for a natural person.
- D. “Caloric Sweetener” means any substance or combination of substances meeting all of the following criteria:
- (1) Is suitable for human consumption,
 - (2) Adds calories to the diet when consumed,
 - (3) Is perceived as sweet when consumed, and
 - (4) Is used for making, mixing, or compounding Sugar-Sweetened beverages by combining the substance or substances with one or more ingredients including, but not limited to, water, ice, powder, coffee, tea, fruit juice, vegetable juice, or carbonation or other gas.
- “Caloric Sweetener” includes, but is not limited to, sucrose, fructose, glucose, other sugars, and high fructose corn syrup.
- E. “City” means the City of Oakland, California.
- F. “Community Advisory Board” means the Sugar-Sweetened Beverage Distribution Tax Advisory Board described in Section 4.52.070.
- G. “Consumer” or “Consumers” means a natural person or persons who purchase a Sugar-Sweetened Beverage Product(s) in the City for a purpose other than resale in the ordinary course of business.
- H. “Distribution”, ~~or~~ “Distribute” or “Distributing” 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 of said Business Entity. “Distribution” or “Distribute” shall not mean the retail sale to a consumer.

I. “Distributor” means any Person who Distributes Sugar-Sweetened Beverage Product(s) within the City.

I.J. “General Tax” means any tax imposed for general governmental purposes.

I.K. “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.

I.L. “Natural Common Sweetener” means: granulated white sugar, brown sugar, honey, molasses, xylem sap of maple trees, or agave nectar.

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

I.N. “Powder” means any solid 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 Powder with one or more other ingredients.

I.O. “Retailer” means any Person serves Sugar-Sweetened Beverage Product(s) to Consumer(s).

I.P. “Small Business” means any Business Entity with less than \$100,000 in annual gross receipts in the most recent calendar year that distributes, sells, serves or provides Sugar- Sweetened Beverage Product(s) directly to final Consumers.

I.Q. “Sugar-Sweetened Beverage” means any beverage intended for human consumption to which one or more caloric sweeteners has been added and that contains 25 or more calories per 12 fluid ounces of beverage.

1. “Sugar-Sweetened Beverage” includes, but is 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.
2. “Sugar-Sweetened Beverage” shall 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; (e) 100 percent natural fruit or vegetable juice with no added caloric sweetener; or (f) alcoholic beverage.

Q.R. “Sugar-Sweetened Beverage Distribution Tax” or “Tax” is the general excise tax imposed under Section 4.52.030.

R.S. “Sugar-Sweetened Beverage Product(s)” means a Sugar-Sweetened Beverage or caloric sweetener.

S.T. “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.

T.U. “Tax Administrator” means the Director of Finance for the City of Oakland or the designee of the Director of Finance.

4.52.030 – Excise Tax.

- A. In addition to any other taxes imposed by the City, the City hereby levies a ~~G~~eneral ~~T~~ax of one cent (\$0.01) per fluid ounce on the privilege of Distributing Sugar-Sweetened Beverage ~~P~~products in the City.
- B. For the purposes of this Chapter, the volume, in ounces, of a Sugar-Sweetened Beverage product shall be calculated as follows:
 1. For a Sugar-Sweetened Beverage, the volume, in fluid ounces, of Sugar-Sweetened Beverages distributed to any Person in the course of business in the City.

2. For added Caloric Sweeteners, the largest volume, in fluid ounces, of Sugar-Sweetened Beverages that could be produced from the added Caloric Sweeteners. In accordance with rules and regulations promulgated by the City pursuant to Section 4.52.040, the largest volume, in fluid ounces, that would typically be produced from the added Caloric Sweeteners shall be determined based on the manufacturer's instructions or, if the Distributor uses that added Caloric Sweeteners to produce a Sugar-Sweetened Beverage, the regular practice of the Distributor.
3. The Tax shall be paid upon the first nonexempt Distribution of a Sugar-Sweetened Beverage product in the City. To the extent that there is a chain of Distribution within Oakland involving more than one Distributor, the tax shall be levied on the first Distributor subject to the jurisdiction of the City. To the extent the Tax is not paid as set forth above for any reason, it shall be payable on subsequent Distributions and by subsequent Distributors; provided, that the Distribution of Sugar-Sweetened Beverage products may not be taxed more than once in the chain of commerce.

C. The Tax shall not apply to:

1. To any Distributor that is not subject to taxation by the City under the laws of the United States or the State of California.
2. The Distribution of any Sugar-Sweetened Beverage Product by a Small Business as defined in this chapter.
3. To any Distribution of Natural or Common sweeteners.

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 shall include, but are not limited to:

1. The reexamination and correction of returns and payments, and for reporting.
 2. Prescribing the methods, frequency, and schedules for the calculation, collection and payment of the tax.
 3. The manner and form in which a Distributor must register with the City, and shall report and remit the tax.
 4. How a Distributor or a Retailer who receives, in the City, Sugar-Sweetened Beverage Product(s) from a Distributor must report to the City the name of that Distributor and the volume of Sugar-Sweetened Beverage Product(s).
 5. The documentation to be created or maintained by a Distributor or a Retailer.
 6. The administrative process and procedures for any Person against whom a determination is made by the Tax Administrator under this Chapter or any Person directly interested in such determination, shall follow to dispute or otherwise challenge a determination, and the form, manner and time within which a determination may be disputed or challenged.
- C. Adoption and implementation by the Tax Administrator of rules and regulations authorized by this Section shall not constitute new or increased tax requiring approval by the voters of the City.
- D. 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 Person engaged in or about to engage in business as a Distributor in the City shall immediately register with the City in the manner and form determined by the Tax Administrator. Persons engaged in such business must be registered no later than thirty (30) days after the date the tax imposed by this Chapter becomes effective on July 1, 2017, but such privilege of such registration after the date of imposition of such tax shall not relieve any person from the obligation or payment or collection of tax on and after the date of imposition thereof, regardless of registration.

- B. Any person who fails to pay the tax to the City or any amount of tax required to be collected and paid to the City within the time required by the rules and regulations established by the Tax Administrator shall pay a penalty of twenty-five (25) percent of the tax or amount of the tax, in addition to the tax or amount of delinquent tax, plus interest, computed on the amount of delinquent tax, inclusive of penalties, at the rate of one percent per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected became due and payable to the City and until the date of payment.
- C. The amount of any tax, penalty, and interest imposed by 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.
- D. In order to aid in the collection of taxes due to the City under this Chapter, any Distributor or Retailer that distributes, receives or sells Sugar-Sweetened Beverage Product(s) shall provide information to the City regarding the Distribution of these products in accordance with rules and regulations adopted by the Tax Administrator.
- E. 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 Tax 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. Any tax under this Chapter that has been paid more than once or has been erroneously or illegally collected or received by the City shall be refunded as determined by the Tax Administrator.
- B. Any tax under this Chapter that has been returned to the Distributor within six (6) months of the initial Distribution and for which the entire purchase price has been refunded in cash or credit shall be refunded as determined by the Tax Administrator.

C. Claims must be filed with the Tax Administrator and determined in accordance with the rules and regulations to be established by the Tax Administrator within one year from the date of payment of the tax to the City. No refund shall be paid under this Section unless claimant establishes entitlement thereto by written documentation.

4.52.070 – Examination of books, records, witnesses—Confidentiality of Information—Penalty.

The Tax Administrator or any authorized employee is authorized to examine the books, papers, tax returns and records of any Person subject to this chapter for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the tax due.

Every Person subject to the provisions of this chapter is directed and required to furnish to the Tax Administrator or duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations. The Tax Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax or registration fees due under this chapter. In order to ascertain the business tax or registration fees due under this chapter, the Tax Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

Except for disclosures to agents, attorneys, or employees of the City necessary to the purpose of administering or enforcing the tax, or in compliance with a court order, or in connection with an appeal, hearing or court action, City employees shall maintain the confidentiality of all business and personal information and documents furnished to or obtained by the Tax Administrator in connection with the collection or administrative proceedings relating to the determination and assessment of taxes.

The refusal to submit to such examination or production by any employer or person subject to the provisions of this chapter shall be deemed a violation of this chapter, and administrative subpoenas shall be enforced pursuant to applicable state law.

4.52.080 – Community Advisory Board.

There is hereby established a Community Advisory Board.

- A. The Community Advisory Board shall advise and 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 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, 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.
 3. At least two (2) parents of students currently enrolled in an Oakland Unified School District (OUSD). The parent representatives 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.

- C. Members shall serve three (3) year terms. No member shall serve more than two (2) consecutive three (3) year terms. The initial two (3) 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.
- D. Members of the Community Advisory Board shall serve without pay.
- E. The City Administrator shall provide clerical assistance and administrative support and technical assistance to the Community Advisory Board. All City departments, boards, and commissions shall reasonably assist and cooperate with the Community Advisory Board.
- F. The Community Advisory Board shall meet at least four (4) times per fiscal year.
- G. 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.
- H. 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..
- I. Within 15 days of receipt of the publication of the Advisory Board's annual report, the City Administrator shall cause the report to be published on the City's Internet website and to be transmitted to the City Council.

4.52.090 – Collection Date.

Collection of the tax shall begin on July 1, 2017.

4.52.100 – General Fund Revenue.

All tax revenue collected and remitted to the City pursuant to this Chapter shall be deposited in the City of Oakland unrestricted general fund to be used for any lawful government purpose.

Section 4. 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 5. Liberal Construction.

This measure shall be liberally construed to effectuate its purposes.

Section 6. 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 7. 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 8. 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 9. 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 Beverage Distribution Tax or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

Section 10. 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.