

ORDINANCE NO. 40, Series 2017
INTRODUCED BY: MAYOR PRO TEM GUSTAVO REYNA

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,
COLORADO, ENACTING A NEW ARTICLE IX OF CHAPTER 55 ESTABLISHING
THE DEFAULT BEVERAGES OFFERED WITH CHILDREN'S MEALS WITHIN THE
CITY OF LAFAYETTE, COLORADO**

WHEREAS, City Council desire to promote healthy meal options for children and their families to build a healthier community by implementing innovative approaches to accomplish these goals; and

WHEREAS, a recent 2013 study of the most profitable fast food restaurant chains in the United States found that only three percent (3%) of the assessed meal combinations met the expert nutrition standards for children's meals; and

WHEREAS, sugar-sweetened beverages alone make up to nine percent (9%) of the calories children consume daily, and medical evidence suggests sugar-sweetened beverages are linked to obesity; and

WHEREAS, obesity-related health conditions include type 2 diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, and depression, according to the United States Department of Health and Human Services and the Centers for Disease Control and Prevention; and various studies point to the serious economic costs to communities due to such obesity-related health conditions; and

WHEREAS, City Council believes that limiting the sugary beverages offered with children's meals will contribute to the overall health and wellbeing of children and families in the City of Lafayette.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Chapter 55 "Licenses and Business Regulations," is hereby amended by enactment of Article IX therein entitled "Default Beverages Offered with Children's Meals," as follows:

ARTICLE IX. – DEFAULT BEVERAGES OFFERED WITH CHILDREN'S MEALS

Sec. 55-175. Definitions.

For purposes of this article, the following words and phrases shall have the following meanings:

Children's meal means a combination of food items, or food items and a beverage, sold together at a single price, primarily intended for consumption by children

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Restaurant means a food establishment that serves food to customers for consumption on or off premises, including fast food and full service dining establishments. It includes, but is not limited to, drive-through or walk-up counters, coffee shops, cafes, pizza parlors, and dine-in establishments.

Default beverage means the beverage automatically included, or offered, as part of the children’s meal, absent a specific request by the purchaser of the children’s meal for an alternative beverage.

Sec. 55-176. Default beverages in children’s meals.

(a) After the effective date of the ordinance codified in this article, a restaurant that sells a children’s meal that includes a beverage shall make the default beverage offered with the children’s meal one of the following:

1. Water, sparkling water, or flavored water, with no added natural or artificial sweeteners;
2. Milk or non-dairy milk alternatives with no added natural or artificial sweeteners.

(b) Nothing in this article prohibits a restaurant’s ability to sell, or a customer’s ability to purchase, a substitute or alternative beverage instead of the default beverage offered with a children’s meal, if requested by the purchaser of the children’s meal.

(c) All restaurants shall complete an initial self-certification certifying whether they offer children’s meals and if so, certifying that they comply with the provisions of this section. Subsequently, restaurants that sell children’s meals shall complete an annual self-certification, certifying that they comply with the provisions of this section, as may be modified from time to time at the discretion of the city council.

Sec. 55-177. Construction.

This article shall be construed so as to not conflict with applicable federal or state laws, rules, or regulations. Nothing in this article authorizes any city agency to impose any duties or obligations in conflict with limitations on municipal authority established by federal or state law.

Section 2. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

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Section 4. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 3RD DAY OF OCTOBER, 2017.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 17TH DAY OF OCTOBER 2017.

CITY OF LAFAYETTE, COLORADO

Christine Berg, Mayor

ATTEST:

APPROVED AS TO FORM:

Susan Koster, CMC, City Clerk

David S. Williamson, City, Attorney