

**ORDINANCE NO. 18-046**

**AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE REGARDING BEVERAGES OFFERED IN CHILDREN'S MEALS**

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**Rev. 1  
#4576**

**Sponsors:**

**Council  
Member  
Turner**

**Council  
Member  
Congo**

**Co-Sponsors:**

**Council  
Members  
Dixon  
Williams**

**WHEREAS**, City Council desires to promote healthy meal options for children and families and contribute to building healthier communities through the implementation of innovative approaches to social problems; and

**WHEREAS**, a 2011 Nemours Survey of Children's Health found that forty percent of Delaware children, ages 2-17, were overweight or obese. Increased intake of Sugar-Sweetened Beverages (SSBs) and sugar-containing foods plays a critical role in the obesity epidemic; and

**WHEREAS**, Sugar-Sweetened Beverages alone make up to nine percent of the calories children consume daily, posing a significant health risk to children who, on average, consume more than 10 times The American Heart Association's 8-ounce weekly intake recommendation; and

**WHEREAS**, according to the Centers for Disease Control and Prevention (CDC), low-income families consume 2 ½ times more sugary drinks than their high-income counterparts, due in part to targeted marketing to communities of color and low-income families; and

**WHEREAS**, many restaurants and beverage companies have taken steps to help citizens address obesity by introducing lower and no-calorie options, displaying calorie information, encouraging citizens to drink more water, removing full-calorie beverages from schools, and reducing calories from many of their products; and

**WHEREAS**, City Council believes that requiring restaurants to provide a healthy beverage as a “default” beverage automatically included in children’s meal will contribute to the overall health and wellbeing of the City of Wilmington.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 5 of the City Code is hereby amended by adding the underlined language as follows:

Sec. 5-2. – Beverages offered in children’s meals.

1. Definitions. The following words, terms and phrases, when used in this Section, shall be defined as follows:

a) Children’s Meal:

- i. Shall mean a combination of food items and beverage that is (1) prepared by and offered for purchase at a food service facility as a unit at a single price; and (2) represented to be or otherwise primarily intended for consumption by a child.
- ii. Shall not include a combination of food items that has been prepackaged by or at a facility other than the food service facility offering the prepackaged combination for purchase.

b) Restaurants, as defined by subsections 5-78 (e) of this chapter, shall refer to retail establishments with 15 or more tables and chairs on the premises with table service and accessible public bathrooms where patrons eat in or take out.

- i. It includes, but is not limited to, drive-through or walk-up counters, coffee shops, cafes, pizza parlors, and dine-in establishments.
- ii. A restaurant, for purposes of this Section, may provide alcoholic beverage sales for drinking on premises provided that such sales are ancillary to food service.

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

2. Children's Meal Beverage Limitation

- a) A restaurant that sells a children's meal shall make the default beverage with the children's meal, and which shall be displayed on menu boards, one of the following:
  - i. Water, sparkling water, or flavored water, with no added natural or artificial sweeteners; or
  - ii. Regular, low fat or fat-free milk, including flavored milk or a non-dairy alternative; or
  - iii. 100% Fruit Juice or fruit juice combined with water or sparkling water, with no added natural or artificial sweeteners, in a serving size of no more than 8 ounces.
- b) The beverage listed or displayed on a restaurant menu for a children's meal shall be one of the default beverages listed in Sec. 5-2.

3. Qualifications, Enforcement & Penalties

- a) Nothing in this Section 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.
- b) The Department of Licenses & Inspections shall administer and enforce this chapter. The department may issue rules and regulations as necessary to carry out the purposes of this chapter.
- c) A violation of this chapter is an infraction, provided, however, that the first violation shall result in a written warning notice of violation to the operator of the store that a violation has occurred and the penalties that will apply for future violations. A second violation within a five-year period from the notice of violation shall be punishable by a fine of not more than two hundred fifty dollars (\$250). For a third or subsequent violation within a five-year period, the fine shall be not more than five hundred dollars (\$500). A restaurant shall not be found to have committed a violation under this chapter more than once during an inspection visit.

**SECTION 2.** This Ordinance shall become effective ninety (90) days upon its date of passage by the City Council and approval by the Mayor.

First Reading.....September 20, 2018

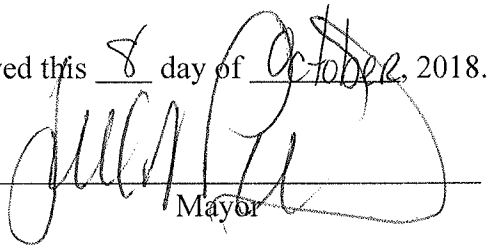
Second Reading.... September 20, 2018

Third Reading.....October 4, 2018

Passed by City Council,

  
\_\_\_\_\_  
President of City Council

ATTEST:   
\_\_\_\_\_  
City Clerk

Approved this 8 day of October, 2018.  
  
\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance amends Chapter 5 of the City Code by requiring healthy beverages to be offered as the default beverage offered with a combination children's meal inclusive of a drink, sold together at a single price. This ordinance does not prohibit a restaurant's ability to sell, or a customer's ability to purchase a substitute or alternative beverage if requested by the customer.

**FISCAL IMPACT STATEMENT:** This Ordinance has no anticipated fiscal impact.

**POLICY STATEMENT:** This Ordinance was inspired by a systematic review of interventions aimed at reducing the consumption of sugar sweetened beverages. Studies have found a significant link between sugary drink consumption and weight gain in children. Soda and sugary beverages are the single largest source of calories in children's diets and provide nearly half of kids' added sugar intake. Cities can promote good health for their youngest residents by instituting policies that support children's health and intends to support parent's efforts in providing healthier choices and improving the nutritional quality of children's meals.

The cities of Davis, Stockton, Berkeley, Long Beach, and Santa Clara County in California, and Baltimore in Maryland, have all adopted ordinances providing for healthy default beverages in restaurant children's meals. We urge Wilmington to join this growing national movement. The designation of particular beverages as children's menu items helps to establish food norms for children, affecting their preferences and lifelong eating patterns.