

ORDINANCE NO. 1415

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY  
ADDING CHAPTER 8.72 TO TITLE 8 OF THE DALY CITY MUNICIPAL CODE  
RE: ESTABLISHING HEALTHY DEFAULT BEVERAGES OFFERED WITH  
CHILDREN'S MEALS

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The City Council of the City of Daly City, County of San Mateo, State of California, ORDAINS as follows:

SECTION 1: Findings. The City Council of the City of Daly City hereby finds:

WHEREAS, the Council desires 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, diabetes, obesity, and tooth decay have been on the rise for decades. Although no group has escaped these epidemics, children as well as low income communities and communities of color are disproportionately affected; and

WHEREAS, while there is no single cause for the rise in diabetes, obesity, and tooth decay, there is overwhelming evidence of the link between the consumption of sugary drinks and the incidence of diabetes, obesity, and tooth decay; and

WHEREAS, sugary drinks such as soft drinks, energy drinks, sweetened teas, and sport drinks offer little or no nutritional value and large quantities of added sugar. A single 20-ounce bottle of soda, for instance, typically contains the equivalent of approximately 16 teaspoons of sugar; 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

WHEREAS, the problem is especially acute with children in California. From 1989 to 2008, the percentage of children consuming sugary drinks increased from 79% to 91% and the percentage of total calories obtained from sugary drinks increased by 60% in children ages 6 to 11; and

WHEREAS, this level of consumption has significant impacts on community health. Type 2 Diabetes – previously only seen among adults – is now increasing among children. If current obesity trends are not reversed, it is predicted that one in three children and nearly one-half of Latino and African American children born in the year 2000 will develop type 2 diabetes in their lifetimes; and

WHEREAS, in Daly City, an estimated 22% of children are overweight or obese, according to a study performed by the California Center for Public Health Advocacy in 2010; and

WHEREAS, overweight and obese children have a much greater chance of being obese as adults, and becoming vulnerable to obesity-related health risks; and

WHEREAS, there are also economic costs. In 2006, for instance, overweight and obesity-related costs in California were estimated at almost \$21 billion; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders. Children who frequently or excessively consume beverages high in sugar are at increased risk for dental cavities. Dental problems are a major cause of missed school days and poor school performance as well as pain, infection, and tooth loss in California; and

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

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF THE CITY OF DALY CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 2: That Daly City Municipal Code Chapter 8.72 is hereby added to read as follows:

**ESTABLISHING HEALTHY DEFAULT BEVERAGES OFFERED  
WITH CHILDREN'S MEALS**

- 8.72.010        Definitions**
- 8.72.020        Default Beverages in Children's Meals**
- 8.72.030        Violation- Penalty**

**8.72.010        Definitions.**

The following terms shall have the following meanings:

- A. "Children's Meal" means a combination of food items, or food item(s) and a beverage, sold together at a single price, primarily intended for consumption by children.
- B. "Default Beverage" means the beverage automatically included or offered as part of a Children's Meal, absent a specific request by the purchaser of the Children's Meal for an alternative beverage.
- C. "Food Vendor" means any food facility as defined by California Health and Safety Code Section 113789 permitted by the Division of Environmental Health.
- D. "Milk Substitute" means a non-dairy plant-based drink served in place of milk, including but not limited to soy milk, almond milk, or rice milk.

**8.72.020        Default Beverages in Children's Meals.**

- A. A Food Vendor 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; or
  2. Milk or a Milk Substitute, with no added natural or artificial sweeteners.
- B. Nothing in this Section prohibits a Food Vendor'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, at an additional cost, 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 8.72.020.

**8.72.040 Violation- Penalty.**

- A. Each violation of any provision of this Chapter shall be guilty of an infraction as set forth in Chapter 1.12 of the Daly City Municipal Code.
- B. Each violation this chapter may be subject to a civil action brought at the discretion of the City Attorney, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

**SECTION 3: Effective date.**

The Ordinance shall be in full force and effect on June 1, 2018.

**SECTION 4. Severability:** If any section, subsection or sentence of this Ordinance is found by a court of competent jurisdiction to be invalid or unlawful, the City Council finds and declares that the remainder of this ordinance would be and is enforceable and would have been adopted notwithstanding the finding of invalidity as to any section, subsection or sentence.

**SECTION 5: Environmental Determination.** The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption Classes 1, 4, 5, 7, 8, 9, and or 21 of the CEQA Guidelines (Title 14, *California Code of Regulations*, Sections 15301-15329).

**SECTION 6: Publication and Effective Date.** Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's Office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's Office a certified copy of the full text of

this ordinance along with the names of those City Councilmembers voting for and against this ordinance or otherwise voting.

Introduced this 11<sup>th</sup> day of December 2017.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the 8<sup>th</sup> day of January, 2018, by the following vote:

AYES, Councilmembers Buenaventura, Christensen, Guingona

Sylvester, Manalo

NOES, Councilmembers None

Absent, Councilmembers: None

K. Annette Hipona

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

JUSLYN C. MANALO

MAYOR OF THE CITY OF DALY CITY