

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE IX CHAPTER 4 AND
CREATING TITLE IX CHAPTER 4.1 OF THE PUEBLO
MUNICIPAL CODE CONCERNING HEALTHY BEVERAGES
WITH CHILDREN'S MEALS AND PROVIDING PENALTIES FOR
THE VIOLATION THEREOF

WHEREAS, the City of Pueblo, Colorado, (the "City"), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401, the City is authorized to adopt and enforce police power regulations in furtherance of the health, safety, and welfare of its citizens, and specifically, to make all regulations that may be necessary or expedient for the promotion of health; and

WHEREAS, the health and wellbeing of children is a priority for the City; and

WHEREAS, 70.3% of children in Pueblo County consume a sugary drink everyday according to the Healthy Kids Colorado Survey Data; and

WHEREAS, on average, a child consumes 30 gallons of sugary drinks every year according to the American Heart Association; and

WHEREAS, obese children and adults are at greater risk for numerous adverse health consequences, including, among others, type 2 diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating diseases, according to the *Surgeon General's Call To Action To Prevent and Decrease Overweight and Obesity*, U.S. Department of Health and Human Services, Office of the Surgeon General, and

WHEREAS, sugary drinks play a critical role in contributing to increasing obesity rates because they provide the largest source of daily calories in the diets of American children between the ages of 2-18; and

WHEREAS, according to the Pueblo Department of Public Health and Environment, requiring restaurants to provide a healthy beverage as the "default beverage" included in children's meals is an effective way to improve the nutritional quality of children's meals; and

WHEREAS, the City Council has carefully reviewed this ordinance and finds that it promotes the overall health and wellbeing of children and their families and is in the best interest of the health, safety, and welfare of the public; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations by the City Council.

SECTION 2.

Chapter 4.1, titled "Healthy Beverages with Children's Meals," is hereby added to Title IX of the Pueblo Municipal Code to read in full as follows:

CHAPTER 4.1 - Healthy Beverages With Children's Meals

Sec. 9-4.1-1. - Purpose.

The purpose of this Chapter is to promote the health and wellbeing of children by requiring healthy beverages to be the default beverage, as that term is defined in this Chapter, with children's meals served at restaurants.

Sec. 9-4.1-2 - Definitions.

- (a) *Children's meal* means a combination of food items and a beverage, or a single food item and a beverage, sold together at a single price, primarily intended for consumption by a child.
- (b) *Default beverage* means the beverage automatically included as part of a children's meal.
- (c) *Health Officer* means the Director of the Pueblo Department of Public Health and Environment.
- (d) *License* shall have the same meaning as provided for in Sec. 9-1-1(5), Pueblo Municipal Code.
- (e) *PDPHE* means the Pueblo Department of Public Health and Environment.
- (f) *Restaurant* means a retail food establishment that prepares, serves, and sells food directly to a consumer, including but not limited to fast-food and full-service dining establishments.
- (g) *The Code* means the Pueblo Municipal Code.

Sec. 9-4.1-3 - Default beverages with children's meals.

On and after July 1, 2026,

(a) A restaurant shall not sell a children's meal unless the default beverage is one of the following:

- (1) Water, sparkling water, or flavored water with no added natural or artificial sweeteners; or
- (2) Dairy milk or non-dairy milk alternative, with no added sugar or color.

(b) Restaurants shall list only the default beverages described in Section 9-4.1-3(a) of the Code in conjunction with children's meals on their menus.

(c) Restaurant employees shall offer only the default beverages described in Section 9-4.1-3(a) of the Code when taking food orders from customers.

(d) Nothing in this section prohibits a restaurant or an employee of the restaurant from selling, or impedes the customer's ability to purchase, a beverage with a children's meal other than the default beverages set forth in this section upon request of the customer.

Section 9-4.1-4 – Enforcement.

(a) It is unlawful for any restaurant or restaurant employee to violate any provision of this Chapter.

(b) This Chapter shall be enforced by the Health Officer or the Health Officer's designee.

(c) Notice of the provisions of this Chapter shall be given to all applicants for a food handling license as referenced in Chapter 4 of Title IX of the Code.

(d) The Health Department shall inspect for compliance with this Chapter while an establishment is undergoing otherwise mandated inspections or pursuant to a complaint described in Section 9-4.1-4(e) of the Code. If a violation of this Chapter is found during an inspection, PDPHE will issue the restaurant a written warning. Such warning shall state the violation and provide the restaurant with sixty (60) days to correct the violation and comply with this Chapter. PDPHE shall provide a warning to the alleged violator by in-person delivery to the alleged violator, posting notice at the restaurant premises in a clearly visible location, or via first-class mail to the business address of the restaurant as shown in the Colorado Secretary of State business records.

1. PDPHE may provide a restaurant that is in violation of this Chapter with technical and educational assistance to correct or remedy the violation by the end of the 60-day period provided in the violation warning issued to the restaurant pursuant to this section.
2. If a restaurant violates Section 9-4.1-3 of the Code and the restaurant does not correct the violation within sixty (60) days of issuance of a warning, the restaurant, or restaurant's employee, may incur penalties described in Section 9-4.1-5 of the Code.

(e) Any person who desires to register a complaint under this Chapter may file such complaint in such person's name with PDPHE.

Sec. 9-4.1-5. - Violations and penalties.

(a) Violation of this Chapter may result in suspension or revocation of a Restaurant's license as set forth in Chapter 4, Title IX of the Code.

SECTION 3.

Chapter 4 of Title IX of the Pueblo Municipal Code, as amended, is hereby amended to read as follows: (**underscoring** indicates new matter being added).

Sec. 9-4-5. Suspension of permits.

- (a) Permits may be suspended temporarily by the Health Officer for failure of the holder to comply with the requirements of state statute, **violation of Chapter 4.1 of Title IX of the Pueblo Municipal Code,** or regulation of the State Health Department.
- (b) Any person whose permit has been suspended may, at any time make application for a reinspection for the purpose of reinstatement of the permit. Such application shall include a statement signed by the applicant that, in his or her opinion, the condition causing the suspension of the permit has been corrected. Within ten (10) days following receipt of such written request, the Health Officer shall make a reinspection. If the applicant is complying

with all applicable requirements and State Health Department regulations, the permit shall be reinstated.

Sec. 9-4-6. Revocation of permits.

For serious or repeated violations of any of the requirements of state statutes, **Chapter 4.1 of Title IX of the Pueblo Municipal Code**, or regulations or interference with the Health Officer in the performance of his or her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Prior to such action, the Health Officer shall notify the permit holder in writing, stating the reason for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for hearing is filed with the Health Officer by the permit holder within such five-day period. A permit may be suspended for a period not to exceed five (5) days pending its revocation or a hearing relative thereto.

SECTION 4.

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 5.

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.

SECTION 6.

Safety. This Ordinance is deemed necessary for the protection of health, welfare, and safety of the community.

SECTION 7.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 9.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk