

**ORDINANCE
(AS AMENDED)
CITY OF NEW ORLEANS**

CITY HALL: December 16, 2021

CALENDAR NO. 33,584

NO. 28913 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER NGUYEN (BY REQUEST)

AN ORDINANCE to ordain Article XIII of Chapter 82 of the Code of Ordinances of the City of New Orleans, relative to the establishment of a default beverage for children's meals in restaurants within the City of New Orleans, to provide for penalties and remedies relative thereto; and to otherwise provide with respect thereto.

WHEREAS, the obesity rate in the United States has more than doubled in the last thirty (30) years and the adult obesity rate for Orleans Parish is thirty-one (31) percent; and

WHEREAS, obesity often results from unhealthy habits and puts individuals at risk for further health issues, including type 2 diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating diseases; and

WHEREAS, the obesity rate for children aged 2 to 4 in Orleans Parish is fourteen (14) percent; and

WHEREAS, overweight and obese children are likely to stay obese into adulthood and more likely to develop non-communicable diseases like diabetes and cardiovascular diseases at a younger age; and

WHEREAS, children who are overweight or obese may also suffer from psychological effects, such as low self-esteem, depression and social isolation; and

WHEREAS, the World Health Organization recommends a reduced intake of added sugars throughout the life course; and

WHEREAS, many restaurants and beverages companies have taken steps to help people address obesity by introducing lower and non-calorie options, displaying calorie information, encouraging people to drink more water, removing full-calorie beverages from schools and reducing calories from many of their products; and

WHEREAS, a substantial number of restaurants in Orleans Parish offer children's meals that include a beverage with the meal; and

WHEREAS, certain national fast food restaurant chains have voluntarily adopted a policy of making water, milk or juice the default options for their children's meals; and

WHEREAS, the New Orleans Health Department and American Heart Association will partner to educate restaurant owners who are subject to the requirements of this ordinance and to educate families about the importance of choosing healthy beverages for young children; and

WHEREAS, the National Restaurant Association created a voluntary Kids LiveWell designation for restaurants that commit to offer children meals, side dishes and beverage options that meet rigorous nutrition criteria;

NOW THEREFORE

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**, That
2 Chapter 82, Article XIII of the Code of Ordinances of the City of New Orleans is hereby ordained to read as follows:

3 **“Article XIII. – Healthy Kid’s Menus**

4 **Sec. 82-704. – Purpose.**

5 The purpose of this article is to support children’s health by establishing a default beverage listed for children’s
6 meals.

7 **Sec. 82-705. – Definitions.**

8 For the purposes of this Article, the following terms shall have the following meanings:

- 9 1. *Restaurant* shall include all restaurant types defined in Article 26 of the New Orleans Comprehensive
10 Zoning Ordinance.
- 11 2. *City* shall mean the City of New Orleans.
- 12 3. *Children’s meal* shall mean a combination of food items, or food item(s) and a beverage, sold together at a
13 single price, primarily intended for consumption by children.
- 14 4. *Default beverage* shall mean the beverage automatically included as part of a children’s meal, absent a
15 specific request by the purchaser of the children’s meal for an alternative beverage.

16 **Sec. 82-706. – Beverage Standards for Children’s meals**

17 A restaurant that sells a children’s meal shall make the default beverage with the children’s meal, and which shall be
18 displayed on printed menus, digital menus, and menu boards, one or more of the following:

- 19 1. Water (unflavored, unsweetened, uncarbonated);

- 20 2. Milk (plain, pasteurized cow’s milk with no added caloric sweeteners, low-calorie sweeteners, or
21 flavorings), Nonfat or one (1) percent milk, or non-dairy milk alternatives containing no more than 130
22 calories per container and/or serving; or
23 3. 100% juice or fruit juice combined with water or carbonated water with no added sweeteners, and no more
24 than 6-6.75 ounces.

25 **Sec. 82-707. – Regulations.**

26 Pursuant to Section 2-1000 of the City Code, the Department of Health may promulgate rules and regulations in
27 accordance with the provisions contained in this article and such other rules and regulations as may be necessary for
28 the purpose of implementing and carrying out the provisions of this article.

29 **Sec. 82-708. – Enforcement.**

- 30 1. The Department of Health shall have the power to enforce the provisions of this article. In addition,
31 designated enforcement employees of the Department of Safety and Permits shall have the power to
32 enforce the provisions of this article.
33 2. All restaurants applying for a Certificate of Occupancy from the New Orleans Department of Safety and
34 Permits that will sell a children’s meal shall submit their children’s meal menus for review by the New
35 Orleans Health Department. A restaurant shall not be required to offer a children’s meal. However, if a
36 children’s meal is offered a beverage shall not be required.
37 3. Any person who desires to register a complaint regarding compliance with this article may do so by
38 contacting the City’s 311 Service Center. The New Orleans Health Department will perform a compliance
39 check after receiving the complaint to determine if children’s meal menus are in compliance with this
40 article.

41 **Sec. 82-709. – Violations and penalties**

- 42 1. Nothing in this article prohibits any restaurant’s ability to sell or substitute, or a customer’s ability to
43 purchase, an alternative beverage instead of the default beverage offered with a children’s meal, if
44 requested by the purchaser of the children’s meal.
45 2. It shall be unlawful for a person or entity to own, operate, or otherwise control a restaurant where
46 children’s meal menus fail to comply with the requirements of Section 82-706.

47 3. Every person or entity who violates subsection 2 of this section shall, for a first violation thereof, be
48 provided additional education, and for a second violation, both of which were committed within a period of
49 12 months, be issued a warning of violation. For a third or subsequent violation, all of which were
50 committed within a period of 12 months, the owner and/or operator shall be subject to fines or penalties up
51 to \$200. Notice and hearing requirements for determining violation(s), fines, and penalties shall be in
52 accordance with the administrative procedures provided in Chapter 6, Article II of the Code of the City of
53 New Orleans.

54 ***"

1 SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS FURTHER ORDAINS, That the
2 provisions of this ordinance shall become effective on the later to occur of (a) January 1, 2023 or (b) the date on
3 which the Council approves the regulations mandated by Section 82-707.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS JANUARY 6, 2022

**HELENA MORENO
PRESIDENT OF THE COUNCIL**

DELIVERED TO THE MAYOR ON JANUARY 7, 2022

**APPROVED:
~~DISAPPROVED:~~ JANUARY 12, 2022**

**LATOYA CANTRELL
MAYOR**

RETURNED BY THE MAYOR ON JANUARY 14, 2022 AT 4:30 P.M.

**LORA W. JOHNSON
CLERK OF COUNCIL**

ROLL CALL VOTE:

**YEAS: Banks, Brossett, Giarrusso, Gisleson Palmer, Glapion, Moreno, Nguyen - 7
NAYS: 0
ABSENT: 0
RECUSED: 0**

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**THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY**

Lora W. Johnson
CLERK OF COUNCIL