

SUBJECT: **ORDINANCE NO. 1883, SERIES 2024 – AN ORDINANCE
AMENDING THE LOUISVILLE MUNICIPAL CODE TO REQUIRE
RESTAURANTS TO OFFER HEALTHY BEVERAGES IN
CHILDREN’S MEALS – 2ND READING PUBLIC HEARING
(advertised *Daily Camera* 9/8/24)**

DATE: **SEPTEMBER 17, 2024**

PRESENTED BY: **MEREDYTH MUTH, INTERIM DEPUTY CITY MANAGER**

SUMMARY:

The Boulder County Public Health (BCPH) with its Healthy Kids’ Menus program asked the City Council to consider an ordinance addressing how restaurants advertise sugary drinks to kids on their menus as one way to reduce the negative impact of sugary beverages on childhood obesity. The attached proposed ordinance is based on similar ordinances passed in Lafayette, Longmont, Golden, and Denver. The draft ordinance would require healthy beverages (water with no added sugar, or dairy milk or non-dairy milk substitute with no added sugar) be the default beverage with advertised children’s meals. However, the ordinance would not prohibit a restaurant from selling, or a customer’s ability to purchase, any other beverage that is available if requested by the purchaser of the children’s meal.

As written, the ordinance would not take effect until April 1, 2025. This would give local restaurants approximately six months to come into compliance. During that time, the City would partner with BCPH to reach local restaurants telling them about the new policy. Additionally, BCPH has money available to help restaurants that may need to reprint menus.

Boulder County Public Health (BCPH) staff will check for compliance with the ordinance at the same time it conducts annual restaurant inspections as part of its food safety-licensing program. Lafayette has taken this approach and their staff report having good compliance rates. They also report BCPH reaches out to any restaurant if they hear there is a violation.

Second reading amendments have been included in the draft ordinance. These reflect changes requested by the Colorado Restaurant association (attachment 2) as follows:

- Updating the definition of restaurant.
- Removing the reference to a City inspector doing compliance checks. If the City ever wants the Police Department or other City employees do the inspections, the ordinance can be amended.
- Providing that restaurants receiving a warning will be given at least 90 days to come into compliance with the ordinance.

SUBJECT: ORDINANCE NO. 1883, SERIES 2024

DATE: SEPTEMBER 17, 2024

PAGE 2 OF 2

FISCAL IMPACT:

None.

RECOMMENDATION:

Hold the public hearing and approve Ordinance No. 1883, Series 2024 with or without the second reading amendments.

ATTACHMENT(S):

1. Ordinance No. 1883, Series 2024 with second reading amendments
2. Email from Colorado Restaurant Association
3. Public Comments

STRATEGIC PLAN IMPACT:

☐	 Financial Stewardship & Asset Management	☐	 Reliable Core Services
☐	 Vibrant Economic Climate	☐	 Quality Programs & Amenities
☐	 Engaged Community	☒	 Healthy Workforce
☐	 Supportive Technology	☒	 Collaborative Regional Partner

Second Reading Amendments

Ordinance No. 1883, Series 2024 is revised to read as follows (second reading amendments are shown in **bold underline** and ~~**bold-strikeout**~~):

ORDINANCE NO. 1883 SERIES 2024

AN ORDINANCE AMENDING THE LOUISVILLE MUNICIPAL CODE TO REQUIRE RESTAURANTS TO OFFER HEALTHY BEVERAGES IN CHILDREN'S MEALS

WHEREAS, the health and well-being of children is a priority for the City; and

WHEREAS, according to a CDC study, over one-third of children and adolescents consumed fast food on a given day, and children; and

WHEREAS, the American Heart Association recommends that children consume no more than six teaspoons of sugar a day; but a small (12-ounce) soda found on children's meal menus contains about ten teaspoons of sugar; and

WHEREAS, the consumption of sugary drinks has been linked to an increased risk of chronic diseases and health conditions, including type 2 diabetes, heart disease, high blood pressure, and certain cancers; and

WHEREAS, requiring restaurants to provide a healthy beverage as the "default beverage" included in children's meals has been found to be 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 THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 5 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 5.26 to read as follows:

Chapter 5.26 Healthy Beverages in Children's Meals

Sec. 5.26.010. Definitions

For the purpose of this chapter, the following words and phrases shall have the following meanings:

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.

Default beverage means the drink that is automatically included or offered in a children's meal.

Health department means Boulder County Public Health.

Restaurant means a **business licensed as a retail** food establishment that serves food to customers for consumption on- or off-premises, including fast food and full-service dining establishments.

Sec. 5.26.020. Default beverages in children's meals.

(a) Effective April 1, 2025 a restaurant that sells a children's meal shall make the default beverage sold with the children's meal one of the following items:

1. Water, still or sparkling, with no added sugar; or
2. Dairy milk or a non-dairy milk alternative, with no added sugar.

(b) Restaurant menus shall only list the beverages described in subsection (a) above in conjunction with children's meals. Restaurant employees shall offer the default beverage while taking food orders from customers.

(c) Nothing in this section prohibits a restaurant's ability to sell, or a customer's ability to purchase, any other beverage that is available if requested by the purchaser of the children's meal.

Sec. 5.26.030. Enforcement; penalties.

(a) Restaurants will be inspected for compliance with this chapter during inspections by the health department ~~or other designated inspector of the City.~~

(b) No restaurant will be charged with violating this chapter unless a written warning ~~and an opportunity to correct the violation~~ is first given to the restaurant, **which such warning shall provide the restaurant at least ninety (90) days to correct the violation.** The warning may personally delivered, posted at the restaurant, or mailed via first-class mail to the restaurant.

(c) Any person convicted of violating this chapter shall, upon conviction, be punished by a fine of not more than \$500.00 for each offense. Imprisonment shall not be imposed as a penalty for any violation of this chapter.

Section 2. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this 3rd day of September, 2024.

Christopher M. Leh, Mayor

ATTEST:

Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 17th day of September, 2024.

Christopher M. Leh, Mayor

ATTEST:

Meredyth Muth, City Clerk

Meredyth Muth

From: Colin Larson <CLarson@corerestaurant.org>
Sent: Tuesday, September 10, 2024 4:51 PM
To: City Council
Subject: Colorado Restaurant Association comments on Healthy Kids Beverage Ordinance

Hello members of the Louisville City Council,

My name is Colin Larson and I am the Government Affairs Director of the Colorado Restaurant Association and I am writing to you today to request several modification and clarifications to the proposed City Ordinance 1883.

CRA recently was recently proactively involved with a similar ordinance in the city of Denver where we had meetings with the council members sponsoring the ordinance prior to introduction and were able reach several compromises to address our members concerns and ultimately created a policy that worked well for restaurants and accomplished the goals of the advocacy groups behind the ordinance. While it appears that the proposed ordinance 1883 incorporates many of those same negotiated points from the Denver Ordinance, the CRA is writing to request clarifications and alterations of the following items:

- 1. Change and clarify the definition of restaurant**

The definition of "Restaurant" is much broader than other ordinances and laws we have seen around the state (which typically narrowly define restaurants as "a business that is licensed as a retail food establishment which serves prepared food intended to be eaten on or off premises"). The way this definition is currently written it could apply to grocery stores, convenience stores, sporting goods retailers that sell jerky or granola bars, etc. This isn't as much of a concern for this policy as it is a larger concern for having a consistent definition of restaurant across ordinances.

- 2. Clearly define the health department as the enforcing agency**

With regards to sub section (a) of the enforcement; penalties section, the "or other designated inspector of the City" language is potentially very problematic for restaurants, and we request that language be removed to make it clear that the inspection will be done by the local public health inspector. In our discussion with the Denver City Council on their ordinance, we explained that public health inspections are already conducted on a routine basis at every restaurant and we have concerns that if inspections are done by other inspectors that it could potentially lead to additional disruptions of business and/or incentivize the city to hire additional staff to conduct inspections, which could necessitate additional fees or taxes. Business conditions for the hospitality industry are already in a dire condition across the state and particularly in Boulder County.

Having enforcement of this provision take place during routine public health inspections would significantly alleviate the concerns of our members that this ordinance could lead to additional costs and would increase the likelihood of compliance since health inspection reports and corrections are commonly reviewed by restaurants already.

3. Revise and define a reasonable timeline to get into compliance the recognizes potential cost burdens

Sub section (b) of the enforcement; penalties section, does not provide any clear timeline or remedy schedule to get into compliance with the ordinance. We requested the ordinance be revised so that a restaurant found to be out of compliance with the ordinance be first notified of their non-compliance during their routine health inspection and that they only be issued a violation if they are still found to be out of compliance on their subsequent inspection.

The reason for this is that depending on the establishment, changing printed menus or display boards can often cost thousands of dollars and take several months to design, order, and install new display boards (especially in instances where the restaurant is a franchisee and has contractual obligations to an out-of-state franchisor to design a compliant menu board that still satisfies the requirements of the franchise agreement).

The way sub section (b) is currently written could theoretically allow for the city to mail a letter to a restaurant on April 1, 2025 (which may never actually be received or reviewed by the owner or staff) and issue a citation on April 5, 2025 during a health inspection which would not be a reasonable amount of time to comply and would result in a significant fine in addition to the financial burden the ordinance is already forcing upon restaurants.

4. Advertise the availability of funding to offset compliance costs

For most restaurants, the biggest point of resistance to ordinances like this is the cost of reprinting menus and display boards. We appreciate that the Louisville ordinance has made money available to restaurants to get into compliance and we request that restaurants who receive their initial notice of non-compliance be provided with information about the resources available to them to help offset the costs they incur. This will help to improve compliance and reduce concern about the ordinance in the restaurant industry over all.

The CRA is happy to discuss any of these concerns more in depth and we thank you for considering the viewpoint of your Louisville restaurant community in your policy making.

Cordially,

Colin Larson, Director of Government Affairs
Colorado Restaurant Association
430 E. 7th Ave. | Denver, CO 80203
P: 303.830.2972
C: 720.206.7664
E: clarson@corestaurant.org



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Meredyth Muth

From: Nina Stubblebine <nstubblebine@communityfoodshare.org>
Sent: Tuesday, March 5, 2024 3:56 PM
To: City Council
Cc: Edstrom, Christina
Subject: Tonight's meeting

Some people who received this message don't often get email from nstubblebine@communityfoodshare.org. [Learn why this is important](#)

Dear City Council Members,

I am a member of the Louisville Healthy Kids Coalition, representing Community Food Share – the food bank serving all of Boulder and Broomfield Counties. Since I will not be able to attend the meeting this evening, I wanted to be sure to take the time to send an email stating Community Food Share's support of passing our healthy drinks in kids meals ordinance. Passing this ordinance is a huge benefit to the health of our community. Sugary drinks disproportionately impact lower-income folks in part because they are targeted by the sugary drink industry (for instance, sugary drinks are more heavily promoted and go on sale when SNAP benefits are released). This ordinance would directly benefit a lot of the families that Community Food Share serves.

Thanks for your consideration of this important ordinance!

Nina Stubblebine
Director of Community Collaboration
Pronouns: she, her, hers, ella <[What's this?](#)>
Community Food Share
650 S. Taylor Avenue
Louisville, CO 80027
nstubblebine@communityfoodshare.org
O: (303) 652-3663 ext. 206
www.communityfoodshare.org

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Meredyth Muth

From: Christine Fallabel <CFallabel@diabetes.org>
Sent: Tuesday, March 5, 2024 12:09 PM
To: City Council
Cc: Rebecca Gillett; Edstrom, Christina
Subject: Support for Healthy Drinks Ordinance

Some people who received this message don't often get email from cfallabel@diabetes.org. [Learn why this is important](#)

Dear Louisville City Council Members,

My name is Christine Fallabel, and I am the Director of State Government Affairs and Advocacy with the American Diabetes Association. Thank you for considering a healthy drinks ordinance---such an important policy for the health of Coloradans.

The American Diabetes Association works every day to improve the lives of all people living with diabetes and help those at risk for the condition prevent its onset. A major component of that is through daily behavior change, including the reduction of sugary foods and beverages.

Sugary drinks are a major component of chronic disease in our country, and sugary drinks are the number one source of added sugars in the American diet. This is especially true for children, where 60% of kids and youth consume at least one sugary drink per day.

People who drink at least one sugary beverage per day are at a 25% increased risk of developing type 2 diabetes in their lifetime. And our country is currently experiencing a type 2 diabetes epidemic.

The prevalence of type 2 diabetes in children has doubled over the past 20 years in the United States, and current trends tell us that as many as 220,000 young people in our country will have type 2 diabetes by 2060---which is nearly a 700% increase.

We can work to combat this in Colorado. Small changes in daily behavior, including our diet, can delay and even prevent the onset of type 2 diabetes, especially when people make these changes at a younger age.

Passing a healthy drink in kids' meals policy in Louisville is an important first step towards improving the built environment here and it will send a message to our families that the city cares about their health.

We can stem the tide of chronic illness and type 2 diabetes right here in Louisville, and I urge you to vote yes and make the healthy choice the easy choice for our kids and families.

Thank you for your time and consideration. If you have any questions, please let me know.

Sincerely,



Christine Fallabel, MPH



Christine Fallabel, MPH (*she/her*)
Director, State Government Affairs and Advocacy

Mountain Standard Time (MST)
Cell: 570-582-8235
cfallabel@diabetes.org

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