**The language in this model ordinance is designed to be tailored to the needs of an individual community. The text in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the ordinance. The comments provide additional information and** **explanation.**

Model Healthy Restaurant Children’s Meals Ordinance

An Ordinance of the [*City/County of \_\_\_\_\_*] Setting Nutrition Standards for Children’s Meals in Restaurants and Amending the [*City/County*] Code.

**SECTION I.** [*Article/Chapter*] of the [*City/County*] Code is hereby amended to read as follows:

**Section \_\_\_1. Purpose.** The purpose of this [*article/chapter*] is to support children’s health by setting nutrition standards for restaurant children’s meals.

**Section \_\_\_2. Definitions.** The following words and phrases, whenever used in this [*article/chapter*], shall have the following meanings:

[*(a) “Chain Restaurant” means a restaurant or similar retail food establishment that is part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items.*]

(b) “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.

(c) “Default Beverage” means the beverage automatically included as part of a Children’s Meal.

(d) “Menu and Menu Board” means the primary writing of the restaurant from which a customer makes an order selection, including, but not limited to, breakfast, lunch, and dinner menus; dessert menus; beverage menus; children's menus; other specialty menus; electronic menus; and menus on the Internet.

(d) “Restaurant” means a retail food establishment that prepares, serves, and vends food directly to the consumer.

***COMMENT*: The definition for “Chain Restaurant” is from the Federal Food, Drug, and Cosmetic Act menu labeling law, which requires chain restaurants with 20 or more locations to provide calorie and other nutrition information for standard menu items. This definition should be included in the kids’ meal policy if the full nutrition standards are meant to only apply to chain restaurants, not small independent restaurants.**

**The “Restaurant” definition is adapted from the definition of a food establishment in the FDA Model Food Code. Localities should use an existing definition in their municipal, county or state code, and the ordinance can be incorporated into existing local laws that involve inspections of retail food businesses, such as food retail codes.**

**Section \_\_\_3. Nutrition Standards.**

(a) A [c*hain restaurant / restaurant*] may not sell a children’s meal unless the [c*hain restaurant / restaurant*] offers at least two children’s meals, or 25% of the children’s meals on the children’s menu, whichever is greater, containing no more than:

(1) 550 calories;

(2) 700 milligrams sodium;

(3) 15 grams added sugars;

(4) 10% of calories from saturated fat; and

(5) 0 grams trans fat

(b) A [c*hain restaurant / restaurant*] may not sell a children’s meal unless the [c*hain restaurant / restaurant*] offers at least two children’s meals, or 25% of the children’s meals on the children’s menu, whichever is greater,including servings in the specified amounts from at least two (2) of the following five (5) food groups. At least one (1) of the two (2) food groups must be a fruit or non-fried vegetable.

(1) Fruit: one half (0.5) cup or more;

(2) Vegetable: one half (0.5) cup or more;

(3) Nonfat or low-fat dairy: one half (0.5) cup or more;

(4) Meat or meat alternative equaling at least:

(i) one (1) ounce meat, poultry, or seafood;

(ii) one (1) egg;

(iii) one fourth (0.25) cup pulses (beans, peas, lentils) or soy products;

(iv) two (2) tablespoons nut butter;

(v) one (1) ounce nuts and seeds.

(5) Whole Grains: provides at least eight (8) grams of whole grains and meets at least one of the following criteria:

(i) contains 50% whole grain ingredients; or

(ii) lists whole grains as the first ingredient.

***Comment*: The nutrition standards used in the model are informed by the Dietary Guidelines for Americans and the National Restaurant Association’s 2019 Kids Live Well 2.0 nutrition standards for children’s meals.[[1]](#endnote-1)**

**It is an option to have the full nutrition standards apply only to chain restaurants, which are already required to maintain nutritional information on the premises for their standard menu items. This option can alleviate concerns about requiring small, independent restaurants to calculate nutritional information. Cities or counties choosing this option that would still like to require something of small, independent restaurants, can choose to apply the “positive” nutrition criteria in Section 3(b) to those businesses.**

**Section \_\_\_4. Default Beverage Standards.**

(a) A restaurant may not sell a children’s meal with a beverage unless the default beverage is one of the following:

(1) Water with no added natural or artificial sweeteners;

(2) Unflavored nonfat or low-fat milk with no added natural or artificial sweeteners;

(3) Non-dairy milk alternative that is nutritionally similar to cow’s milk with no added natural or artificial sweeteners; or

[*(4) 100% fruit or vegetable juice with no added natural or artificial sweeteners, in a serving size of no more than 6 ounces*.]

(b) When taking food and beverage orders for a children’s meal, restaurant employees shall offer one of the default beverages above.

[*(c) Nothing in this section prohibits a restaurant from selling, or a customer from purchasing, a beverage other than the default beverage included with a children’s meal, if the customer requests the substitute or alternative beverage.*]

***COMMENT*: The beverage standards are based on the *Recommendations for Healthier* *Beverages* report from Healthy Eating Research, a national program of the Robert Wood Johnson Foundation.[[2]](#endnote-2)**

**These standards should apply to ALL restaurants, regardless of whether the full nutrition standards above only apply to chain restaurants.**

**It is best practice is to avoid offering juice as a default beverage option because juice lacks fiber and can contribute to excess calorie intake.[[3]](#endnote-3) The *Dietary Guidelines for Americans* recommend that the majority of fruit consumed come from whole fruit rather than fruit juice.[[4]](#endnote-4) Subsection (a)(4) should be excluded from the policy if possible.**

**Nothing in the policy prohibits a restaurant from allowing customers to swap a different beverage for the default beverage. Subsection (c) is optional language that can be included in the policy if the policymakers wish to make this point more explicit.**

**Section \_\_\_4. Menus and Menu Boards.**

1. The children’s meals and default beverages that meet the nutrition standards listed in Sections \_\_\_3. and \_\_\_4. above must be listed or displayed on a restaurant’s menu and menu boards, including, without limitation, online menus and menus used by delivery-based entities.

**Section \_\_\_5. Implementation and Enforcement.**

1. Government Agencies and Employees

(1) The [*name of* *agency, department, or official*] shall implement, administer, and enforce this [*article/chapter*]. The[*name of* *agency, department, or official*] may issue all rules and regulations for the efficient enforcement of [*article/chapter*] and shall have all necessary powers to carry out the purpose of this [*article/chapter*].

(2) Within [*ninety (90) days*] of the passage date of this Ordinance, or any amendments thereto, the [*City/County*] shall send a copy of the Ordinance or any such amendment, and other written informational resources created in accordance with subsection (a)(3) below, to all Restaurants subject to the Ordinance.

(3)The *[name of agency, department, or official]* shall create written informational resources and signage in *[English, Spanish]* summarizing the requirements of this Ordinance to help support Restaurants and employees in implementing this Ordinance.

(4) In addition to all other available remedies at law, this [*article/chapter*] shall be enforceable through [*add reference to the city or county’s administrative citation procedures and other applicable enforcement mechanisms. There should be a warning and opportunity to remedy a first violation and a progressive fine structure in which the fine increases for each subsequent violation.*]

1. Restaurants
2. All restaurants shall provide a copy of this ordinance and other written informational resources created in accordance with subsection (a)(3) above to all employees upon commencement of employment.
3. Within [*thirty (30) days*] of receiving a copy of the ordinance and other written informational resources, and on a regular basis for all new employees while this ordinance is in effect, all restaurants must train employees on how to comply with the provisions of this ordinance.
4. All restaurants shall maintain records documenting the nutritional content of children’s meal food and beverages and make such records available to the [*agency/department/official*] on request.

***COMMENT:* The ordinance authorizes the agency or city/county department charged with administering and enforcing the ordinance to issue rules and regulations to carry out the law.**

**Realistic and meaningful enforcement is essential. Check to see what agency conducts restaurant inspections in your jurisdiction, and make sure they are prepared to enforce the ordinance. For example, if restaurant inspections are conducted by a state agency, they may be unwilling or unable to enforce an ordinance passed by a city. An unenforceable law or a law with trivial penalties that are easily absorbed as the “cost of doing (illegal) business” can be worse than no law at all; an unenforced – or unenforceable – law undermines the effectiveness of the ordinance and legitimacy of the municipality or county’s laws in general.**

**Section \_\_\_6. Effective Date.**

The provisions of the ordinance shall become effective on [*insert date up to six months from the enactment of the Ordinance*].

***COMMENT:* The enforcement agency, likely the department of health, will require time to educate local restaurants about the new law. Restaurants will also require time to conform their practices to the new law. We suggest that the municipality allow up to six months after enactment before the ordinance takes effect.**

**SECTION II. Statutory Construction & Severability.**

This [*article/chapter*] shall be construed so as not to conflict with applicable federal or state laws, rules, or regulations. Nothing in this [*article/chapter*] authorizes any City agency to impose any duties or obligations in conflict with limitations on municipal authority established by federal or state law at the time such agency action is taken.

In the event that a court or agency of competent jurisdiction holds that federal or state law, rule, or regulation invalidates any clause, sentence, paragraph, or section of this [*article/chapter*] or the application thereof to any person or circumstances, it is the intent of the [*Municipal/County Legislators* *(e.g., city council)*] that the court or agency sever such clause, sentence, paragraph, or section so that the remainder of this [*article/chapter*] remains in effect.

1. National Restaurant Association. Kids Live Well Nutrition Criteria. Available at: [*https://restaurant.org/getmedia/8bbc70ec-aa58-411d-8f57-d0bf794917cd/Kids-LiveWell-Whitepaper.pdf#:%7E:text=REDUCING%20SODIUM%20THRESHOLD%3A%20KLW%202.0%20reduces%20the%20sodium,in%20response%20to%20recommendations%2C%20which%20suggest%20limiting%20sodium*](https://restaurant.org/getmedia/8bbc70ec-aa58-411d-8f57-d0bf794917cd/Kids-LiveWell-Whitepaper.pdf#:%7E:text=REDUCING%20SODIUM%20THRESHOLD%3A%20KLW%202.0%20reduces%20the%20sodium,in%20response%20to%20recommendations%2C%20which%20suggest%20limiting%20sodium)*.* [↑](#endnote-ref-1)
2. Healthy Eating Research. “Recommendations for Healthier Beverages.” Robert Wood Johnson Foundation. March 2013. Available at: [*www.rwjf.org/content/dam/farm/reports/issue\_briefs/2013/rwjf404852*](http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2013/rwjf404852)*.* [↑](#endnote-ref-2)
3. Committee on Nutrition. "The Use and Misuse of Fruit Juice in Pediatrics." Pediatrics 2001; 107(5): 1210-1213. [↑](#endnote-ref-3)
4. U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020. Available at: <https://www.dietaryguidelines.gov/> [↑](#endnote-ref-4)