

## ORDINANCE O-2021-

A BILL FOR AN ORDINANCE AMENDING TITLE 9 AND TITLE 2 OF THE LONGMONT  
MUNICIPAL CODE ON HEALTHY BEVERAGES FOR CHILDREN’S MEALS

THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, ORDAINS:

## Section 1

The Council amends the Longmont Municipal Code by adding the following chapter:

## Chapter 9.70- Healthy Beverages for Children's Meals

## 9.70.010-Findings

The Council finds:

A. That the health and well-being of children is of primary concern for the City of Longmont.

B. That Boulder County's childhood obesity rates have almost doubled (43 percent) since 2003 and more than one in four children is experiencing overweight or obesity.

C. That children with obesity are at least twice as likely as children with a healthy weight to have obesity in adulthood. Children and adults with obesity are at greater risk for numerous adverse health consequences, including type 2 diabetes, heart disease, stroke, high blood pressure, certain cancers, depression, and other debilitating diseases.

D. That obesity-related health conditions have serious economic costs. Estimated annual health care costs from obesity in the United States are \$190 billion—or 21 percent of total health care spending—and are expected to rise substantially. Roughly 40 percent of these costs are paid through Medicare and Medicaid, which means that taxpayers foot much of the bill.

1 E. That children who drink at least one sugary drink per day are 55 percent more likely  
2 to be overweight or obese and two-thirds of children consume at least one sugary drink on  
3 a given day.

4 F. That key national health and nutrition organizations, including the American  
5 Academy of Pediatrics and the American Heart Association, recommend children aged five  
6 and under should not be given any drink with added sugars.

7 G. That many families lack adequate time to obtain and prepare healthy food, making  
8 dining out an appealing and often necessary option. As a result, more than one-half of food  
9 expenditures in the United States are spent outside the home. Nationwide, American  
10 children obtain 25 percent of their calories from restaurants.

11 H. That by enacting this ordinance, Council intends to support parents' efforts to feed  
12 their children healthfully by ensuring that healthy drinks are available to children in  
13 restaurants.

#### 14 9.70.020-Definitions

15 The following definitions shall apply in the interpretation and enforcement of this Chapter:  
16 Children's meal means a combination of food items and a beverage, or a single food item  
17 and a beverage, sold together at a single price, primarily intended for consumption by a  
18 child.

19 Default Beverage means the drink that is automatically included or offered in the children's  
20 meal.

21 Restaurant means a food establishment that serves food to customers for consumption on  
22 or off premises, including fast food and full-service dining establishments.

#### 23 9.70.030-Default Beverages in Children's Meals

1       A.     On and after January 3, 2022, a restaurant that sells a children's meal shall make  
2       the default beverage sold with the children's meal one of the following items:

3       1.     Water, still or sparkling, with no added sugar; or

4       2.     Dairy milk or non-dairy milk substitute with no added sugar.

5       B.     Restaurant menus shall only list the beverages described in subsection A above in  
6       conjunction with children's meals. Employees shall offer the default beverage while taking  
7       food orders from customers.

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

11      9.70.040-Unlawful acts-Penalties

12      A.     It shall be unlawful for any restaurant to violate any provision of this Chapter.

13      B.     No restaurant shall be charged with violating this Chapter unless a written warning  
14      was given to the restaurant allegedly violating this section by a Code Enforcement Officer  
15      or Police Officer. A warning is given under this section if it is personally given to the  
16      alleged violator, or it is posted on the property of said restaurant, or mailed first-class to  
17      such restaurant. Such records are prima facie evidence that the required warning was given.

18      C.     The court shall punish anyone convicted under this section by a fine only, of  
19      \$100.00, of which at least \$50.00 the court shall not suspend. Upon any second conviction  
20      within 12 months, the court shall issue a fine only, of \$200.00, of which at least \$50.00 the  
21      court shall not suspend. Upon any third or subsequent conviction within 12 months of the  
22      previous conviction, the court shall issue a fine only of \$500.00, of which at least \$50.00  
23      the court shall not suspend.

1    Section 2

2           The Council amends section 2.97.010 of the Longmont Municipal Code, by adding  
3    italicized material and deleting stricken material, to read as follows:

4           2.97.010. - General intent.

5           A. The purpose of this chapter is to provide for and promote the health, safety and  
6           welfare of the general public; to identify processes and methods to encourage  
7           compliance with the Longmont Municipal Code, ordinances and regulations; and  
8           to provide for administrative penalties and opportunity for a prompt hearing,  
9           decision, and appeal as to violations of certain sections of the Longmont Municipal  
10          Code.

11          B. This chapter applies to the following provisions of the Longmont Municipal  
12          Code:

13          1. Section 6.44.090—Garage Sales-Definitions-Limitations.

14          2. Chapter 9.04—Nuisances.

15          3. Chapter 9.16—Rat Control.

16          4. Chapter 9.20—Slaughtering and Rendering.

17          5. Chapter 9.32—Weed Control.

18          6. Chapter 9.36—Amateur Radio Towers.

19          7. Chapter 9.40—Smoking in Public Places.

20          8. Section 9.60.060—Cultivating, Producing, and Processing Marijuana for  
21          Medicinal or Recreational Uses (only civil penalties may be imposed).

22          9. Section 10.20.100—Unreasonable Noises Prohibited-Prima Facie Unreasonable  
23          Noises.

1 10. Section 10.20.110—Maximum Permissible Sound Pressure Levels-Definitions-  
2 Exceptions.

3 11. Section 10.36.010—Abandoning Refrigerators and Similar Items.

4 12. Section 11.12.040—Abandonment Prohibited.

5 13. Section 11.12.060—Restrictions on Storage of Vehicles-Ownership  
6 Requirements.

7 14. Section 11.12.050—Junked Vehicles Prohibited-Exceptions (for junked  
8 vehicles on private property only).

9 15. Chapter 13—Parks.

10 16. Chapter 13.24—Trees and Plants.

11 17. Chapter 13.37—Use of Public Places.

12 18. Title 15—Land Development Code.

13 19. Chapter 16.20—International Property Maintenance Code.

14 20. Chapter 16.44—Burning Restrictions.

15 *21. Chapter 9.70—Healthy Beverages for Children’s Meals*

16 C. Enforcement actions are intended to be cumulative in nature. Unless otherwise  
17 noted in subsection 2.97.010.B, the city may pursue one or more civil, criminal,  
18 and administrative actions, fees, fines sentences, penalties, judgments and remedies  
19 and may do so simultaneously or in succession.

20 Section 3

21 To the extent only that they conflict with this ordinance, the Council repeals any conflicting  
22 ordinances or parts of ordinances. The provisions of this ordinance are severable, and invalidity of  
23 any part shall not affect the validity or effectiveness of the rest of this ordinance.

1 Section 4

2 This ordinance shall become effective on January 3, 2022.

3 Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

4  
5 Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

6  
7  
8  
9 \_\_\_\_\_  
MAYOR

10  
11  
12 ATTEST:

13  
14  
15 \_\_\_\_\_  
16 CITY CLERK

17  
18  
19 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT  
20 7:00 P.M. ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021, AT THE  
21 LONGMONT CITY COUNCIL MEETING.

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24 APPROVED AS TO FORM:

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27 \_\_\_\_\_  
28 CITY ATTORNEY

29 \_\_\_\_\_  
DATE

30  
31 \_\_\_\_\_  
32 PROOFREAD

33 \_\_\_\_\_  
DATE

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35 APPROVED AS TO FORM AND SUBSTANCE:

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38 \_\_\_\_\_  
39 ORIGINATING DEPARTMENT

40 \_\_\_\_\_  
DATE

41 CA File: 21-001313