



Republic of the Philippines
CITY COUNCIL
City of Manila

REGULAR SESSION NO. 189

9th CITY COUNCIL

Begun and held in the City Council on Tuesday,
the tenth day of February, Two Thousand Fifteen

ORDINANCE NO. 8446

AN ORDINANCE MANDATING THE DISCLOSURE OF THE NUTRITIONAL CONTENTS OF STANDARD MENU ITEMS IN CHAIN RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS IN THE CITY OF MANILA, PRESCRIBING PENALTIES FOR VIOLATION THEREOF AND FOR OTHER RELATED PURPOSES

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PREAMBLE

WHEREAS, Article II, Section 15 of the 1987 Philippine Constitution mandates that: *"The State shall protect and promote the right to health of the people and instill health consciousness among them"*;

WHEREAS, in relation thereto, Section 16 (the *General Welfare Clause*) of the Local Government Code of 1991 mandates every local government unit to, among other things, promote the health and safety of its inhabitants;

WHEREAS, menu nutrition labeling, a current practice in some jurisdictions, has been proven to be an effective means of raising health consciousness on the part of the public, helping them make informed dietary decisions;

WHEREAS, the practice of menu labeling, moreover, encourages restaurants to improve the nutritional qualities of the food they serve to the public:
NOW, THEREFORE,

Be it ordained by the City Council of Manila, in session assembled, *THAT*:

SECTION 1. Title. - This Ordinance shall be known as the ***"Manila Menu Nutrition Labeling Ordinance of 2015"***.

SEC. 2. Definition of Terms. - Whenever used in this Ordinance, the following terms shall mean or be understood as follows:

- (a) **"Restaurant or similar retail food establishment"** - A retail establishment, the business of which is to sell or serve food that is meant for immediate human consumption, i.e., to be consumed in the premises of such restaurant, while the customer is walking away, or soon after arriving at another location.
- (b) **"Menu"** - The primary writing of the restaurant or similar retail food establishment, including drive-through menu boards, from which a customer makes an order selection.
- (c) **"Standard menu item"** - Food meant for immediate human consumption, which is routinely included on a covered establishment's menu or routinely offered as self-service food or food on display. For purposes of this Ordinance, the term *"food"* shall include beverages.
- (d) **"Temporary menu item"** - Food that appears on a covered establishment's menu or is routinely offered as self-service food or food on display for a period not exceeding sixty (60) days, whether consecutive or not, per calendar year: *PROVIDED, however*, That an item that is regularly offered for sale one or more days each week shall not be considered a temporary menu item.
- (e) **"Food that is part of a customary market test"** - Food that is marketed in a covered establishment for a period not exceeding one hundred twenty (120) days, whether consecutive or not, in order to test consumer acceptance of the product.

- (f) **"Daily special"** - A menu item that is not routinely listed on a menu or offered for sale by the covered establishment, and is promoted as a special menu item prepared and offered for sale only on a particular day: *PROVIDED, however,* That an item that is regularly offered for sale one or more days each week shall not be considered a daily special.
- (g) **"Custom order"** - Food order that is prepared in a specific manner, based on an individual customer's request, which requires the covered establishment to deviate from its usual preparation of a menu item.
- (h) **"Variable menu item"** - A standard menu item that comes in different flavors, varieties, or combinations, and is listed as a single menu item.
- (i) **"Department"** - The Manila Health Department.

SEC. 3. Establishments Covered. - Every restaurant and similar retail food establishment in the City of Manila that is part of a chain with ten (10) or more locations or branches anywhere in the Philippines, doing business under the same or substantially the same name (regardless of the type of ownership of the locations), and offering for sale the same or substantially the same menu items, are subject to the requirements set forth in this Ordinance.

Menu items are considered the same or substantially the same where they are prepared using the same general recipe and is substantially the same way with substantially the same food components, even if the names of the menu items vary.

SEC. 4. Disclosure of Nutritional Information. - For each standard menu item offered for sale, covered establishments shall, in a clear and conspicuous manner, make a corresponding nutrient content disclosure as follows:

- (a) On the menu listing the item for sale, adjacent to its name, so as to be clearly associated therewith, the number of calories contained in each serving size or other unit of measure of such item.
- (b) In a written form available within the premises of the covered establishment and to the customer upon request, with a prominent and clear statement of such availability on the menu or menu board, the amount of the following nutrients contained in each serving size or other unit of measure of the item:
 - (1) Total fat;
 - (2) Trans fat;
 - (3) Saturated fat;
 - (4) Cholesterol;
 - (5) Sodium;
 - (6) Total carbohydrates;
 - (7) Dietary fiber;
 - (8) Sugars; and
 - (9) Protein.

Covered establishments shall have a period of six (6) months from the effectivity of this Ordinance to comply with the provisions of this subparagraph and any other requirement referring to the written form described herein.

SEC. 5. Self-Service Menu Items. - In the case of standard menu items sold at a salad bar, buffet line, cafeteria line, or similar self-service facility, and for self-service items that are on display, covered establishments shall place adjacent to each item a sign that states the number of calories contained in each displayed item or per serving thereof. The statement of the availability of the written form described in Section 4 (b) of this Ordinance shall, in this case, be posted in a conspicuous area of the establishment, visible to its customers.

SEC. 6. Variable Menu Items. - In the case of variable menu items, disclosure of the caloric and nutrient content shall be made for each flavor or variety of the said item. For variable standard menu items, however, whose ingredients are chosen or determined by the customers themselves, such disclosure shall be made separately for each ingredient, topping, add-on or variable component at a given quantity, whether in a posted list or adjacent to the container. There shall likewise be a visible statement of the availability of the written form described in Section 4 (b) of this Ordinance.

SEC. 7. Non applicability to Certain Food. - The nutrient content disclosures required by this Ordinance shall not apply to the following food items:

- (a) Those that are not listed on the menu, such as condiments and other items placed on tables or counters for general use;
- (b) Daily specials;
- (c) Temporary menu items;
- (d) Food that is part of a customary market test; and
- (e) Custom orders.

SEC. 8. Reasonable Basis. - Covered establishments shall have reasonable bases for their nutrient content disclosures, in the form of nutrient databases, cookbooks that provide nutritional information, laboratory analyses performed by laboratories duly accredited by the Food and Drug Administration, and other reasonable means.

SEC. 9. Substantiation. - Covered establishments shall provide to the Department, within fifteen (15) days upon notice, information substantiating their nutrient content disclosures, including the following:

- (a) For nutrient databases:
 - (1) The identity of the database used;
 - (2) The ingredients affecting the nutritive values of the menu items concerned, in specific amounts vis-à-vis a given serving size;
 - (3) A detailed listing of the amount of nutrients that each ingredient, in quantities as specified, contributes to the menu item, if information thereon can be obtained from the database;
 - (4) A detailed listing of the nutritive values determined for each menu item;
 - (5) Any other information pertinent to the final nutritive values of the menu items, such as factors that might cause variations in the nutrient profile; and

- (6) A statement under oath executed by the owner/majority owner, operator, manager or other agent in charge of the covered establishment, or a duly licensed nutritionist employed or retained by the same, certifying that to the best of his knowledge and information, the information contained in the nutrient analysis is complete and accurate and that the covered establishment has taken reasonable steps to ensure that the method of preparation and amount of each standard menu item offered for sale adhere to the factors on which its nutritive values were determined.
- (b) For published cookbooks that provide nutritional information for recipes contained therein:
- (1) The name, author and publisher of the cookbook used;
 - (2) If available, information provided by the cookbook or from the author or publisher about how the nutrition information for the recipe was obtained;
 - (3) A copy of the recipe used to prepare the menu item concerned and a copy of the nutrition information for that menu item as provided by the cookbook; and
 - (4) A statement under oath executed by the owner/majority owner, operator, manager or other agent in charge of the covered establishment certifying that the covered establishment has taken reasonable steps to ensure that the method of preparation and amount of each standard menu item offered for sale adhere to the factors on which its nutritive values were determined.

A recipe may be divided as may be necessary to accommodate differences in the portion size derived from the recipe and that served as the menu item, but no changes may be made to the proportion of ingredients used.

- (c) For laboratory analyses:
- (1) The ingredients affecting the nutritive values of the menu items used for the nutrient analysis, in specific amounts vis-à-vis a given serving size;
 - (2) The identity of the laboratory performing the analysis;
 - (3) Copies of analytical worksheets, including the analytical methods used to determine and verify nutrition information; and
 - (4) A statement under oath executed by the owner/majority owner, operator, manager or other agent in charge of the covered establishment, or a duly licensed nutritionist employed or retained by the same, certifying that to the best of his knowledge and information, the information contained in the nutrient analysis is complete and accurate and that the covered establishment has taken reasonable steps to ensure that the method of preparation and amount of each standard menu item offered for sale adhere to the factors on which its nutritive values were determined.

- (d) For nutrition information provided by other reasonable means:
- (1) A detailed description of the means used to determine the nutrition information;
 - (2) The ingredients affecting the nutritive values of the menu items concerned, in specific amounts vis-à-vis a given serving size;
 - (3) Any data used in determining the nutritive values of the menu items concerned, such as the nutrition facts on labels of packaged ingredients; and
 - (4) A statement under oath executed by the owner/majority owner, operator, manager or other agent in charge of the covered establishment, or a duly licensed nutritionist employed or retained by the same, certifying that to the best of his knowledge and information, the information contained in the nutrient analysis is complete and accurate and that the covered establishment has taken reasonable steps to ensure that the method of preparation and amount of each standard menu item offered for sale adhere to the factors on which its nutrient values were determined.
- (e) The Department may require any covered establishment to provide other pertinent information and documents, in addition to all the foregoing, which may be fairly necessary to enable it to determine the accuracy of and the reasonableness of the bases for the nutrient content disclosures made by such establishment.

SEC. 10. Business Permit. - No business permit shall be issued to any covered establishment unless the Department certifies that such establishment has complied with the substantiation requirements of the immediately preceding section, as it may have been directed to do so by the Department, and that it has submitted the following:

- (a) An affidavit of compliance with this Ordinance executed by the owner/majority owner, operator, or manager or other agent in charge of the covered establishment;
- (b) Photographs or videos showing such compliance; and
- (c) Any other additional pertinent document/s which the Department may reasonably require as proof of compliance by such establishment with the provisions of this Ordinance.

SEC. 11. Penalties. - Any person or juridical entity violating this Ordinance shall, upon conviction, be punished by a fine of not less than Three Thousand Pesos (PhP. 3,000.00) nor more than Five Thousand Pesos (PhP. 5,000.00), at the discretion of the court: *PROVIDED*, That for any second and additional offenses, the maximum fine shall always be imposed: *PROVIDED, further*, That in case the violation is committed by a juridical person, the President, Chief Executive Officer or General Manager thereof shall be liable.

SEC. 12. Separability Clause. - If any provision or part of this Ordinance is declared invalid or unconstitutional by competent authority, the remainder or provisions not otherwise affected and dependent thereon shall remain valid and subsisting.

SEC. 13. Repealing Clause. – Existing ordinances, orders or administrative regulations that are inconsistent with the provisions of this Ordinance, if any, are hereby amended, modified, suspended or repealed accordingly.

SEC. 14. Effectivity. - This Ordinance shall take effect 30 days from its posting and publication in a newspaper of general circulation.

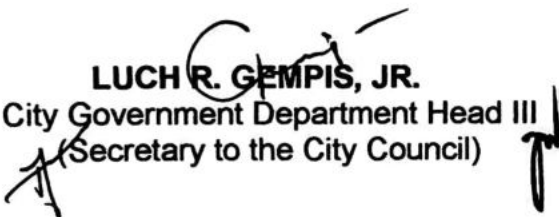
Enacted by the City Council of Manila at its regular session on November 24, 2015.

PRESIDED BY:



ROLANDO M. VALERIANO
Acting Presiding Officer
City Council, Manila

ATTESTED:



LUCH R. GEMPIS, JR.
City Government Department Head III
(Secretary to the City Council)

APPROVED BY HIS HONOR, THE MAYOR, ON DEC 17 2015



JOSEPH EJERCITO ESTRADA
Mayor
City of Manila

ATTESTED:



EDWARD S. SERAPIO
City Government Department Head III
(Secretary to the Mayor)