

**57-O-99**

**AN ORDINANCE**

**Amending Various Chapters and  
Sections of the Evanston City Code  
Pertaining to the Regulation of Food  
Service and Retail Food Store Sanitation**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EVANSTON, COOK COUNTY, ILLINOIS:

**SECTION 1:** That Chapter 7 of Title 8 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said chapter in its entirety.

**SECTION 2:** That Chapter 8 of Title 8 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said Chapter in its entirety and substituting in lieu thereof the following new Chapter 8:

**CHAPTER 8  
FOOD SERVICE AND  
RETAIL FOOD STORE SANITATION**

8-8-1: **ADOPTION BY REFERENCE:**

- (A) Pursuant to the authority granted by 65 Illinois Compiled Statutes 5/1-3-4 and pursuant to its home rule powers, the City hereby adopts by reference and incorporates herein the following:
1. The 1998 and all subsequent editions or amendments to the Illinois Department of Public Health's publication currently titled "Food Service Sanitation Rules and Regulations", on file with the Secretary of State which sets standards for the prevention of food borne illnesses in public eating establishments.
  2. The 1996 and all subsequent editions or amendments to the Illinois "Retail Food Store Sanitation Rules and Regulations" on file with the Secretary of State which sets standards for the prevention of foodborne illnesses in retail food stores.

- (B) All references in the Food Service Sanitation Rules and Regulations and in this Chapter to any "regulatory authority" shall be read as "Public Health Director and/or his or her designee". Any reference to "Municipality" or "City" shall mean the City of Evanston.

8-8-2: **DEFINITIONS:**

Amendments to the State Rules and Regulations: The following definitions are in addition to those definitions enumerated in Section 750.10 of the Illinois Department of Public Health Food Service Sanitation Code (1998):

- (A) **ADULTERATED:** The condition of any food:
1. If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
  2. If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or is in excess of such tolerance if one has been established.
  3. If it consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
  4. If it has been processed, prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.
  5. If it is in whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter.
  6. If its containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.
- (B) **CRITICAL ITEM:** A provision of this Chapter, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.
- (C) **FOOD ESTABLISHMENT:** An operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption: such

as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

1. A food establishment includes:
  - (a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a satellite feeding location; and
  - (b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
2. A food establishment does not include:
  - (a) An establishment that offers only prepackaged foods that are not potentially hazardous;
  - (b) A produce stand that offers only whole, uncut fresh fruits and vegetables;
  - (c) A food processing plant;
  - (d) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if the consumer is informed by a clearly visible placard at the sale or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the Public Health Director.
  - (e) An area where food that is prepared in Section 8-8-2(C)2(d) is sold or offered for human consumption.
  - (f) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the

number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area stating the food is prepared in a kitchen that is not regulated and inspected by the Public Health Inspector; or

- (g) A private home that receives catered or home-delivered food.

### 3. **CATEGORY I FACILITY**

A food establishment that presents a high relative risk of causing food borne outbreaks and/or the type of population served by the facility. Category I facilities include those where the following operations occur:

- (a) Cooling of potentially hazardous foods as part of the food handling operation at the facility;
- (b) Potentially hazardous foods that are prepared hot or cold and held hot or cold for more than twelve (12) hours before serving;
- (c) Potentially hazardous cooked and cooled food that must be reheated;
- (d) Potentially hazardous foods that are prepared for off premises service for which time-temperature requirements during transportation, holding and service are relevant;
- (e) Complex preparation of food or extensive handling of raw ingredients with hand contact for ready-to-eat foods that occurs as part of the food handling operations at the facility;
- (f) Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or,
- (g) Where immuno-compromised individuals (elderly, children under age 4, pregnant women) comprise the majority of the consuming population.

#### 4. **CATEGORY II FACILITY**

A food establishment that presents a medium relative risk of causing food borne illness based upon a few food handling operations typically implicated in food borne illness outbreaks. Category II facilities include those where the following operations occur:

- (a) Hot or cold foods are held at required temperatures for no more than twelve (12) hours and are restricted to same day service;
- (b) Food prepared from raw ingredients that requires only minimal assembly; or,
- (c) Food that requires complex preparation (fresh, canned or frozen) is obtained from approved food processing plants, Category I food establishments or retail food stores.

#### 5. **CATEGORY III FACILITY**

A food establishment that presents a low relative risk of causing food borne illness based upon few or no food handling operations typically implicated in food borne illness outbreaks. Category III facilities include those where the following operations occur:

- (a) Only pre-packaged foods are available or served in the facility and any potentially hazardous foods are commercially pre-packaged in an approved processing plant;
- (b) Only limited preparation of non-potentially hazardous foods and beverages (snack foods and carbonated beverages) occurs at the facility; or,
- (c) Only beverages (alcoholic or non-alcoholic) are served at the facility.

(D) **PERSON:** An individual, or a firm, partnership, company, corporation, trustee, association, or public or private entity.

(E) **SQUARE FOOTAGE:** The gross area of the entire food establishment premises, including the food service, storage and preparation areas.

- (F) **TEMPORARY FOOD ESTABLISHMENT:** A food establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

**8-8-3: LICENSE REQUIRED; APPLICATION:**

- (A) It shall be unlawful for any person to operate within the City a Food Establishment, as defined in this Chapter, without first having obtained a license for that purpose.
- (B) Any person desiring to operate a Food Establishment shall make written application for such license to the Public Health Director. The application for such license shall be on forms provided by the Public Health Director and shall include:
1. The name, signature and address of each applicant; each corporate officer; and the name, location and type of proposed Food Establishment.
  2. The proposed scope of operations and a description of the premises where such food operation is to be conducted.
- (C) The licensee shall notify the Health Department in writing of any changes in the license application information within thirty (30) days of such change.
- (D) A valid license to operate a Food Establishment shall be posted at all times so as to be clearly visible to all patrons.
- (E) It shall be unlawful to transfer any such license from one person to another.

**8-8-4: ISSUANCE OF LICENSE:**

- (A) Prior to issuance of a license, the Public Health Director shall cause to be made an inspection of the premises described in such application to determine whether said premises are in compliance with the requirements of this Chapter.
- (B) Prior to issuance of a license, the Director of Community Development shall cause an inspection to be made to ascertain that the premises may be used for the purpose in conformity with the zoning regulations and other ordinances of the City applicable thereto.

- (C) Prior to issuance of a license, the Fire Chief shall cause an inspection to be made to ascertain that the premises conform with the requirements of the municipal codes and ordinances for fire and life safety.
- (D) The Public Health Director shall issue a license to operate a Food Establishment if the proposed Food Establishment complies with the requirements of this Chapter and all other applicable ordinances.

8-8-5:       **TRANSFER OF OWNERSHIP:** Whenever ownership of a Food Establishment is to be transferred from the licensee named in the license to a new owner who is applying for a license:

- (A) The transferee must obtain a new license. The transferee shall notify the Evanston Health Department in writing of the transfer and apply for a new license at least thirty (30) days prior to final transfer.
- (B) The transferor shall notify the Department in writing at least thirty (30) days prior to final transfer. The transferor shall remain responsible for the operation of the Food Establishment until such time as a license is issued to the transferee.
- (C) The transferor and transferee shall remain jointly and severally liable for all penalties, except monetary fines, assessed against the Food Establishment which are imposed for violations occurring prior to transfer of ownership. The transferor shall remain liable for all monetary penalties imposed on the Food Establishment prior to transfer of ownership.

8-8-6:       **TERM OF LICENSES; RENEWAL:**

All licenses provided in this Chapter shall expire on December 31 following the date of issuance. Failure to comply with all the provisions of this Chapter shall constitute grounds for nonrenewal.

8-8-7:       **LICENSE AND OTHER FEES:**

(A) LICENSE FEES

(1) Category I Food Establishment

(a) Less than 5,000 square footage . . . . . \$450.00 per year

(b) 5,000 square footage or more . . . . . \$1,000.00 per year

- (2) Category II Food Establishment . . . . . \$350.00 per year
- (3) Category III Food Establishment . . . . . \$200.00 per year
- (4) Homeless Shelters . . . . . \$50.00 per year
- (5) Soup Kitchens. . . . . \$50.00 per year
- (6) Women's Shelter. . . . . \$50.00 per year
- (7) Day Care Centers
  - (a) Category I Food Establishments. . . . . \$125.00 per year
  - (b) Category II Food Establishments . . . . . \$90.00 per year
  - (c) Snacks only (Not potentially hazardous). \$50.00 per year
- (8) Temporary Food Establishments (other than those licensed in Section 8-8-7(A)(1)-(3). . . . . \$50.00 per event
- (9) Beverage-dispensing vending machines . . . . . \$25.00 per machine
- (10) Confection/snack dispensing vending machines . . . . . \$25.00 per machine
- (11) Food-dispensing vending machines . . . . . \$35.00 per machine
- (B) OTHER FEES: Plan Review Per Section 8-8-18. . . . \$300.00
- (C) PRORATION OF FEES: The fee to be paid for any license which shall expire less than six (6) months from the date such license was required to be issued, shall be one-half (1/2) the annual fee provided by this Code.
- (D) LATE PAYMENT PENALTY: Failure to pay the annual renewal fee on any business license within six (6) weeks of license expiration shall result in an additional late charge of thirty percent (30%).
- (E) REINSPECTION FEES: A \$50 reinspection fee shall be assessed to the licensee of any establishment for each reinspection conducted by the Department of Health to address a violation(s) not corrected on the first reinspection.



(F) All fees will be increased annually based on the Cook County Consumer Price Index.

(G) EXEMPT FROM LICENSE FEES:

(1) Licensed Long Term Care Facilities

(2) Licensed Child Residential Care Homes

(3) Licensed Child Day Care Homes

8-8-8: **SUSPENSION OF LICENSE:**

(A) The regulatory authority may, upon written notice, without prior warning, notice, or hearing, suspend any license to operate a Food Establishment if the holder of the license does not comply with the requirements of this Chapter, or if operation of the establishment otherwise constitutes a substantial hazard to the public health. When a license is suspended, food service operations shall immediately cease.

(B) Whenever a license to operate a Food Establishment is suspended, the holder of the license to operate the Food Establishment, or the person in charge, shall be notified in writing that the license to operate the Food Establishment is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Director of Public Health by the holder of the license within ten (10) days. If a written request is filed within ten (10) days, an opportunity for a hearing with the regulatory authority shall be afforded within twenty (20) days of receipt of the request. If no written request for a hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority shall end the suspension if the reasons for the suspension no longer exist.

8-8-9: **REVOCAION OF LICENSE:**

(A) The Director of Public Health may, after providing opportunity for a hearing, revoke a license for:

1. Serious violations of this Chapter; or
2. Repeated violations of this Chapter found in consecutive inspections; or

3. Interference with the Public Health Director in the performance of his/her duty enforce or administer this Chapter.
- (B) Before revocation, the Public Health Director shall notify the holder of the license to operate the Food Establishment, or the person in charge, in writing, of the reasons for which such license is subject to revocation. The license to operate the Food Establishment shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the Public Health Director by the holder of the license within such ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the license to operate the Food Establishment becomes final.

**8-8-10: SERVICE OF NOTICE:**

A notice provided for in this chapter is properly served when it is delivered to the holder of the license to operate the Food Establishment, or when it is delivered to the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of such license to operate a Food Establishment. A copy of the notice shall be filed in the records of the Public Health Director.

**8-8-11: HEARINGS:**

As provided in Sections 8-8-8 and 8-8-9, a hearing shall be conducted by the Public Health Director affording the licensee an opportunity to appear and defend against the charges. The Public Health Director shall make a final decision in writing, including the reasons for such decision, and shall serve said decision on the licensee within ten (10) days after conclusion of the hearing.

**8-8-12: APPLICATION FOR LICENSE AFTER REVOCATION:**

Whenever a revocation of a license to operate a Food Establishment has become final, the holder of such revoked license may make written application for a new license to operate a Food Establishment as provided in this Chapter.

**8-8-13: INSPECTION FREQUENCY:**

The inspection frequency of a Food Establishment shall be determined by the category of the Food Establishment.

**8-8-14: ACCESS:**

Representatives of the Health Department, after proper identification, shall be permitted to enter any Food Establishment at any reasonable time for the purpose of making inspections to determine compliance with this Chapter.

The representatives shall be permitted to examine records of the establishment, wherever maintained, to obtain information pertaining to food and supplies purchased, received, or used. Denial of access as herein provided shall be deemed an interference with the Public Health Director in the performance of his/her duties, provided that the Public Health Department's representatives have presented proper identification, if requested.

**8-8-15: REPORT OF INSPECTIONS:**

Whenever an inspection is made of a Food Establishment, the findings shall be recorded in writing on an inspection report form provided for that purpose. The inspection report shall state the specific violations found and establish a reasonable time period within which such violations shall be corrected.

**8-8-16: CORRECTION OF VIOLATIONS:**

- (A) Correction of the reported violations shall be accomplished within the period specified on the inspection report form in accordance with the following provisions:
1. If the Public Health Director determines that an imminent health hazard exists including, but not limited to, those as may be created by an extended loss of water supply, significant lack of refrigeration, an extended power outage, or a sewage back-up into the establishment, the establishment shall immediately cease affected food establishment operations. Such operations shall not be resumed until authorized by the Public Health Director.
  2. When critical items, as defined in this Chapter, are identified, corrective action shall be taken immediately. All violations of critical items shall be corrected as soon as possible, but in any event, not to exceed ten (10) days following inspection.
  3. Within fifteen (15) days after the inspection, the licensee shall submit a written report to the Public Health Director stating the action taken to correct the critical items and verifying that said violations have been corrected. Purchase orders of work contracts

with a work completion date satisfactory to the Public Health Director may be accepted as interim corrective action. A follow-up inspection shall be conducted to confirm correction.

4. All one (1) or two (2) point weighted items shall corrected as required on the inspection report.
  5. In the case of temporary Food Establishments, all violations shall be corrected immediately. If these violations are not corrected, the establishment shall immediately cease food operations until authorized to resume by the Public Health Director.
- (B) Failure to comply with Section 8-8-16(A) 1 through 6 shall result in suspension of the license to operate the Food Establishment.
- (C) Whenever a Food Establishment is required under any of the provisions of this Chapter to suspend operations, it shall not resume operations until the establishment passes a reinspection. Opportunity for reinspection shall be offered within a reasonable time.

**8-8-17: EXAMINATION AND CONDEMNATION OF FOOD:**

Food may be examined or sampled by the Public Health Director as often as necessary for enforcement of this Chapter. The Public Health Director may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which he/she believes is improperly labeled or adulterated or is in violation of any other section of this Chapter. The Public Health Director shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Public Health Director shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed per Section 8-8-11 above. On the basis of the evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Chapter.

**8-8-18: SUBMISSION OF PLANS:**

Before construction or major remodeling of a Food Establishment, and whenever an existing structure is converted to use as a Food Establishment, properly

prepared plans and specifications for such construction, major remodeling, or conversion shall be submitted to the Public Health Director for review and approval. The plans and specifications shall be drawn to scale and indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, the type and model of proposed fixed equipment and facilities. The Public Health Director shall approve the plans and specifications if they meet the requirements of this Chapter. No Food Establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Public Health Director.

A fee shall be charged for Food Establishment plan examination as provided in Section 8-8-7 of this Chapter.

**8-8-19: PREOPERATIONAL INSPECTION:**

Whenever plans and specifications are required by this Chapter, the Public Health Director shall inspect the Food Establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this Chapter.

**8-8-20: PROCEDURE WHEN INFECTION IS SUSPECTED:**

When the Public Health Director has reasonable cause to suspect possible disease transmission from any Food Establishment employee, he/she may secure a morbidity history of the suspected employee, or make any other investigation as indicated and shall take appropriate action. The Public Health Director may require any or all of the following measures:

- (A) The immediate exclusion of the employee from employment in Food Establishments;
- (B) The immediate closing of the Food Establishment concerned until, in the opinion of the Public Health Director, no further danger of disease outbreak exists;
- (C) Restriction of the employee's services to some area of the establishment where there could be no danger of transmitting disease;
- (D) Adequate medical and laboratory examination of the employee, of other employees, and of the body discharges of all employees.

**8-8-21: ADDITIONAL REGULATIONS:****(A) Refuse, Litter, and Debris:**

1. **Disposal of Refuse, Litter and Debris:** Each Food Establishment shall at least once in each twenty-four (24) hour period, dispose of all paper, cups, plates, napkins, garbage and other waste material accumulated upon the premises. It shall also be the duty of the owner, manager, or person in charge of said establishment to, at all times, keep the premises indoors, the premises outdoors, and within a one-hundred fifty (150') foot radius of all property lines on which said establishment is located free from rubbish, litter, waste materials and debris including food, beverages, napkins, straws, containers, bags, utensils, cups, plates, cans and other waste materials emanating from the establishment, its patrons, or from the outside waste receptacles used by such Food Establishment. Where the above one-hundred fifty (150') foot radius encompasses private property, permission to encroach on said private property shall be obtained from the property owner.
2. **Waste Receptacles and Required Signage for Type (2) Restaurants, as defined in Section 7-2-6 (D):** A waste receptacle shall be placed at each pedestrian exit from the restaurant building and each vehicular exit from the restaurant parking area. Conspicuous signage complying with the Sign Ordinance shall be posted within the building and at each waste receptacle location required above describing the requirements and penalties of the City ordinance applicable to litter.

**(B) Operating Subject to Other Ordinances:** Every owner, manager, or person in charge of a Food Establishment shall be subject, in the operation of said establishment, to any and all other applicable ordinances including, but not limited to, Zoning Ordinance requirements and other requirements that may be imposed by the City Council as a condition of special use approval.

**(C) Unnecessary Noise:** No patron of a Food Establishment or any other person, shall make or cause to be made any loud or unnecessary noise or disturbance upon said premises in violation of Section 9-5-23 of the City Code. The licensee of the restaurant shall be deemed responsible where repeated violations of Section 9-5-23 occur on the premises or frequent complaints are made of such violations, and the licensee has failed to make reasonable efforts to control the noises and disturbances.

8-8-22: **PENALTIES AND REMEDIES:**

- (A) Any person who violates or fails to perform any duty imposed by this Chapter shall be guilty of an offense punishable by a fine of not less than \$500.00. A separate offense shall be deemed committed for each day that a violation continues.
- (B) The Public Health Director and/or designee of the City Manager may seek to enjoin violations of this Chapter.

**SECTION 3:** That Section 3-1-1 of the Evanston City Code, 1979, as amended, -----

is further amended as follows:

**3-1-1: ISSUANCE OF LICENSES:** Unless otherwise provided in this Code or other applicable laws, all licenses shall be issued by the City Collector and approved by the City Manager. In all cases where it is not otherwise expressly provided, the City Collector shall have the power to hear and grant applications for said licenses upon the terms specified in any of the provisions of this Code or other ordinances of the City.

**SECTION 4:** That Section 3-8-4(A) of the Evanston City Code, 1979, as

amended, is further amended by deleting the following:

- Beverage-dispensing devices . . . . . \$20.00 per device
- Confection-dispensing devices . . . . . \$20.00 per device
- Food-dispensing devices . . . . . \$35.00 per device

**SECTION 5:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6:** That ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: October 11, 1999

Adopted: October 25, 1999

Approved: November 1, 1999

Lorraine H. Morton  
Mayor

ATTEST:

Mary P. Harris by Mayra Press  
Deputy City Clerk

Approved as to form:

[Signature]  
Corporation Counsel