

1/11/2007

11-0-07

AN ORDINANCE

**Amending Section 8-21-3, "Definitions" of the
Evanston City Code, 1979,
Prohibition of Smoking Non-tobacco Products**

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

SECTION 1: That the Evanston City Code, 1979, as amended, be
and hereby is further amended by amending Section 8-21-3, "Definitions", to read
as follows:

8-21-3: Definitions:

The following words and phrases, whenever used in Section 8-21-3 through
Section 8-21-9, shall have the following meanings.

"Arcade" means a public place of amusement as defined in Chapters 3-6 and
3-8 of this Code, which contains automatic amusement devices and is not
licensed to serve alcoholic liquor.

"Business" means any sole proprietorship, partnership, joint venture,
corporation, limited liability company or other business entity formed for profit
making purposes, including without limitation retail establishments where goods
or services are sold as well as professional corporations and other entities
where legal, medical, dental, engineering, architectural, or other professional
services are delivered.

"Employee" means any person who is employed by an employer in
consideration for direct or indirect monetary wages or profit, and a person who
volunteers his or her services for a non profit entity.

"Employer" means any person, business, partnership, association,
corporation, including without limitation a municipal corporation, trust, or non
profit entity that employs the services of one or more individual persons.

“Enclosed” area means all space between a floor and a ceiling, that is enclosed or semi-enclosed with (i) solid walls or windows (exclusive of doorways), or (ii) solid walls with half-wall partitions and no windows (exclusive of doorways) which extend from the floor to the ceiling, without limitation to lobbies and corridors.

“Health care facility” means any office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including without limitation hospitals, rehabilitation hospitals, clinics, retirement hotels, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semi private rooms and wards within health care facilities. This definition specifically excludes licensed long term care facilities.

“Performance entertainment venue” means a commercial land use in which the principal activity is the provision of performance entertainment in a non-theatrical setting without a theatrical stage other than a raised platform or without fixed seating. A performance entertainment venue may or may not, subject to all applicable legislation, include the service of alcoholic liquor, and may or may not allow dancing. A performance entertainment venue is not an establishment in which the principal use is the service of prepared food and beverages and in which the land user provides entertainment as an accessory or incidental to the service of prepared food and beverages, nor is a performance entertainment venue a cultural facility in which performance entertainment is provided in a theatrical setting or with fixed seating.

A performance entertainment venue includes, without limitation:

- (1) Live music venues;
- (2) Venues for the provision of musical entertainment which is not live for compensation;
- (3) Dance or “DJ” (disk jockey) halls or clubs in which for compensation live or recorded musical entertainment is provided with or without a dance floor;
- (4) Comedy clubs; and
- (5) Rap clubs.

A performance entertainment venue does not include: poetry clubs or the use of the property of nonprofit institutions for theatrical or musical performances accessory to the nonprofit institution or by another nonprofit organization.

“Place of employment” means any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including without limitation work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a “place of employment” unless it is used as a residential care home, a child residential care home, childcare, adult day care, health care facility or home based business of any kind open to the public.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted, including without limitation banks, educational facilities, government buildings, health care facilities, laundromats, museums, public transportation facilities, reception areas, restaurants, bars/taverns, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a residential care home, child residential care home, childcare, adult day care, health care facility or home-based business of any kind open to the public.

“Private function” means a gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement or dining where membership or specific invitation is a prerequisite to entry and where the event is not intended to be open to the public.

“Restaurant” means any retail food establishment, as that term is defined in section 8-8-2 of the Evanston City Code. The term “restaurant” shall include, if applicable, a restaurant bar area.

“Restaurant bar area” means an area of a restaurant that is primarily devoted to the serving of alcoholic liquor.

“Retail tobacco store” means any retail store utilized primarily for the sale of tobacco products and accessories, and in which the sale of other products is merely incidental and where no one under eighteen (18) is permitted.

“Service line” means any indoor line at which one (1) or more persons are waiting for or receiving services of any kind, whether or not the service involves the exchange of money.

“Shopping mall” means any enclosed walkway or hall area that serves to connect retail or professional establishments.

"Smoke" or "Smoking" means inhaling, exhaling, or carrying any lighted and/or burning smoking materials. "Smoking" does not include the burning or carrying of incense in a religious ceremony or the use of matches or lighters for nonsmoking purposes. "Smoke" shall also mean the by product of the burning of any smoking materials.

"Smoking materials" means any cigar, cigarette, pipe, weed, plant or other organic substance grown, manufactured or processed which is intended to be used for smoking in any form. "Smoking materials" do not include candles, incense or other similar items.

"Enclosed or semi-enclosed sports arena" or "Recreational area" means any sports pavilion, stadium, gymnasium, health spa, boxing arena, wrestling arena, swimming pool, roller and ice rink, bowling alley, and other similar places where members of the general public assemble either to engage in physical exercise, or participate in athletic competition or recreational activity, to witness sports, cultural, recreational or other events.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: February 12, 2007

Approved:

Adopted: February 26, 2007

March 2, 2007

Melissa H. Simpson
Mayor pro tem Wythe

Attest:

Approved as to form:

Mary P. Morris
Mary P. Morris, City Clerk

Herbert D. Hill
Herbert D. Hill
First Assistant Corporation Counsel