

3/1/2007  
2/20/2007  
1/29/2007

**21-O-07**

**AN ORDINANCE**

**Amending Various Sections of the City Code  
to Allow the Issuance of Certain Permits  
by the City Manager or His Designee**

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

**SECTION 1:** That Sections 7-2-6(A), 7-2-6(B), 7-2-6(D)(2)(c),  
7-2-6(D)(2)(e), 7-2-6(D)(3), 7-2-6(D)(5)(n), and 7-2-6(D)(7) of the Evanston City  
Code of 1979, as amended, are hereby further amended to read as follows:

**7-2-6: OCCUPATION OF PUBLIC WAYS FOR BUSINESS PURPOSES;  
PERMITS:**

(A) Sale of Merchandise: No person or any licensed peddler or vendor shall occupy or stand in one place or location on any of the streets or sidewalks of the City for the purpose of selling, offering for sale or advertising the sale of merchandise of any kind or character, including soft drinks, ice cream, candy, nuts or other confections, bakery goods or sandwiches, without a permit first having been obtained from the City Manager or his designee.

(B) Fruit Stands, Erection of: It shall be unlawful for any person to erect, place or maintain in or upon any street, alley, sidewalk or other public place in the City any fruit stand, lunch stand, lunch wagon, flower stand, bulletin board or any table, box, bin, rack, showcase, platform or any other arrangement or structure for the display or sale of goods, wares or merchandise, or for the pursuit of any occupation whatsoever, unless a permit for the same shall have first been obtained from the City Manager or his designee.

(D) Sidewalk Cafes:

2. Permits:

c. Permit Required: No licensed operator of a restaurant, bakery, ice cream store, or other licensed food service establishment or other licensed retail food store shall erect, place or maintain in or upon any public

sidewalk or parking contiguous or adjacent to said licensed restaurant, bakery, ice cream store, or other licensed food service establishment or other licensed retail food store, tables, benches or chairs for the purpose of serving to customers thereon, food and/or beverages for consumption at such sidewalk tables, benches or chairs unless a permit for the same shall have been first obtained from the City Manager or his designee in the instance of a type 1 restaurant, bakery or ice cream store, when the use is more than two hundred feet (200') from a residentially zoned district, or with approval of City Council in the instance of a type 2 restaurant, other licensed food service establishment or other licensed retail food store, or any licensed food service establishment or licensed retail food store within two hundred feet (200') of a residentially zoned district or type 1 restaurant with an alcoholic liquor license outside the "core area" desirous of selling alcoholic liquor on the sidewalk cafe premises.

e. Exception; Renewal: If a sidewalk cafe permit has been issued for the prior calendar year, the approval for a sidewalk cafe permit shall be obtained from the City Manager or his designee, provided, the sidewalk cafe permit previously issued has not been revoked or suspended, and the sidewalk cafe has received no inspection citation(s) from property standards or the health department for said prior calendar year. The renewal application must satisfy the requirements set forth in subsection (D)3 of this section.

3. Permit Application: At the time of making application for a permit, the applicant shall furnish the following information to the City Manager or his designee:

a. Name and mailing address of the applicant and the proposed sidewalk cafe.

b. A detailed drawing to scale of the proposed site indicating the following: the existing facade; the points of ingress and egress; and the proposed location of the tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facilities to be included in the cafe operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, parking meters, streetlights, traffic signals, street signs, bus shelters, trees, tree grates, planting boxes and/or planting areas, and any other public or private obstruction. A plat of survey may be required.

c. A statement of use as type 1 or type 2 restaurant, ice cream store, bakery, or other licensed food service establishment or other licensed retail food store of the principal use.

d. A menu of the proposed service. Any restaurant which is prohibited by this subsection (D) from serving alcoholic beverages must provide evidence that the menu will so indicate.

- e. A hold harmless statement in a form so specified by the City.
- f. A certificate of insurance covering the period of the outdoor operations, including coverage of comprehensive general liability insurance and other appropriate coverage for these types of business activities in the amount of one million dollars (\$1,000,000.00) per occurrence and five hundred thousand dollars (\$500,000.00) per person. The City is to be named as an additional insured on the face of the certificate with an insurance company with a B+ rating or better. Any changes or cancellations shall require that the City be notified in writing at least thirty (30) days prior to the effective date of the change or cancellation.
- g. A copy of a valid business license and liquor license (if applicable) issued by the City.
- h. An acknowledgment that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafes.
- i. An annual permit fee in the amount of two hundred dollars (\$200.00) plus one dollar (\$1.00) per square foot of the public right of way to be occupied. In instances in which any licensed food service establishment or licensed retail food store has used the public right of way for a sidewalk cafe without the benefit of a permit issued by the City for such usage, the sidewalk cafe annual permit fee shall be increased by an additional two hundred dollars (\$200.00) plus one dollar (\$1.00) per square foot of the public right of way to be occupied.

5. Rules And Regulations For All Sidewalk Cafes:

n. Revocation or suspension of a sidewalk cafe permit by the City Manager or his designee pursuant to subsection (D)(7) of this section prohibits service of alcoholic liquor on the sidewalk cafe premises for the duration of the revocation or suspension.

7. Revocation And Suspension: The City Manager or his designee may revoke or suspend a permit for any sidewalk cafe at any time upon a determination that the requirements applicable thereto are not met. Unless the public health, welfare, or safety require more immediate action, revocation and suspension are effective forty eight (48) hours after written notice is delivered to the restaurant, bakery, ice cream store or other licensed food service establishment or other licensed retail food store. No hearing is provided. A licensed restaurant, bakery, ice cream store or other licensed food establishment or other licensed retail food store operator whose sidewalk cafe permit is revoked is not eligible to reapply for a permit during the calendar year of revocation. The City Manager or his designee may impose conditions on reinstatement of a

suspended permit or upon the grant of a permit to a licensed food service establishment or retail food store operator whose sidewalk cafe permit has been revoked within the previous two (2) calendar years.

**SECTION 2:** That Section 4-17-7(B) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

**4-17-7: EVALUATION CRITERIA FOR TYPE 2 RESTAURANT SIDEWALK CAFES:**

(B) The Site Plan and Appearance Review Committee will make written findings as to whether the proposed use meets the criteria set forth in subsection 4-17-7(A) above, and shall, within fifteen (15) working days after receipt of the completed permit application, report its findings to the City Manager or his designee with a recommendation to the City Council as to whether the permit should or should not be granted.

**SECTION 3:** That Sections 3-28-4, 3-28-5, 3-28-6, 3-28-9(C), 3-28-9(D), 3-28-10, 3-28-13(A), and 3-28-14 of the Evanston City Code of 1979, as amended, are hereby further amended to read as follows:

**3-28-4: ADMINISTRATION:**

The City Manager or his designee shall be charged with the administration of this Chapter, and may designate City personnel to assist him in the exercise of such power and responsibilities.

**3-28-5: TIME TO ACT:**

The City Manager or his designee shall act on a license application within thirty (30) days of the date of the application.

**3-28-6: POWERS, DUTIES:**

The City Manager or his designee shall have the following powers, functions and duties under this Chapter, in addition to any other powers elsewhere granted by ordinance or by law:

(A) To grant, suspend or revoke all raffle licenses issued;

(B) To receive or cause to be received all local license fees and pay them to the City Collector; and

(C) To receive complaints from any citizen of the City that any provision of this Chapter has been or is being violated, and to act upon such complaint in the manner provided by law.

**3-28-9: RAFFLES MANAGER; BOND:**

(C) Cancellation: Terms of the bond shall provide that notice shall be given in writing to the City Manager or his designee not less than thirty (30) days prior to its cancellation.

(D) Waiver of Requirement: The City Manager or his designee may waive this bond requirement to any organization under this Chapter, if upon investigation it is determined that such a bond requirement imposes a hardship on the organization so as to prevent the operation of the raffle.

**3-28-10: APPLICATIONS AND CONTENTS:**

The application for a license required by this Chapter shall contain the following information:

- (A) The area or areas within the City in which raffle chances will be sold or issued;
- (B) The time period during which raffle chances will be sold or issued;
- (C) The time of determination of winning chances;
- (D) The name and address of the organization;
- (E) The type of organization;
- (F) The number of years that the organization has been in existence;
- (G) The date and place of incorporation or formation of the organization;
- (H) The number of members in good standing in the organization;
- (I) The name of the president or chairperson of the organization;
- (J) The name of the raffle manager;
- (K) The cumulative retail value of the prizes;
- (L) The maximum value of each prize;
- (M) The maximum price to be charged for each chance sold;

- (N) The location or locations at which winning chances will be determined;
- (O) A sworn statement attesting to the nonprofit character of the prospective licensee organization signed by its presiding officer and secretary, if any.

In addition to the foregoing information, the application shall contain such other and further information as the City Manager or his designee may proscribe not inconsistent with law.

**3-28-13: RECORD KEEPING:**

(A) The City Manager or his designee shall keep or cause to be kept a complete record of all licenses required by this Chapter issued by him and shall forward a copy to the Chief of Police. The City Manager or his designee shall inform the Chief of Police from time to time of any changes and of the issuance, revocation or suspension of any licenses.

**3-28-14: SUPERVISOR, REVOCATION PROCEDURES:**

(A) The City Manager or his designee may revoke or suspend any license issued by the City under this Chapter if he determines that the licensee has violated any provision of this Chapter or of law.

(B) No such license shall be revoked or suspended except after public hearing by the City Manager or his designate with a three (3) days' written notice to the licensee affording him an opportunity to appear and defend himself.

(C) Within five (5) days after such hearing, if the City Manager or his designee determines that the license should be revoked or suspended, he shall state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within such five (5) days upon the licensee.

**SECTION 4:** That Sections 3-14-2, 3-14-3, 3-14-4, 3-14-5, 3-14-6, and 3-14-7 of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

**3-14-2: PERMIT REQUIRED:**

No organization, person or corporation (hereinafter for convenience referred to as organization) shall conduct a tag day within the corporate limits of the City without first securing a permit to conduct said tag day from the City Manager or his designee.

**3-14-3: CONTENTS OF APPLICATION FOR PERMIT:**

Any organization desiring a permit to conduct a tag day shall make application through a duly authorized representative to the City Manager or his designee at least sixty (60) days prior to the tag day date for which permission is requested, but no earlier than November 1 in the immediate preceding year. The application herein required shall contain the following information or, in lieu thereof, a statement satisfactory to the City Manager or his designee of the reason or reasons why such information or any item thereof is not furnished:

(A) A financial statement for the last preceding fiscal year showing the amount of money raised by the applicant organization for charitable purposes, together with the cost of raising said money, and the final distribution thereof.

(B) A full statement of the general character and extent of the charitable work being done or to be done by the applicant organization, showing how much thereof is being done or is to be done within the City.

(C) A statement that the actual cost of the tag day will not exceed twenty five percent (25%) of the total amount to be raised or, if the cost of solicitation is expected to exceed twenty five percent (25%), a statement of what the maximum cost is expected to be, together with a statement of any special facts tending to show why a cost higher than twenty five percent (25%) is considered reasonable in the particular case.

(D) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement of the tag day by the City or any officer or department thereof.

(E) A statement that the applicant organization is tax exempt under the Internal Revenue Code of the United States, and that contributions to said organizations are allowable deductions for the donor under the Internal Revenue Code.

(F) A statement to the effect that if the permit is granted, no person under the age of fourteen (14) will be permitted to solicit or collect money, except where the solicitation is for the benefit of a children's organization.

(G) A statement that the applicant organization is in compliance with those provisions of the Illinois Revised Statutes now constituted, and as hereinafter may be amended, which pertain to charitable solicitations (Chapter 23, Sections 5101-5114).

(H) A hold harmless release form to be completed in full.

(l) Such other information as may be reasonably required by the City Manager or his designee in order for him to determine the kind and character and method of the proposed tag day solicitation, when it will take place and for what period of time, and whether such solicitation is in the interest of, and not inimical to, the safety, convenience or welfare of the inhabitants of the City.

If, while any application is pending, or during the term of any permit granted, there is any change in fact, policy or method that would alter the information given in the application, the applicant organization shall notify the City Manager or his designee in writing thereof within twenty four (24) hours after such change occurs or becomes known to the applicant.

The City Manager or his designee shall examine all applications filed under this Section and shall make, or cause to be made, such further investigation of the application and the applicant organization as the City Manager or his designee shall deem necessary in order for him to perform his duties under this Chapter. Upon request by the City Manager or his designee, the applicant shall make available for inspection by the City Manager, or any person designated in writing by the City Manager as his representative for such purpose, all of the applicant's relevant books, records and papers at any reasonable time.

**3-14-4: ISSUANCE OF PERMIT; LIMITATIONS:**

The City Manager or his designee shall issue the permit provided for in Section 3-14-2 hereof whenever he shall find the following facts to exist:

- (A) That all of the statements made in the application are true.
- (B) That the applicant organization, its managing officers and agents are of good character and have a good reputation for honesty and integrity.
- (C) That the control and supervision of the solicitation will be under responsible and reliable persons.
- (D) That the applicant organization has not engaged and is not engaging in any fraudulent transactions or enterprises.
- (E) That the applicant organization is primarily a charitable organization and that the tag day solicitation is prompted solely by a desire to finance the charitable activities described in the application, and will not be conducted for private profit.
- (F) That the cost of raising funds will be reasonable. Any cost in excess of twenty five percent (25%) of the amount collected shall be considered to be unreasonable unless special facts are presented showing to the satisfaction of



the City Manager or his designee that peculiar reasons make a cost higher than twenty five percent (25%) reasonable in the particular case.

(G) That the kind, character and method of the proposed tag day solicitation, the time when it will take place; and its duration are such that the solicitation will be in the interest of, and not inimical to, the safety, convenience or welfare of the inhabitants of the City.

The City Manager or his designee shall limit the number of tag days during the period September 1 to November 30 of each calendar year to two (2) in number. Such permits for the aforesaid period shall be issued only to local affiliates of national organizations which organizations are conducting national campaigns upon the day requested. No more than one organization shall receive a permit to conduct a tag day on any one day; and further, no organization shall be permitted to conduct more than one tag day within the City during any calendar year.

Except as provided herein there shall be no limit on the total number of tag days permitted within the City.

The City Manager or his designee may by permit grant the right to conduct a tag day on one or more consecutive business days in any calendar year, but solicitations shall commence no earlier than seven o'clock (7:00) A.M. and shall terminate no later than nine o'clock (9:00) P.M. on any of said days.

**3-14-5: DESCRIPTION OF PERMIT:**

Permits issued under this Chapter should bear the name and address of the organization to which the permit is issued, the date or dates on which the tag day is to be conducted, and a statement that the permit does not constitute an endorsement of the tag day by the City or any of its officers or departments. All permits must be signed by the City Manager or his designee.

**3-14-6: STATEMENT REQUIRED AFTER SOLICITATION:**

Each organization granted permission to conduct a tag day under the provisions of this Chapter shall, within sixty (60) days from and after the date of conducting such solicitation, file with the City Manager or his designee a statement showing the amount raised by the solicitation, the amount expended in collecting said funds, and the amounts disbursed or to be disbursed for each charitable purpose of the organization, sworn to as accurate before a duly authorized notary public.

**3-14-7: VIOLATION:**

Whenever it shall be shown or whenever the City Manager or his designee has reason to believe that any organization to which a tag day permit has been issued has violated any of the provisions of this Chapter or that any statements in

its application have tended to misrepresent the purpose of the solicitation, the City Manager or his designee shall immediately revoke the permit and shall notify the permit holder, in writing, within two (2) days of such revocation and the reasons therefor.

**SECTION 5:** That Sections 9-5-23(F)(1), and 9-5-23(G)(2) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

**9-5-23: NOISES PROHIBITED:**

(F) Loudspeakers, Amplifiers, Paging Systems:

1. Use For Advertising: The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets of the City for the purpose of commercial advertising or of attracting the attention of the public to any building or structure, except when a permit has been first procured from the City Manager or his designee.

(G) Radios, Phonographs:

2. Permit Required: Any person, group, association, organization, business or other similar entity desiring to use in an outdoor area any machine or device specified in this Section for producing or reproducing sound must first obtain a permit for said use. Application for such permit shall be made to the office of the City Manager or his designee on a form provided by that office. The City Manager or his designee shall provide notice to ward Aldermen of applications. No permits for any machine or device specified in this Section may be issued for block parties. Violation of this Section shall subject the unauthorized user to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

**SECTION 6:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 7:** 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 26, 2007

Adopted: February 26, 2007

Approved:

March 2, 2007

Melissa A. Wynne  
Mayor Pro Tem Wynne

Attest:

Mary P. Morris  
Mary P. Morris, City Clerk

Approved as to form:

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

