

**31-O-09**

**AN ORDINANCE**

**Amending Chapter 8 of the Evanston City Code,  
"Food Service and Retail Food Store Sanitation,"  
Adding "Seasonal Food Establishments"**

**WHEREAS**, on January 26, 2009, the City of Evanston adopted Ordinance 5-O-09, "*Amending Sections 3-25-1 and 3-25-6 of the Evanston City Code Permitting Healthy Food Demonstrations in the Farmers' Market to Become a Permanent Event*," allowing Now We're Cookin' healthy food demonstrations at the annual Farmers' Market to run for the entire season; and

**WHEREAS**, university, secondary, and primary level educational facilities located within the City host various seasonal events including but not limited to basketball, volleyball, baseball, lacrosse, soccer, and other athletic matches at which food and beverages are served; and

**WHEREAS**, currently, regulation of refreshments served at seasonal events held within the City occurs only at Northwestern University football games, thereby leaving a gap in public health protection; and

**WHEREAS**, these short term food services cannot be covered as "temporary events" which are defined by the State of Illinois as operating for fourteen (14) consecutive days at most; and

**WHEREAS**, many of these short term food establishments serve refreshments at seasonal events for months; and

**WHEREAS**, it is in the best interests of the Citizens of the City of Evanston, as well as patrons of the annual Farmers' Market, athletic matches, and other seasonal events occurring within the City, for the Environmental Health Division of the Department of Health & Human Services to inspect and regulate seasonal food establishments providing food and beverages to the public.

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

**SECTION 1:** That Section 8-8-2, "Definitions," of the Evanston City Code, 1979, as amended, is further amended to read as follows:

**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):

**ADULTERATED:** The condition of any food:

- (A) If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
- (B) 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.
- (C) If it consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
- (D) If it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.
- (E) If it is in whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter.
- (F) If its containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

**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.

**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.

(A) A food establishment includes:

1. An element of the operation such as a transportation vehicle or a central preparation facility that supplies a satellite feeding location; and
2. 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.

(B) A food establishment does not include:

1. An establishment that offers only prepackaged foods that are not potentially hazardous.
2. A produce stand that offers only whole, uncut fresh fruits and vegetables.
3. A food processing plant.
4. 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.
5. An area where food that is prepared in subsection B4 of this definition is sold or offered for human consumption.
6. A kitchen in a private home, such as a small family daycare 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 six (6), breakfast is the only meal offered, the number of guests served does not exceed eighteen (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

7. A private home that receives catered or home-delivered food.

(C) 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:

1. Cooling of potentially hazardous foods as part of the food handling operation at the facility;
2. Potentially hazardous foods that are prepared hot or cold and held hot or cold for more than twelve (12) hours before serving;
3. Potentially hazardous cooked and cooled food that must be reheated;
4. Potentially hazardous foods that are prepared for off-premises service for which time-temperature requirements during transportation, holding and service are relevant;
5. 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;
6. Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or
7. Where immuno-compromised individuals (the elderly, children under age four (4), or pregnant women) comprise the majority of the consuming population.

(D) 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:

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

(E) **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:

1. Only prepackaged foods are available or served in the facility and any potentially hazardous foods are commercially prepackaged in an approved processing plant;
2. Only limited preparation of nonpotentially hazardous foods and beverages (snack foods and carbonated beverages) occurs at the facility; or
3. Only beverages (alcoholic or nonalcoholic) are served at the facility.

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

**SEASONAL FOOD ESTABLISHMENT:** A food establishment which operates for no more than six (6) months out of the calendar year. The menu of a Seasonal Food Establishment will be limited based on the City of Evanston's Department of Health & Human Services review of the establishment and its operations. All Seasonal Food Establishments must be operated in compliance with the Evanston Retail Food Service Code, and will be charged according to the fee schedule set out in this Chapter in Section 8-8-7, "License and Other Fees."

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

**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.

**SECTION 2:** That Section 8-8-7, "License and Other Fees," of the Evanston City Code, 1979, as amended, is further amended as follows:

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

(A) License Fees:

<b>Food Establishment</b>	<b>Fee</b>
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

	<b>Food Establishment</b>	<b>Fee</b>
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.	Daycare 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 subsections (A)1 through (A)3 of this Section	\$ 50.00 per event
9.	Beverage dispensing vending machines	\$ 50.00 per machine
10.	Confection/snack dispensing vending machines	\$ 50.00 per machine
11.	Food dispensing vending machines	\$ 50.00 per machine
12.	Seasonal food establishments	\$ 225.00 per season

(B) Other Fees: Plan review per Section 8-8-18 of this Chapter: \$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 section.

(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 fifty dollar (\$50.00) 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) Increases: 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 daycare homes.

**SECTION 3:** That the foregoing recitals are found as fact and made a part hereof.

**SECTION 4:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** That if any provision of this Ordinance 31-O-09 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance 31-O-09 that can be given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

**SECTION 6:** That this Ordinance 31-O-09 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: May 26, 2009

Approved:

Adopted: June 8, 2009

June 17, 2009

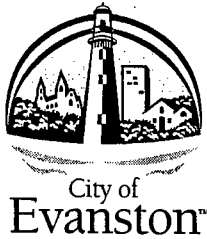
Elizabeth B. Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Mayre Press  
Mayre Press, Deputy City Clerk

Approved as to form:

Elke B. Tober-Purze  
Elke B. Tober-Purze, Interim  
First Assistant Corporation Counsel



To: Alderman Holmes, Chair of Human Services Committee  
Human Services Committee Members

From: Evonda Thomas, Director, Health and Human Services

Date: April 21, 2009

Re: Proposed Seasonal Food Establishment Ordinance 31-O-09

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## **BACKGROUND**

The Health and Human Services Department has identified a gap in the Food Protection Program for the City of Evanston. Currently, Environmental Health Practitioners regulate Temporary Food Establishments (in operation for 14 consecutive days or less) and permanent establishments. This department has identified establishments that operate for six months or less such as food demonstrations at the Farmers Market and many Northwestern Athletic Events. These establishments do not meet the definition of a temporary or permanent establishment.

## **IMPACT**

The impact of not regulating events that serves food to the public can be quite harmful to our citizens. We are charged with protecting citizen exposure when consuming food at events hosted in Evanston. Routine monitoring of important diseases by public health officials is called disease surveillance. Each state decides which diseases are to be under surveillance in that state. In most states, diagnosed cases of salmonellosis, (*E. coli*) and other serious infections are routinely reported to the Health and Human Services department. Tens of thousands of cases of these "notifiable conditions" are reported every year. For example, nearly 35,000 cases of **Salmonella** infection were reported to CDC in years past. **Salmonella** is also a bacterium that is widespread in the intestines of birds, reptiles and mammals. It can spread to humans via a variety of different foods of animal origin. The illness it causes, salmonellosis, typically includes fever, diarrhea and abdominal cramps. In persons with poor underlying health or weakened immune systems, it can invade the bloodstream and cause life-threatening infections.

The most commonly recognized foodborne infections are those caused by the bacteria **Campylobacter**, **Salmonella**, and **E. coli O157:H7**, and by a group of viruses called **calicivirus**, also known as the **Norwalk** -like viruses. **Campylobacter** is a bacterial pathogen that causes fever, diarrhea, and abdominal cramps. It is the most commonly



identified bacterial cause of diarrheal illness in the world. These bacteria live in the intestines of healthy birds, and most raw poultry meat has Campylobacter on it. Eating undercooked chicken or other food that has been contaminated with juices dripping from raw chicken is the most frequent source of this infection.

#### **STAFF RECOMMENDATIONS**

Most foodborne infections go undiagnosed and unreported, either because the ill person does not see a doctor, or the doctor does not make a specific diagnosis. Also, infections with some microbes are not reportable in the first place. The newly proposed Seasonal Food Establishment Ordinance provides a definition and fee structure (\$225.00) for these establishments. We seek further direction and discussion from the Human Services Committee.

