



**Food Service Sanitation  
City of Chicago Municipal Code  
Ordinance Chapters 4-8, 7-32, 7-38, 7-40, and 7-42**



## CHAPTER 4-8 FOOD ESTABLISHMENTS\*

### 4-8-010 Definitions.

The following definitions shall apply in the interpretation and the enforcement of this chapter and Chapters 7-38, 7-40, and 7-42 of this Code, unless the context clearly indicates that another meaning is intended. The listing of items as examples in any definition is intended to be illustrative and not exhaustive.

“Additional food preparation equipment” means any food preparation equipment used at a shared kitchen by a shared kitchen user that is not the property of such shared kitchen.

“Adulterated” means the condition of a 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 or deleterious substance for which no safe tolerance has been established or in excess of such tolerance if one has been established;
- c. If it consists in whole or in part of any filthy, putrid, 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 become 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 other than by slaughter;
- f. If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

“Approved” means acceptable to the Department of Health based on its determinations to conformance with the appropriate standards and good health practices.

“Area underserved by grocery stores” means an area, designated by the Commissioner of Planning and Development, that lacks adequate access to fresh and healthy food.

“Automatic food-vending machine” means any service container or mechanical device which upon insertion of a coin or token or by other similar means dispenses unit servings of food or drink either in bulk or in packages without the necessity of replenishing the device between each vending operation; and shall include a water-vending machine.

“Automatic food-vending machine business” means the business of installing, furnishing or servicing automatic food-vending machines.

“Bactericidal treatment” means the application of an approved method or substance to a clean surface for the destruction of pathogens and other organisms, so far as practicable, and which, in the opinion of the Department of Health, is effective and does not adversely affect the food, drink or equipment with which it comes in contact, or the health of the consumer of such food and drink.

“Bakery” means any establishment, place, vehicle or stand used for the manufacture of breads, buns, rolls, biscuits, cakes, crackers, matzos, pretzels, pastries, doughnuts, waffles, noodles, macaroni, spaghetti or ice cream cones, or any establishment used for the process of mixing, compounding or baking any food product, of which flour or meal is the principal ingredient, for sale to the public, or for the purpose of a restaurant, bakery, hotel, commissary or catering establishment.

“Board of Health” means the Board of Health of the City of Chicago, or its authorized representatives.

“Bottled-water plant” means any building, room, premises, place or establishment used for the preparation, manufacture, canning, bottling, packing, distribution, storage, selling or offering for sale at retail or wholesale, any article of beverage such as bottled water, nonalcoholic beverage, juice or juice drinks, packaged or unpackaged, used or intended for human consumption, or any such article which is an ingredient of, used for, mixed with or which enters into the composition of any beverage.

“Charitable food dispensing establishment” means any not-for-profit fixed location where food or drink is routinely provided for the public for consumption on or off the premises without charge. Such establishments include, but are not limited to, food pantries, soup kitchens, shelters, Child and Adult Care Feeding Program

(C.A.C.F.P.) sites and Summer Food Service Program (SFSP) sites.

“Closed” means fitting together snugly, leaving no openings larger than one thirty-second of an inch.

“Coffee cart” means a wheeled vehicle, propelled solely by human power and constructed in accordance with a design approved by the Department of Health, on which coffee is brewed and from which coffee and flavorings for coffee and permitted food products are served.

“Coffee cart vendor” means a person who dispenses coffee and flavorings for coffee from a coffee cart.

“Cold storage” means the storage of articles of food in cold storage establishments of any kind or nature, whether the same are public warehouses or not.

“Cold storage establishment” means a house or room used for the storage or preservation of food for a period of thirty (30) calendar days or more in which ice, refrigerating machinery or other artificial means of cooling are used.

“Commissary” means any duly licensed food establishment in which food, containers or supplies are stored, kept, handled, prepared, packaged and directly from which vending machines, mobile food vehicles or other food dispensing operations are serviced, and where mobile food vehicles are cleaned.

“Commissioner” means the Commissioner of the Department of Health of the City of Chicago, unless otherwise stated.

“Confectionery manufacturer” means any person that shall engage in the business of manufacturing, for the purpose of selling to the wholesale or retail trade, any candies, confectionery, sugar ornaments, taffy apples, candied nuts, shelled nuts or peanuts, marzipan, chewing gum, lozenges, cough drops, fruit or flavored tablets, popcorn, popcorn candy, or any other candies, confectionery or similar products. The term shall also include any person engaged in manufacturing such products and supplying the same to branch or chain stores operated by such person.

“Contaminated” means exposed to contact with dust, dirt, insects, vermin, animals, promiscuous handling or other contaminants.

“Core item” shall have the meaning ascribed to that term by the FDA Food Code.

“Corrosion-resistant material” means a material which maintains its original characteristics under prolonged influence of the food, normal cleaning compounds and sanitizing solutions which may contact it.

“Department of Health” means the Department of Health of the City of Chicago, or its representatives.

“Easily cleanable” shall have the meaning ascribed to that term by the FDA Food Code.

“Employee” shall have the meaning ascribed to that term by the 2013 edition of the FDA Food Code, PB2013-110462, ISBN 978-1-935239-02-4.

“Equipment” shall have the meaning ascribed to that term by the FDA Food Code.

“FDA” means the U.S. Food and Drug Administration.

“FDA Food Code” means the most current version of the FDA Food Code, as adopted at 77 Ill. Adm. Code § 750.5.

“Flavorings for coffee” means cream, milk, sugar, other sweeteners, flavored oils and extracts, and spices.

“Food” shall have the meaning ascribed to that term by the FDA Food Code.

“Food-contact surfaces” shall have the meaning ascribed to that term by the FDA Food Code.

“Food dispensing” means the act of keeping, preparing or selling, offering for sale or distribution, for consumption on or off the premises, or in an enclosed or partially enclosed dining area adjacent to the enclosed food establishment, any articles of food and drink for human consumption.

“Food dispensing establishment” means any fixed location where food or drink is routinely prepared and served or provided for the public for consumption on or off the premises with or without charge. Such establishments include, but are not limited to, restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, taverns, bars, cocktail lounges, nightclubs, industrial feeding establishments, take-out establishments, private institutions or organizations routinely serving food, catering kitchens, commissaries or any other eating or drinking establishment or operation.

“Food processing plant” means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer.

“Food safety operations” or “food safety requirements” means all practices involving sanitation; food storage; food preparation; use of time/temperature control for safety foods; food service; food handling by

personnel; manual cleaning and sanitizing of multi-use eating and drinking utensils and equipment; plumbing and toilet and lavatory facilities; storage of garbage and rubbish; insect and vermin control; poisonous compounds; cleaning operations; outdoor maintenance; dressing rooms, lockers and other storage areas provided for use by shared kitchen users; and any other subject matter determined by the Department of Health to be relevant to food safety.

“Frozen dessert” means any frozen or partially frozen combination of two or more of the following which is intended for human consumption: i) milk or milk products, ii) egg or egg products, iii) sweeteners, iv) approved nonglycogenic substances, v) water fruit, vi) fruit juices, vii) candy, viii) nut meats, or other food products, natural and harmless artificial flavors, certified colors, citric acid or other types of harmless organic acids, approved stabilizers and food emulsifiers.

“Health authority” means the Chicago Department of Health or its designated representatives.

“Ice” means the product, in any form, obtained as a result of freezing by approved mechanical means, potable water from an approved source.

“Kitchenware” means all multi-use utensils, other than tableware, used in the storage, preparation, conveying or serving of food.

“Licensed premises” means any premises licensed or required to be licensed under this chapter.

“Local Health Protection Grant Rules” means the Local Health Protection Grant Rules, as amended, codified at 77 Ill. Adm. Code § 615.310.

“Milk” or “milk products” means the following: milk, cream, frozen cream, concentrated milk fat, fluid skimmed milk, sweetened and unsweetened evaporated skim milk, sweetened and unsweetened concentrated or condensed milk and skim milk, whey dry milk, nonfat dry milk solids, sweet cream, or any of these products from which lactose has been wholly or partially removed and any other product derived in whole or in part from milk as defined in the rules of the Department of Health or as may be approved and designated by the Department of Health, and any mixture of the aforementioned products.

“Misbranded” means the presence of any written, printed or graphic matter upon or accompanying food or containers of food which is false or misleading or which violates any applicable federal, state or local labeling requirements.

“Mix” means the unfrozen combination of all ingredients of a frozen dessert with or without fruits, fruit juices, candy, nut meats, flavor or color, in a fluid or semifluid state.

“Mobile food dispenser” means any person who, by traveling from place to place upon the public ways, serves previously prepared food that is enclosed or wrapped for sale in individual portions, coffee, other beverages or whole and uncooked fruits or vegetables from a wheeled vehicle.

“Mobile food vendor” means a mobile food dispenser, mobile food preparer, produce merchant, mobile prepared food vendor or mobile frozen desserts vendor.

“Mobile food preparer” means any person who, by traveling from place to place upon the public ways, prepares and serves food from a mobile food truck.

“Mobile food truck” means a motorized vehicle used to conduct a mobile food preparer business.

“Mobile food vehicle” means a motorized vehicle used to conduct a mobile food dispenser, mobile food preparer or mobile frozen desserts vendor business.

“Mobile frozen desserts vendor” means any person who, by traveling from place to place upon the public ways, serves from a two-wheeled or three-wheeled motorized or non-motorized vehicle, pushcart, or handcart individual portions of ice cream, ice milk, frozen dessert mix, sundaes or other frozen desserts that are totally enclosed in a wrapper or container and which have been manufactured, prepared or wrapped in a licensed food establishment.

“Mobile prepared food vendor” means any person who, by traveling from place to place upon the public ways, serves from a wheeled non-motorized vehicle, pushcart, or handcart individual portions of food, coffee or other beverages that are totally enclosed in a wrapper or container in individual portions and which have been manufactured, prepared or wrapped in a licensed food establishment for sale in individual portions.

“Owner” means the owner, operator, licensee or person in charge of any food establishment or vehicles used for the storage, transportation or vending of foods.

“Pasteurization” or “pasteurized” and similar terms mean the process of heating every particle of milk or

milk products in equipment which is properly operated and approved by the Department of Health, to meet the requirements prescribed by Section 1 of the most current version of the FDA's Pasteurized Milk Ordinance.

"Person" means any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity.

"Person in charge" means the individual present in a food establishment who is the apparent supervisor of the establishment at the time of the inspection. If no individual is the apparent supervisor, then any employee present is in charge.

"Place for eating" means a retail food establishment that is subject to the Chicago Restaurant and Other Places for Eating Tax pursuant to Chapter 3-30.

"Plumbing facilities" means plumbing fixture, plumbing system, handwashing sink, warewashing sink, service sink, toilet, urinal, pipes, tanks, fittings, and other apparatus required for the water supply, heating, and sanitation in a building.

"Pop-up food establishment" means an establishment that: (1) operates on a short-term, temporary basis in a specific building or portion thereof; and (2) where food is made available, sold, prepared or served, in exchange for money or other valuable consideration, for consumption by the public or by invitees of any person holding or required to hold a pop-up food establishment user license under this chapter.

"Pop-up food establishment host license" means a license issued under Section 4-8-045.

"Pop-up food establishment user license" means a license issued under Section 4-8-044.

"Prepackaged and non-perishable food" means any food or beverage which is not capable of supporting rapid and progressive growth of microorganisms which may cause food infections; and which is packaged in a hermetically sealed container designed to keep the contents free of contamination by microorganisms and maintain the commercial sterility of its contents after thermal processing. The term shall include packaged candy, gum and confections and bottled or canned water or soft drinks, if the package, bottle or can includes a manufacturer's quality assurance date. In no case shall the term include fresh or processed meats, poultry, seafood, dairy products, eggs, or fresh fruit and vegetables.

"Priority item" shall have the meaning ascribed to that term by the FDA Food Code.

"Priority foundation item" shall have the meaning ascribed to that term by the FDA Food Code.

"Produce" means whole and uncooked agricultural, plant-based items, including, but not limited to, fruits, vegetables, legumes, edible grains, nuts, spices, herbs and cut flowers.

"Produce merchant" means any person who sells produce outdoors from a produce stand, and who conducts at least 33 percent of his operations in areas underserved by grocery stores, as defined herein, and whose stand is (1) located on a private or public property with the written permission of the property owner, or located on the public way in connection with a valid public way use permit issued pursuant to section 10-28-060 of this Code; (2) removed in its entirety from such private property or public way at the end of each business day; and (3) in compliance with all applicable requirements of the Chicago Zoning Ordinance, including, but not limited to, any requirement prohibiting commercial sales within residential districts.

"Produce stand" means a non-motorized free standing, temporary structure located on a private or public property or on the public way, from which a produce merchant sells produce.

"Retail" means selling directly to the consumer and not for resale.

"Retail food establishment" means any building, room, stand, enclosure, place or establishment occupied and used as a place of business for the purpose of serving, storing, selling, offering for sale or keeping with the intention of selling or distributing at retail any article of food, drink, confection or condiment, ultimately used for or intended to be used for human consumption. The term shall include, but not be limited to: restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, taverns, bars, cocktail lounges, nightclubs, industrial feeding establishments, take-out establishments, private institutions or organizations routinely serving food, catering kitchens, commissaries or any other eating or drinking establishment or operation, the automatic food-vending machine business, coffee cart vendors, candy manufacturers, confectioneries, fish markets, fruit and vegetable markets, grocery stores, meat markets, nut stores, dressed poultry markets or retail bakeries, bakery outlets or any similar place.

“Rules of the Department of Health” means rules adopted by the Commissioner or the Board of Health, as authorized in this Code, for the proper administration or enforcement of the provisions of this Code pertaining to the regulation of food establishments, including Chapters 4-8, 7-38, 7-40, and 7-42.

“Sanitized” means effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the Department of Health as being effective in destroying microorganisms, including pathogens.

“Seal” means a tag, stamp, seal, mark or other device affixed to any food by the Department of Health.

“Sealed” means free of cracks or other openings which permit the entry or passage of moisture.

“Sell” means to transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have on hand or in one’s possession or control for the purpose of selling.

“Serve” means the placing of such food for the convenience of the patron into any cup, glass, cone, dish, plate, single-service container or receptacle from which it may be conveniently consumed by the person.

“Serve food” or “serve” means to prepare, taste, handle, package, prepare for storage, or dispense food for human consumption.

“Service accommodation” means the seating place where one patron or customer to be served can be seated or, in lieu of seating space, two lineal feet of counter space which may be used or occupied by one patron or customer to be served while standing, provided that, for the purpose of computing the number of “service accommodations” at a counter where no fixed seats or stools are provided, each such counter shall be considered as a separate unit and any fractional part of two lineal feet at a side or end shall be excluded.

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of a person with a disability, as defined in Section 36.104 of the Americans with Disabilities Act Title III Regulations, codified at 28 C.F.R. § 36.104, and such other animal that meets the criteria set forth in Sections 36.302 and 35.136 of such Regulations, codified at 28 C.F.R. § 35.136 and 28 C.F.R. § 36.302.

“Shared kitchen” means (1) any establishment used as a place of business for the exclusive or primary purpose of utilizing, leasing or renting its kitchen space to individuals or entities for food preparation, temporary extra production capacity, menu planning, training, taste testing, product development, food packaging, food storage or any other food-related purpose; or (2) any retail or wholesale food establishment licensed or required to be licensed under this chapter that leases, rents or otherwise makes kitchen space available at such establishment for utilization by individuals or entities for food preparation, temporary extra production capacity, menu planning, training, taste testing, product development, food packaging, food storage or any other food-related purpose that is secondary or incidental to the establishment’s primary business activity of retail or wholesale food establishment.

“Shared kitchen long-term user” shall mean a shared kitchen user who utilizes, leases, or rents kitchen space at any licensed shared kitchen for 91 or more days within the applicable two-year license period.

“Shared kitchen short-term user” shall mean a shared kitchen user who utilizes, leases, or rents kitchen space at a shared kitchen for 90 or fewer consecutive calendar days.

“Shared kitchen user” or “user” means any person who utilizes, leases, or rents kitchen space at any shared kitchen licensed or required to be licensed under this chapter.

“Single-service articles” means cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping material, bags, and all similar articles which are constructed wholly or in part from paper, paper board, molded pulp, metal, wood, plastic, synthetic or other readily destructible materials, which are intended by the manufacturers and generally recognized as for one usage only, then to be discarded.

“Slaughtering, rendering and packing establishment” means any place used for slaughtering animals for food, packing them for market, and cleaning the intestines thereof, or rendering offal, fat, bones, or scraps therefrom, or of any dead carcasses or animal matter whatever, or the manufacture or production of fertilizer, glue or soaps therefrom, or the manufacture of the same into fertilizing matter, or the changing the form thereof in any manner by the use of heat, steam, fire, chemicals, or otherwise.

“Special event” shall have the meaning ascribed to the term by Section 10-8-335.

“Tableware” means all multi-use eating and drinking utensils including flatware (knives, forks and spoons).

“Tier I pop-up food establishment” means a pop-up food establishment requiring a Tier I license under

Section 4-8-044.

“Tier II pop-up food establishment” means a pop-up food establishment requiring a Tier II license under Section 4-8-044.

“Tier III pop-up food establishment” means a pop-up food establishment requiring a Tier III license under Section 4-8-044.

“Time/temperature control for safety food” shall have the meaning ascribed to that term by the FDA Food Code.

“Unwholesome” means the condition of any food which is diseased, decayed, emaciated, tainted, putrid, infected, poisoned, adulterated, contaminated, unclean or otherwise impure or unfit for human consumption or which contains any poisonous or deleterious or injurious ingredients in kind and quantities so as to render the food injurious or detrimental to health or which contains any uninspected meat, poultry, milk or their byproducts or which has been submerged in any solutions which are unclean, contaminated, putrid or spoiled.

“Utensil” shall have the meaning ascribed to that term by the FDA Food Code.

“Vending machine location” means the room, enclosure, space or area where one or more vending machines are installed and operated.

“Water-vending machine” means a device which treats and dispenses water, in specific amounts of not less than one gallon, for purchase.

“Wholesale” means the making of sales to the wholesale or retail trade for purposes of resale, including sales on a large scale to hotels, food dispensers, institutions, restaurants, manufacturers and wholesale food establishments, including such sales by brokers, manufacturers’ agents and itinerant vendors and the supplying of branch or chain establishments from a central depot or store.

“Wholesale food establishment” means any building, room, stand, enclosure, place or establishment used as a place of business for the preparation, manufacture, canning, baking, bottling, packing, distribution, storage, selling or offering for sale at wholesale any article of food, confection, condiment, drink or ice used or intended for human consumption, or any such article which is an ingredient of, used for, mixed with or which enters into the composition of any such food, confection, condiments, drink or ice. The term shall include cold storage establishments, confectionery manufacturers; slaughtering, rendering and packing establishments; milk plants and wholesale milk distributors; frozen dessert plants and wholesale frozen dessert distributors; and wholesale itinerant food dealers.

“Wholesale itinerant food dealer” means any person not operating a regularly established store or warehouse for the merchandising of foods in the city, who shall, by traveling from place to place on or along the public ways of the city, deal, sell, offer for sale or deliver at wholesale from any vehicle any meat, produce, fruits, vegetables, garden produce, butter, eggs, cheese or any food item manufactured, packaged, bottled, processed or produced by a wholesale food manufacturer and intended for human consumption.

“Wholesome” means in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

#### **4-8-020 Licensing requirements – Exceptions.**

(a) (1) *Retail food establishment – License required – Exceptions.* Except as otherwise provided in subsection (e)(2) of this section, no person shall engage in the business of a retail food establishment without first having obtained a retail food establishment license.

(2) *Retail food establishment operating a pop-up food establishment at another location – Recordkeeping required.* A person holding a valid retail food establishment license under this chapter is authorized, during the duration of such license, to operate a pop-up food establishment at a location other than the premises for which the retail food establishment license was obtained without first having to obtain a pop-up food establishment user license under Section 4-8-044. Provided, however, that the following requirements shall apply: (A) Such retail food establishment licensee shall keep and maintain written records meeting the requirements of items (i) through (vii), inclusive, of Section 4-8-044(f)(6)(i) and of Section 4-8-044(f)(6)(ii) for each premises where the retail food establishment licensee operates a pop-up food establishment; and (B) If such retail food establishment licensee seeks to operate a Tier II or Tier III pop-up

food establishment at such premises, the retail food establishment licensee shall ensure that the owner or lessee of that premises holds either a valid: (i) pop-up food establishment host license under Section 4-8-045; or (ii) shared kitchen license within the meaning of Section 4-8-038(b); or (iii) retail food establishment and shared kitchen supplemental license within the meaning of Section 4-8-038(b); and (C) If such retail food establishment licensee operates a Tier II pop-up food establishment at the applicable premises, only food which has been prepared, packaged and stored at such licensee's properly licensed retail food establishment shall be sold or served at such licensee's pop-up food establishment; and (D) Under no circumstances shall the retail food establishment licensee operate a pop-up food establishment at the same location for a period in excess of 90 days within any 365-day period or at a location where such operation is prohibited under the Chicago Zoning Ordinance.

(b) *Wholesale food establishment – License required – Exceptions.* Except as otherwise provided in subsection (e)(3) of this section, no person shall engage in the business of a wholesale food establishment without first having obtained a wholesale food establishment license.

(c)

(1) *Mobile food dispenser – License required.* No person shall engage in the business of a mobile food dispenser without first having obtained a mobile food vendor license to engage in a mobile food dispenser business.

(2) *Produce merchant – License required.* No person shall engage in the business of a produce merchant without first having obtained a mobile food vendor license to engage in a produce merchant business.

(3) *Mobile food preparer – License required.* No person shall engage in the business of a mobile food preparer without first having obtained a mobile food vendor license to engage in a mobile food preparer business.

(4) *Mobile desserts vendor – License required.* No person shall engage in the business of a mobile frozen desserts vendor without first having obtained a mobile food vendor license to engage in a mobile frozen desserts vendor business.

(5) *Mobile prepared food vendor – License required.* No person shall engage in the business of a mobile prepared food vendor without first having obtained a mobile food vendor license to engage in a mobile prepared food vendor business.

(d) *Shared kitchen – License required.* No person shall engage in the business of a shared kitchen without first having obtained a shared kitchen license under Section 4-8-038.

(e)

(1) *Shared kitchen user – License required.* Except as otherwise provided in subsection (e)(4) of this section, no person shall engage in the business of a shared kitchen long-term user or shared kitchen short-term user without first having obtained a shared kitchen user license under Section 4-8-039 .

(2) *Shared kitchen user – No retail food establishment license required when.* If a person holds a valid shared kitchen user license under this chapter to engage in the business activity of shared kitchen long-term user or shared kitchen short-term user, such person shall not be required to obtain a retail food establishment license to engage in such activity in a properly licensed shared kitchen.

(3) *Shared kitchen user – No wholesale food establishment license required when.* If a person holds a valid shared kitchen user license under this chapter to engage in the business activity of shared kitchen long-term user or shared kitchen short-term user, such person shall not be required to obtain a wholesale food establishment license to sell or offer for sale at wholesale any article of food, confection, condiment, drink or ice prepared by such person in a properly licensed shared kitchen.

(4) *Outdoor special event permittees – No shared kitchen user license required when.* If a person holds a valid outdoor special event permit issued under Section 10-8-335, such person shall not be required to obtain a shared kitchen user license under this chapter to rent, lease or otherwise use kitchen space in a properly licensed shared kitchen to prepare any article of food, confection, condiment, drink or ice used or intended for use at the outdoor special event for which such outdoor special event permit has been issued.

(5) *Shared kitchen user – Pop-up food establishment user license required when.* A person holding



a valid shared kitchen long-term or short-term user license under Section 4-8-039 is authorized, during the duration of such license, to operate a pop-up food establishment at a particular location, if the shared kitchen user licensee obtains a pop-up food establishment user license under Section 4-8-044. Any such user license shall be issued free of charge to shared kitchen user licensees under this chapter.

(f) *Pop-up food establishment – User license required when.* Except as otherwise provided in Section 4-8-020(a)(2), no person shall engage in the business of a pop-up food establishment without first having obtained a pop-up food establishment user license under Section 4-8-044 .

(g) *Pop-up food establishment – Host license required when.* No owner or lessee of any premises shall allow any person to engage in the business of pop-up food establishment on such premises unless:

(1) the premises is properly zoned for such activity; and

(2) if the pop-up food establishment user requires a Tier II or Tier III pop-up food establishment user license under Section 4-8-044 to operate on the premises, such owner or lessee holds either a valid: (i) pop-up food establishment host license under Section 4-8-045; or (ii) shared kitchen license within the meaning of Section 4-8-038(b); or (iii) retail food establishment license and shared kitchen-supplemental license within the meaning of Section 4-8-038(b); and

(3) the person engaged in the business of pop-up food establishment at such premises holds, as applicable, a valid Tier I, Tier II or Tier III pop-up food establishment user license under Section 4-8-044 and is operating at all times within the scope of the applicable license.

(h) Except as otherwise provided in Section 4-8-020(a)(2), Section 4-8-039(b), or Section 4-8-044(c)(2), or Section 4-212-040(c), a separate license shall be required for each separate place of business.

(i) Except as otherwise provided in subsections (e)(2) or (e)(3) of this section, if a person engages in both retail and wholesale food sales at the same establishment, only a retail food establishment license shall be required.

(j) It shall be unlawful for any person to permit the installation, operation, or maintenance upon his premises of any automatic food-vending machine owned or operated by a person who has not obtained a license in accordance with the provisions of this chapter.

(k) Nothing in this chapter shall be construed to prohibit the sale of whole and uncooked fruits and vegetables from a mobile food vehicle used to conduct a mobile food dispenser or mobile food preparer business, or otherwise as permitted in accordance with Section 4-244-010 and 4-244-020 pertaining to peddlers.

(l) All charitable food dispensing establishments shall be exempt from the retail food establishment license.

#### **4-8-025 License issuance prohibited.**

No license shall be issued to:

(a) A person whose license issued under this chapter has been revoked for cause within the past three years; or

(b) A corporation, partnership, limited partnership or limited liability company, if any of the officers, substantial owners, members or other individuals required to be identified in the license application pursuant to Section 4-4-050 would not be eligible to receive a license under subsection (a).

#### **4-8-030 License – Application and nontransferability.**

(a) Unless otherwise provided, an application for any license required pursuant to this chapter shall be made in conformity with the general requirements of Chapter 4-4 of the Municipal Code relating to applications for licenses. The applicant shall provide the Department of Health such information as the Department may require in order to inform it fully as to the size and nature of the place to be used for the purpose of the business, the conditions, equipment, vehicles and facilities used for conducting the business, and such other information as may be required in the provisions of this chapter pertaining to the particular type of license applied for. As part of the written application, the applicant shall specify the activities to be carried out under the license. If at any time following the issuance of a license the licensee plans to add other activities not referred to in application, then the licensee shall so inform the Department of Business Affairs

and Consumer Protection and the Department of Health – food and dairy division in writing.

(b) Except as otherwise provided in this chapter, the Commissioner of Business Affairs and Consumer Protection shall issue no license pursuant to this chapter, and the applicant shall neither prepare, process nor sell any food, unless the Department of Health shall have inspected and approved the applicant's premises, vehicles, vending machines and other equipment and facilities for compliance with the Municipal Code of Chicago and the rules of the Department of Health.

(c) In addition, an applicant for a retail food establishment license or shared kitchen license shall file an affidavit with the Department of Business Affairs and Consumer Protection verifying that any structural, plumbing, electrical, or ventilation changes made to the premises for which the license is sought, while such premises were under the ownership or control of the applicant, were done pursuant to a valid building permit.

(d) No license issued pursuant to this chapter shall be transferred from one person to another or from one place of business to another. Upon change of ownership, a new application made in conformity with the general requirements of this Municipal Code shall be submitted and the Department of Health shall inspect and recommend for approval as provided in this chapter.

#### **4-8-031 Retail food establishment – Dog-friendly areas.**

(a) For purposes of this section the following definitions apply:

“Commissioner” means the Commissioner of Business Affairs and Consumer Protection.

“Dog-friendly area” means a dining area of a retail food establishment that is:

- (1) located outside; and
- (2) accessible from the street.

(b) No retail food establishment shall permit any animal, other than a service animal assisting a person with a disability, on any portion of the retail food establishment's premises, unless all of the requirements in subsection (d) of this section are complied with.

(c) In addition to the general application requirements for a retail food establishment license, a retail food establishment shall provide a statement as to whether the applicant desires to establish a dog-friendly area at the retail food establishment, other than persons with a disability requiring the assistance of a service animal, to bring their dogs while the patron is frequenting the retail food establishment.

(d) If a retail food licensee allows patrons of the establishment to bring dogs on any portion of the retail food establishment, other than a service animal assisting a person with a disability, the following requirements shall apply:

- (1) dogs shall only be permitted in dog-friendly areas;
- (2) dogs shall not be permitted to be in or travel through any indoor portion of the retail food establishment, or in any area where food is prepared;
- (3) any dog not kept on a leash at all times or not kept under control by its owner shall be immediately removed from the retail food establishment's premises. The licensee shall have the right to refuse to serve the owner of any dog if the owner fails to keep the dog on a leash, or to exercise reasonable control over the dog, or the dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the retail food establishment;
- (4) only dogs bearing a current rabies vaccination tag or other proof of current rabies vaccinations shall be permitted in the dog-friendly areas;
- (5) a sign shall be posted in a conspicuous place in the retail food establishment indicating whether the retail food establishment permits dogs. The size and language on the sign shall be as set forth in the rules of the Department of Health;
- (6) the dog-friendly area, including all furniture, fixtures, and walking surfaces, shall be made of hard surfaces that can be washed with soap and water, hosed down and sanitized;
- (7) the table and chairs at which patrons with dogs are seated shall be cleaned and sanitized between seating of patrons;
- (8) in the event any patron's dog bites or attacks a person while on the retail food establishment's premises, the licensee shall immediately notify 311;
- (9) while on the retail food establishment's premises, a dog shall not be provided food, either by the

employees or by patrons, though a dog may be provided water;

(10) dogs shall not have any contact with any food, food contact surfaces, serving dishes, utensils, tableware, linens, paper products or any other food serving products; and

(11) the retail food establishment's employees shall not have contact with the dogs. If any employee has contact with a dog or a surface touched by a dog, the employee shall immediately wash his/her hands before continuing with any food service work.

(e) The Department of Health shall promulgate rules for the administration and enforcement of this section. The rules shall include, but not be limited to, adequate controls to ensure compliance with the Illinois Food, Drug and Cosmetic Act, the Illinois Food Handling Regulation Enforcement Act, the Illinois Sanitary Food Preparation Act, and any other applicable statutes and ordinances.

(f) Upon the determination that a person has violated a provision of this section, or any rule promulgated hereunder, the Commissioner of Business Affairs and Consumer Protection or Commissioner of Health may institute an administrative adjudication proceeding with the Department of Administrative Hearings by forwarding a copy of a notice of violation or a notice of hearing, which has been properly served, to the Department of Administrative Hearings; provided however, that if the Commissioner recommends the suspension or revocation of the retail food establishment license, the Commissioner shall make such recommendation to the Department of Business Affairs and Consumer Protection in accordance with the requirements of Chapter 4-4 of the Municipal Code.

(g) This section shall be enforced by the Department of Business Affairs and Consumer Protection and the Department of Health.

(h) Any person who violates any provision of this section or any rule or regulation promulgated hereunder shall be fined not less than \$200.00 and not more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

#### **4-8-032 License – Application – Automatic food vending machine business.**

(a) In addition to the general application requirements for a retail food establishment license, if a license applicant intends to engage in the automatic food vending machine (A.F.V.M.) business, he shall supply the following information:

1. A list of all vending machines operated by him and their location and the location of all commissaries or other establishments from which his machines are serviced. This information shall be available to the health authority upon request, and shall be kept current;

2. The identity and form of the products to be dispensed through vending machines; the types of A.F.V.M. machines intended to be operated, a description of each type, the number of employees, and such other information as the Department of Health may require in order to inform it fully as to the types of machines and kinds of food to be dispensed of therein. The applicant shall notify the Department of Health of any change in operations involving new types of vending machines, or conversion of existing machines to dispense products other than those for which the machine was built and for which the license was issued.

(b) Prior to issuing a retail food establishment license which shall authorize a licensee to engage in the automatic food-vending machine business, the Department of Health shall approve the type of vending machine intended to be operated and shall make an inspection of the premises of the applicant, the commissary, supply storage, servicing, cleaning and sanitizing, and transport facilities and representative vending machines to determine their fitness from the standpoint of insuring protection of the food from improper handling, contamination and spoilage.

#### **4-8-034 Automatic food vending machine identification.**

Every automatic food vending machine, including machines operated under the prepackaged, nonperishable food exemption, shall be identified with the name and business address of the person or firm responsible for the maintenance of the machine and the address of the commissary serving that particular machine. Identification should be placed in a location visible to the public by means of a card, emblem, sticker or similar device. If the machine is maintained by a licensed food vending machine business, the

identification shall also include the business' retail food establishment license number. Failure to properly affix and maintain such identification shall constitute a violation of this chapter, and in addition to any other measures provided for herein the Department of Health may order any such unidentified machine removed or sealed and disabled.

**4-8-036 License – Application and category– Mobile food vendors.**

(a) In addition to the general application requirements,

(1) an applicant for a mobile food vendor license to engage in a mobile food dispenser, mobile food preparer, mobile prepared food vendor or mobile frozen desserts vendor business shall supply the name and address of the commissary where the vehicle or cart will be cleaned and serviced, and if the vehicle or cart is not stored at the commissary, the name and address of the place where such vehicle or cart will be stored when not in use. The Department of Health shall approve such locations;

(2) an applicant for a mobile food vendor license to engage in a mobile food dispenser, mobile prepared food vendor or mobile food preparer business shall complete a consultation with the Department of Health to review the proposed business practices, the vehicle and equipment to be used, and food safety operations prior to obtaining a mobile food vendor license. As part of this consultation, the applicant shall provide a proposed menu including a list of all food items the applicant intends to serve. At the time of consultation, an applicant for a mobile food vendor license to engage in a mobile food preparer business shall provide a City of Chicago Food Sanitation Manager Certificate issued to the applicant or the applicant's employee who will operate the mobile food truck;

(3) an applicant for a mobile food vendor license to engage in a mobile food dispenser, mobile prepared food vendor or mobile food preparer business shall make the applicant's mobile food vendor vehicle available for inspection by the Department of Health at a location determined by the Department of Health;

(4) an applicant for a mobile food vendor license who will use a propane tank or natural gas in the mobile food vehicle shall produce proof to the Commissioner of Business Affairs and Consumer Protection that such applicant has obtained commercial general liability insurance, with limits of not less than \$350,000.00 per occurrence, for bodily injury, personal injury and property damage and obtained a commercial automobile liability insurance with limits of not less than \$350,000.00, combined single limit, per occurrence for bodily injury and property damage arising in any way from the issuance of the license or activities conducted pursuant to the license. The insurance policy required under this subsection shall: (1) be issued by an insurer authorized to insure in Illinois; (2) name the City of Chicago as additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the licensee's operations; and (3) include a provision requiring thirty (30) calendar days' advance notice to the Commissioner of Business Affairs and Consumer Protection prior to cancellation or lapse of the policy. If a mobile food vendor license is issued to such applicant, such licensee shall maintain the insurance required under this subsection in full force and effect for the duration of the license period. The licensee shall also keep proof of the required insurance in the mobile food vehicle at all times when the vehicle is in use and, upon demand, shall produce such proof for inspection by an authorized city official. Failure to comply with the requirements of this section shall be grounds for the suspension or revocation of the license.

(b) Except as otherwise provided in this subsection, in addition to the general application requirements, an applicant for a mobile food vendor license to engage in a produce merchant business shall provide the Commissioner of Business Affairs and Consumer Protection with the following information: (1) the applicant's Illinois Retailers' Occupation Tax number; (2) the type(s) of produce that the applicant proposes to sell; and (3) any other information that the commissioner may reasonably require. The inspection and approval requirements provided in Section 4-8-030(b) shall not apply to an applicant for a mobile food vendor license to engage in a produce merchant business.

(c) The Commissioner of Business Affairs and Consumer Protection is authorized to issue color-coded emblems for the following mobile food vendor business categories:

1. A mobile food vendor license to engage in a mobile food preparer business.
2. A mobile food vendor license to engage in a mobile food dispenser business.
3. A mobile food vendor license to engage in a mobile frozen desserts vendor business.

4. A mobile food vendor license to engage in a produce merchant business.
5. A mobile food vendor license to engage in a mobile prepared food vendor business.

(d) The Commissioner of Business Affairs and Consumer Protection, in consultation with the Department of Transportation, Department of Police and the Office of Emergency Management and Communications, in the interest of preserving public safety or avoiding traffic congestion, may from time to time, by rule, set a limit on the number of total mobile food vendor licenses, in one or more categories, that may be issued at any given time; provided, however, no more than 10 percent of the total licenses in any mobile food vendor business category shall be issued to any one person. If the Commissioner of Business Affairs and Consumer Protection determines that there are more qualified applicants for mobile food vendor licenses than the maximum number of licenses that the Commissioner has set to issue at any given time, the Commissioner shall conduct a lottery or other neutral process for allocating licenses among qualified applicants as set forth by rules promulgated by the Commissioner.

#### **4-8-037 Restrictions on mobile food vendors.**

The City Council may from time to time define areas, in the interest of preserving public health and safety or avoiding traffic congestion, in which no mobile food vendor may prepare or dispense food from a wheeled vehicle. The City Clerk shall maintain for public inspection and copying a file of all ordinances defining such areas.

(a) Dispensing or preparing food from a wheeled vehicle within the following designated areas is hereby prohibited:

(1) Beginning at the intersection of Laflin Street and Monroe Street; thence south on Laflin Street to Jackson Boulevard; thence west on Jackson Boulevard to Paulina Street; thence north on Paulina Street to Monroe Street; thence east on Monroe Street to Laflin Street.

(b) No mobile prepared food vendor shall operate in the following designated areas:

(1) On the sidewalks adjacent to Wrigley Field; such sidewalks consisting of both sides of Addison Street, both sides of Clark Street, both sides of Waveland Avenue, and both sides of Sheffield Avenue.

(2) On the sidewalks on both sides of the following roadways: (i) North Halsted Street, between West Belmont Avenue and West Grace Street; (ii) West Belmont Avenue, between North Halsted Street and North Racine Avenue; (iii) North Broadway, between West Diversey Parkway and West Cornelia Avenue; (iv) North Clark Street, between West Diversey Parkway and West Grace Street; (v) West Diversey Parkway, between North Pine Grove Avenue and North Burling Street.

(b-1) No mobile prepared food vendor shall operate on the sidewalk on both sides of the following roadways:

- (1) On Clinton Street, between Washington Boulevard and Jackson Boulevard;
- (2) On Halsted Street, between Washington Boulevard and Van Buren Street;
- (3) On LaSalle Street, between Washington Boulevard and Jackson Boulevard;
- (4) On Michigan Avenue, between Oak Street and Roosevelt Road;
- (5) On Rush Street, between Division Street and Pearson Street;
- (6) On State Street, between Lake Street and Congress Parkway;
- (7) On Wabash Avenue, between Lake Street and Congress Parkway;
- (8) On Larrabee Street, between Erie Street and Chicago Avenue;
- (9) On Hudson Street, between Erie Street and Chicago Avenue;
- (10) On Sedgwick Street, between Erie Street and Hudson Avenue;
- (11) On McClurg Court, between Illinois Street and Chicago Avenue;
- (12) On St. Clair Street, between Illinois Street and Superior Street;
- (13) On Chicago Avenue, between State Street and Michigan Avenue;
- (14) On Division Street, between Dearborn Street and State Street;
- (15) On Erie Street, between Rush Street and St. Clair Street;
- (16) On Grand Avenue, between Wabash Avenue and St. Clair Street;
- (17) On Huron Street, between Wabash Avenue and St. Clair Street;
- (18) On Oak Street, between State Street and Michigan Avenue;

- (19) On Ohio Street, between Wabash Avenue and St. Clair Street;
  - (20) On Ontario Street, between Dearborn Street and St. Clair Street;
  - (21) On Superior Street, between Wabash Avenue and St. Clair Street;
  - (22) On Superior Street, between Kingsbury Street and Sedgwick Street;
  - (23) On Huron Street, between Kingsbury Street and Sedgwick Street;
  - (24) On Erie Street, between Kingsbury Street and Sedgwick Street;
  - (25) On Cedar Street, between State Street and Michigan Avenue;
  - (26) On Bellevue Place, between State Street and Michigan Avenue;
  - (27) On Oak Street, between State Street and Michigan Avenue;
  - (28) On Walton Street, between State Street and Michigan Avenue;
  - (29) On Delaware Place, between State Street and Michigan Avenue;
  - (30) On Chestnut Street, between State Street and Michigan Avenue;
  - (31) On Pearson Street, between State Street and Michigan Avenue.
- (c) No mobile prepared food vendor shall operate on the sidewalk in any of the following designated areas:
- (1) the east side of Clybourn Avenue, between Racine Avenue and Willow Street;
  - (2) the south side of West Diversey Parkway, between Pine Grove Avenue and Burling Street;
  - (3) both sides of North Clark Street, between Diversey Parkway and Belden Street;
  - (4) both sides of Armitage Avenue, between Racine Avenue and Halsted Street;
  - (5) both sides of Lincoln Avenue, between Diversey Parkway and Fullerton Parkway;
  - (6) both sides of Lincoln Avenue, between Clark Street and Armitage Avenue;
  - (7) both sides of Fullerton Parkway, between Lakewood Avenue and Halsted Street;
  - (8) both sides of Halsted Street, between Diversey Parkway and Fullerton Avenue; and
  - (9) both sides of Halsted Street, between Willow Place and Armitage Avenue.
- (d) No mobile prepared food vendor shall operate on the sidewalk on both sides of any roadways within the boundaries of:
- (1) South Lawndale Avenue, between 7500 South Lawndale Avenue and 8659 South Lawndale Avenue; and westward to
  - (2) South Cicero Avenue, between 7500 South Cicero Avenue and 8659 South Cicero Avenue.

#### **4-8-038 Shared kitchen license.**

(a) *License classifications.* Shared kitchen licenses shall be divided into the classifications which follow:

**Shared kitchen license:** A shared kitchen license shall be required if the person seeking to engage in the exclusive or primary business of a shared kitchen does not hold a valid retail food establishment license under this chapter for the premises identified in the shared kitchen license application. The holder of a shared kitchen license may engage at such shared kitchen in any business activity authorized by a retail food establishment license if (1) such business activity is secondary or incidental to the primary business activity of shared kitchen; and (2) such secondary or incidental business activity is permitted under the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago.

**Shared kitchen - supplemental license:** A shared kitchen-supplemental license shall be required if the person seeking to engage in the business of a shared kitchen (1) does hold a valid retail or wholesale food establishment license under this chapter for the premises identified in the shared kitchen license application; and (2) the business activity authorized by the shared kitchen license is secondary or incidental to the primary business activity for which such retail or wholesale food establishment license has been issued as set forth in the license application for such retail or wholesale food establishment license.

(b) *License application.* All applications for a shared kitchen license shall be made in conformity with the requirements set forth in Section 4-8-030.

It is a condition of the license that all information in the license application be kept current. Any change in required information shall be reported in writing to the Commissioner of Business Affairs and Consumer Protection within fourteen (14) business days of such change.

(c) *License issuance prohibited when.* In addition to the prohibitions set forth in Section 4-8-025, no shared kitchen license shall be issued under this section:

(1) to any person who is ineligible under this chapter or under the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, to obtain a retail food establishment license or wholesale food establishment license, as applicable;

(2) at the time of application for the initial license, unless and until the license applicant completes a consultation with the Department of Health to review equipment and food safety operations at the shared kitchen identified in the shared kitchen license application, as required under subsection (d)(2) of this section;

(3) at the time of application for the initial license, unless and until the Department of Health conducts, in accordance with the requirements set forth in subsection (d)(1) of this section, a health risk assessment and inspection of the applicant's premises and equipment and food safety operations and determines, based on the results of such assessment and inspection, that the applicant's premises and equipment and food safety operations comply with the requirements of the Municipal Code of Chicago and any rules promulgated thereunder. Provided, however, that a health risk assessment and inspection within the meaning of this subsection (c)(3) shall not be required as a condition for obtaining a shared kitchen-supplemental license under this section if, within the 12-month period prior to submitting an application for such shared kitchen-supplemental license, the retail food establishment identified in such application passed its most recent inspection by the Department of Health in accordance with the requirements applicable to "Category I facilities" as set forth in subsection (b)(4)(A) of Section 615.310 of the Local Health Protection Grant Rules.

(d) *Health risk assessment – Consultation with Health Department – Inspections.*

(1) *Health risk assessment.* For purposes of any health risk assessment required under subsection (c)(3) of this section, shared kitchens shall be classified as a "Category I facility" within the meaning of subsection (b)(3)(A) of Section 615.310 of the Local Health Protection Grant Rules.

(2) *Consultation with Department of Health.* Prior to the initial issuance of any shared kitchen license, the license applicant shall complete a consultation with the Department of Health to review equipment and food safety operations at the shared kitchen identified in the shared kitchen license application.

(3) *Periodic inspections.* In addition to any inspections required under subsection (c)(3) of this section, all shared kitchens shall be subject to periodic inspections in accordance with the requirements applicable to "Category I facilities" as set forth in subsection (b)(4)(A) of Section 615.310 of the Local Health Protection Grant Rules. In addition, the Department of Health may inspect a shared kitchen in response to any complaint of any violation at such shared kitchen of the Municipal Code of Chicago or any rules promulgated thereunder.

(e) *Duties.* A shared kitchen licensee shall have the following duties:

(1) *Accountability for use of licensed premises.* A shared kitchen licensee shall ensure that any person engaged in the business of a shared kitchen user on the licensed premises is in compliance with (i) all equipment and food safety requirements set forth in the Municipal Code of Chicago and any rules promulgated thereunder; and (ii) all requirements set forth in subsection (e) of Section 4-8-039. The shared kitchen licensee and applicable shared kitchen user shall be jointly and severally liable for any violation of the requirements of this subsection (f)(i)\*;

(2) *Ensuring that users are properly licensed.* A shared kitchen licensee shall ensure that any person engaged in the business of a shared kitchen user on the licensed premises is properly licensed under Section 4-8-039;

(3) *Recordkeeping required.* A shared kitchen licensee shall keep and maintain on file or otherwise make immediately available on the licensed premises the following records: (i) a list of all shared kitchen users and their contact information; (ii) for each such shared kitchen user, a copy of the menu approved by the Department of Health for use by such shared kitchen user; (iii) a list setting forth the date(s) and time(s) each shared kitchen user used the shared kitchen; (iv) the name of the person holding a valid sanitation certificate, issued by the Department of Health, who was present on the licensed premise each time time/temperature control for safety food was prepared, tasted, handled, packaged, prepared for storage, served or otherwise used by said shared kitchen user; (v) a copy of all agreements entered into by the shared kitchen licensee with each shared kitchen user, including the effective date and, if applicable, the termination date of each such agreement; (vi) a copy of each user's current shared kitchen user license; (vii) if the shared

kitchen licensee discontinues, ends, terminates or otherwise withdraws from any contract or agreement authorizing a shared kitchen user to lease, rent or otherwise utilize such licensee's shared kitchen, a record of the date on which such contract or agreement was terminated by the shared kitchen licensee; and (viii) if the shared kitchen user discontinues, ends, terminates or otherwise withdraws from any contract or agreement with a shared kitchen licensee or such user otherwise indicates his or her intent to stop using the shared kitchen, a record of the date on which such act occurred. The records required to be kept by the shared kitchen licensee under this subsection (e)(3) shall be maintained or otherwise made immediately available on the licensed premises by such licensee for a period of at least two years after the date of entry of such record. Upon request by any authorized city official, a shared kitchen licensee shall make such record(s) immediately available for inspection by such authorized city official;

(4) *Access to equipment and storage areas required.* A shared kitchen licensee shall provide access for inspection by the Department of Health or any other authorized city official to all locked equipment located in any storage area maintained by the shared kitchen licensee and used or made available for use by any shared kitchen user; and

(5) *Exceeding capacity – Prohibited.* A shared kitchen licensee shall ensure that, at any given time, the number of shared kitchen users preparing food in the shared kitchen does not pose a health or safety risk.

(f) *License fee – Duration of license.*

(1) *Shared kitchen license:* The fee for a shared kitchen license shall be as set forth in Section 4-5-010 of this Code. Such shared kitchen license shall expire on the date indicated on the face of the license.

(2) *Shared kitchen-supplemental license:* If the applicant for a shared kitchen-supplemental license applies simultaneously for a shared kitchen-supplemental license and a retail or wholesale food establishment license, the fee for such shared kitchen-supplemental license shall be as set forth in Section 4-5-010; such fee shall be in addition to the applicable retail or wholesale food establishment license fee set forth in Section 4-5-010; and such shared kitchen-supplemental license shall expire on the same date that the applicable retail or wholesale food establishment license expires. If the applicant for a shared kitchen-supplemental license does not apply simultaneously for a shared kitchen-supplemental license and a retail or wholesale food establishment license, the fee for such shared kitchen-supplemental license shall be calculated on a pro rata basis, based on the number of months remaining on the applicant's retail or wholesale food establishment license, and such shared kitchen-supplemental license shall expire on the same date that the applicant's applicable retail or wholesale food establishment license expires.

(g) *Violation – Penalty.* In addition to any other penalty provided by law, any person who violates any requirement of this section shall be subject to the fine set forth in Section 4-8-068.

(h) *License suspension or revocation.* Any violation of any requirement of this section may result in license suspension or revocation in accordance with the requirements set forth in Section 4-4-280 of this Code.

#### **4-8-039 Shared kitchen user license.**

(a) (1) *Shared kitchen user license required – Covered activities.* A shared kitchen user license under this section shall be required to engage in any of the following business activities ("covered business activities"): (1) shared kitchen long-term user; or (2) shared kitchen short-term user. The business activity authorized under the shared kitchen user license shall be indicated on the face of such license.

(2) *Shared kitchen user license – Scope of authorized activity.*

(i) *Shared kitchen long-term user.* A shared kitchen user license under this section authorizing the holder of such license to engage in the business of shared kitchen long-term user is subject to no limitation on (1) the number of calendar days that such long-term user may utilize, lease or rent a properly licensed shared kitchen during the applicable two-year license period, or (2) the number of properly licensed shared kitchens that such long-term user may utilize, lease or rent during the applicable two-year license period. Nothing in this subsection (a)(2)(i) shall be construed to prohibit a shared kitchen from renting, leasing or otherwise authorizing the use of such licensee's shared kitchen for a period of less than two years.

(ii) *Shared kitchen short-term user.* A shared kitchen user license under this section authorizing the holder of such license, to engage in the business of shared kitchen short-term user entitles such licensee to



utilize, lease or rent space at a properly licensed shared kitchen, or any combination of properly licensed shared kitchens, for a period not to exceed ninety (90) consecutive calendar days, as measured from the date that such shared kitchen user license is issued. Nothing in this subsection (a)(2)(ii) shall be construed to prohibit a shared kitchen licensee from renting, leasing or authorizing the use of such licensee's shared kitchen for a period of less than ninety (90) consecutive calendar days.

(b) *License application.* In addition to meeting the requirements set forth in Section 4-8-030, an application for, and, if requested, a renewal of a shared kitchen user license under this section shall be accompanied by the following information:

(1) whether the applicant or licensee, as applicable, is seeking to utilize, lease or rent space at a licensed shared kitchen for (a) 90 or fewer calendar days ("short-term shared kitchen user") or (b) for a two year term ("long-term shared kitchen user");

(2) a menu of the food items that such user intends to prepare, store, taste test, develop, package or otherwise handle or use for food-related purposes at the applicable shared kitchen; and

(3) a written statement, signed by the owner or operator of each applicable licensed shared kitchen that the applicant uses or intends to use, containing the following information about each such shared kitchen: (i) the name and address of the shared kitchen, (ii) the shared kitchen's license number, (iii) a written authorization, signed by the owner or operator of the shared kitchen, stating that the applicant for the shared kitchen user license has been authorized by such owner or operator to rent, lease or utilize kitchen space at such shared kitchen; and (iv) the start date and, if any, the end date to which such authorization applies.

It is a condition of the license that all information in the license application be kept current. Any change in required information shall be reported in writing to the Commissioner of Business Affairs and Consumer Protection within fourteen (14) business days of such change.

(c) *License issuance prohibited when.* In addition to the prohibitions set forth in Section 4-8-025, no shared kitchen user license shall be issued under this section:

(1) if the Department of Health fails to approve as safe the contents of any menu required under subsection (b)(2) of this section to be submitted as part of the license application;

(2) at the time of application for the initial license, unless and until the license applicant completes a consultation with the Department of Health to review the applicant's proposed use of the applicable shared kitchen(s) and proposed food safety operations at such shared kitchen.

(d) *Duties.* A shared kitchen user shall have the following duties:

(1) *Conformity to approved menu required – Notification and approval of changes to approved menu required.* A shared kitchen user licensee shall conform to the menu approved by the Department of Health. Prior to adding any new item of food to such menu, or any new and time/temperature control for safety food to any approved item of food on such menu, a shared kitchen user shall first obtain written permission to do so from the Department of Health. The shared kitchen user shall provide a copy of the menu approved by the Department of Health and any written permission obtained from the Department of Health pursuant to the requirements of this subsection (d)(1) to the licensee of each shared kitchen at which such shared kitchen user engages in the business of a shared kitchen user;

(2) *Conformity to food safety requirements and approved operational practices required.* A shared kitchen user shall (i) comply with all food safety requirements set forth in the Municipal Code of Chicago and any rules promulgated thereunder; and (ii) conform to any operational practice required or approved by the Department of Health in connection with the issuance of a license under this section. The shared kitchen user and applicable shared kitchen licensee shall be jointly and severally liable for any violation of the requirements of this subsection (d)(2);

(3) *Time/temperature control for safety food – Sanitation certificate required.* At all times that time/temperature control for safety food is being prepared, tasted, handled, packaged, prepared for storage, served or otherwise used at a shared kitchen by a shared kitchen user, such shared kitchen user shall have on site at the shared kitchen a person who holds a current sanitation certificate issued by the Department of Health. Upon request by any authorized city official, the shared kitchen user shall make such certificate immediately available for inspection by such authorized city official;

(4) *License – Required on site.* A shared kitchen user shall have their city-issued shared kitchen user

license or a copy thereof or any badge that may be issued and required by the Department as evidence of such shared kitchen user license on site at all times when the shared kitchen user is utilizing a shared kitchen. Upon request by any authorized city official, the shared kitchen user shall make such license or a copy thereof or any required badge immediately available for inspection by such authorized city official; and

(5) *Recordkeeping – Required.* A shared kitchen user shall keep and maintain on file the following records: (i) a list identifying the date(s) and time(s) such user utilized a shared kitchen, and (ii) a copy of the written statement, signed by the owner or operator of the shared kitchen, stating that the applicant for the shared kitchen user license has been authorized by such owner or operator to rent, lease or utilize such shared kitchen, and identifying the start date and, if any, the end date to which such authorization applies. The records required under this subsection (d)(6) shall be maintained by the user for a period of at least two years after the date of entry of such record. Upon request by any authorized city official, the shared kitchen user shall make such records immediately available for inspection by such authorized city official.

(e) *License fee – Duration of license.*

(1) *Shared kitchen long-term user.* The fee for a shared kitchen user license to engage in the business of shared kitchen long-term user license shall be as set forth in Section 4-8-041. Provided, however, that such fee shall be waived for a properly licensed mobile food vendor as set forth in Section 4-8-041(c). A shared kitchen long-term user license shall expire on the date indicated on the face of the license.

(2) *Shared kitchen short-term user.* The fee for a shared kitchen user license to engage in the business of shared kitchen short-term user license shall be as set forth in Section 4-8-041. Provided, however, that such fee shall be waived for a properly licensed mobile food vendor as set forth with Section 4-8-041(c). A shared kitchen short-term user license shall expire ninety (90) consecutive calendar days from the date of its issuance.

(f) *Violation – Penalty.* In addition to any other penalty provided by law, any person who violates any requirement of this section shall be subject to the fine set forth in Section 4-8-068.

(g) *License suspension or revocation.* Any violation of this section may result in license suspension or revocation in accordance with the requirements of Section 4-4-280 of this Code.

#### **4-8-040 Special event food licenses.**

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

“Chicago Riverwalk” has the meaning ascribed to the term in Section 2-32-1300(a)

“Commissioner” means the city’s Commissioner of Business Affairs and Consumer Protection.

“Department” means the city’s Department of Health.

“Multiple special events” means one or more special events that occur within a 10-day, 180-day or one-year period, depending on which period is applicable. The term “multiple special events” also means one or more special events that occur at an outdoor public enjoyment area developed pursuant to Section 2-102-030.

“Single special event” means a special event that lasts for a period not longer than ten (10) calendar days.

“Summer festival food vendor certificate” means a summer festival food sanitation certificate that the Department issues in collaboration with third parties.

(b) *License required.* No person shall serve food at a special event without a special event food license.

(c) *Classification of special event food licenses.* The Commissioner is authorized to issue the following two classes of special events food license: (i) A single special event food license shall be issued for serving food, subject to this section and, if applicable, Section 10-8-335, at a single special event; (ii) A multiple special events food license shall be issued for a 10-day, 180-day or one-year period. Subject to this section and, if applicable, Section 10-8-335, a multiple special events food licensee may serve food at multiple special events that occur within the duration of the license. In addition, subject to this section and Section 4-60-074, a multiple special events food licensee may serve food at any Chicago Riverwalk venue for the duration of any concession agreement executed pursuant to Section 2-51-050(1).

(d) *License application.* In addition to the requirements of Section 4-8-030, an applicant for a special event food license shall submit:

(1) a menu of the food items that the applicant intends to serve at the special event or at a Chicago Riverwalk venue; and

(2) the classification of the special event food license that the applicant is applying for, and, in case of application for a single special event food license, the dates and place of the event and a written statement, signed by the event organizer or sponsor of the event, stating that the applicant is authorized to serve food at the event.

It is a condition of the license that all information in the license application shall be kept current. Any change in required information shall be reported in writing to the Commissioner within fourteen (14) business days of such change.

(e) *License issuance prohibited when.* In addition to the prohibitions set forth in Section 4-8-025, no special event food license shall be issued under this section, if the Department does not approve as safe the contents of the applicant's menu submitted as part of the license application as required under subsection (d)(1) of this section.

(f) *Duties.* A special event food licensee shall have the following duties:

(1) *Conformity to approved menu required – Notification and approval of changes to approved menu required.* A special event food licensee shall conform to the menu approved by the Department. Prior to adding any new item of food to such menu, or any new and time/temperature control for safety food to any approved item of food on such menu, a special event food licensee shall first obtain written permission to do so from the Department;

(2) *Conformity to food safety requirements and approved operational practices required.* A special event food licensee shall (i) comply with all food safety requirements set forth in the Municipal Code of Chicago and any rules promulgated thereunder; and (ii) conform to any operational practice required or approved by the Department in connection with the issuance of a license under this section;

(3) *Time/temperature control for safety food – Summer festival food vendor certificate required.* At all times when a special event food licensee serves time/temperature control for safety food, such licensee shall have on site a person who holds a current summer festival food vendor certificate. Upon request by any authorized city official, the special event food licensee shall make such certificate immediately available for inspection by such authorized city official; and

(4) *License – Required on site.* A special event food licensee shall have his city-issued license or a copy thereof on site at all times when the licensee is serving food at a special event. Upon request by any authorized city official, the licensee shall make such license or a copy thereof immediately available for inspection by such authorized city official.

(5) *Recordkeeping – Required.* A special event food licensee shall keep and maintain on file the following records: (i) a list identifying the date(s) and time(s) such licensee served food at the event or at a Chicago Riverwalk venue; (ii) a copy of the written statement, signed by the organizer or sponsor of the event, or by a Riverwalk Venue liquor licensee, as applicable, stating that the special event food licensee is authorized to serve food at the event or at a Chicago Riverwalk venue, and identifying the start date and the end date to which such authorization applies; (iii) the copy of the menu approved by the Department for use by the licensee; and (iv) the name of the person holding a valid sanitation certificate, who was present each time time/temperature control for safety food was served by the licensee. The records required under this subsection shall be maintained by the licensee for a period of at least two years after the date of entry of such record. Upon request by any authorized city official, the licensee shall make such records immediately available for inspection by such authorized city official.

(g) *Special event food licenses – Aldermanic notification.* When issuing a single special event food license that is not subject to Section 10-8-335, the Commissioner shall notify the alderman of the ward in which the event is to be located at least five (5) calendar days before issuing the license.

(h) *Violation – Penalty.* In addition to any other penalty provided by law, any person who violates this section shall be subject to the fine set forth in Section 4-8-068.

(i) *License suspension or revocation.* Any violation of this section may result in license suspension or revocation in accordance with Section 4-4-280 of this Code.

#### **4-8-041 License fees.**

Except as otherwise provided in this section, the license fees shall be as set forth in Section 4-5-010 and

shall be paid before any license may be issued. All licenses shall expire on the date indicated on the face of the license.

(a) *Retail food establishment license.* The fee for a retail food establishment license shall be as set forth in Section 4-5-010. A charitable, religious or educational institution not carried on for private gain or profit, which only operates an eating facility or an automatic- food vending machine in connection with the immediate carrying out of its charitable, religious or educational activities, shall be exempt from the retail food establishment license fee.

At the time of payment of the retail food license renewal fee, a place for eating shall also pay the inspection fees set forth in Section 4-8-042.

(b) *Wholesale food establishment license.* The fee shall be as set forth in Section 4-5-010.

(c) *Mobile food vendor license.* A separate mobile food vendor license is required for each mobile food vehicle, cart or produce stand used by the mobile food vendor in the conduct of his business. The fee for such license shall be as set forth in Section 4-5-010. Provided, however, that if a mobile food vendor also requires a shared kitchen user license under Section 4-8-039 for a vehicle, cart or stand, such mobile food vendor shall be exempt from the applicable shared kitchen user license fee for such vehicle, cart or stand.

(d) *Shared kitchen and shared kitchen user licenses.* Except as otherwise provided in subsection (c) of this section, the fees for a shared kitchen long-term user and shared kitchen short-term user shall be as set forth in Section 4-5-010.

(e) *Special event food licenses.* The fees shall be as set forth in Section 4-5-010.

(f) *Pop-up food establishment user and host licenses.* Except as otherwise provided herein or in Section 4-8-044(c)(2), the fee for a pop-up food establishment user license and pop-up food establishment host license shall be as set forth in Section 4-5-010. Provided, however, that if a person holding a valid shared kitchen user license under this chapter applies for a pop-up food establishment user license under Section 4-8-044, such pop-up food establishment user license shall be issued to the licensee free of charge as required under Section 4-8-020(e)(5), as applicable.

#### **4-8-042 Inspections of and inspection fees for a place for eating.**

(a) The Building Commissioner shall make an annual inspection of all places for eating. Such annual inspection shall be conducted as one inspection, which shall consist of inspections pursuant to Sections 13-20-020, 13-20-290 and 13-20-530. If, within the 12-month period preceding such annual inspection, the place of eating was inspected by the Department of Buildings in connection with a permit inspection, periodic inspection, code compliance inspection or certificate of occupancy, such inspection shall be deemed to meet the annual inspection requirement herein. The Department of Buildings is authorized to conduct such additional inspections as the Department deems necessary to maintain health and safety.

(b) The fees for the inspections conducted by the Buildings Department pursuant to subsection (a) of this section are as follows:

- (1) 0 to 1,500 square feet, per year.....\$100.00
- (2) 1,501 – 4,500 square feet, per year.....\$250.00
- (3) 4,501 – 10,000 square feet, per year.....\$400.00
- (4) Over 10,000 square feet, per year.....\$550.00

(c) The provisions of this section shall not apply to any inspection by the Buildings Department that is required as a condition of the issuance or renewal of any license or permit issued pursuant to this Code, or to any reinspection, emergency inspection or inspection in response to a complaint conducted by the Buildings Department.

#### **4-8-043 Seasonal lakefront food establishments.**

(a) No person shall engage in the business of seasonal lakefront food establishment without first having obtained a license authorizing such activity from the Department of Business Affairs and Consumer Protection. Such license shall be issued in accordance with terms and conditions established by the Department of Health in duly promulgated rules and shall be operated in accordance with such rules. The fee for such license, which shall be issued on an annual basis, shall be as set forth in Section 4-5-010.

(b) As used in this section:

“Department of Health” means the Department of Health of the City of Chicago;

“Seasonal lakefront food establishment” means a commissary or other fixed food service establishment that: (1) is located on property where a Lakefront Venue liquor license may be issued, as set forth in subsection (c) of Section 4-60-073; and (2) operates only from Memorial Day through September 30th of the applicable calendar year.

#### **4-8-044 Pop-up food establishment user.**

(a) *Definitions.* As used in this section, unless the context clearly indicates otherwise:

“Day(s)” means calendar days.

“Pop-up food establishment” has the meaning ascribed to that term in Section 4-8-010.

“Potentially hazardous ingredient” has the meaning ascribed to the term “potentially hazardous food” in Section 4-8-038(a).

“Prepackaged and non-perishable food” has the meaning ascribed to that term in Section 4-8-010.

(b) *License classifications.* Pop-up food establishment user licenses shall be divided into three tiers based on the type of food activity occurring at the premises identified in the license application and the degree of relative risk (low, medium or high) of causing food-borne illness based on the food handling operations typically implicated in food-borne illness outbreaks. The holders of such licenses shall be entitled to engage in the business of pop-up food establishment subject to the following limitations:

(1) *Tier I license:* The holder of a Tier I license is entitled to sell or serve nonperishable food only that is commercially prepackaged in a food processing plant. On-site food preparation or on-site dining is not allowed under a Tier I license.

(2) *Tier II license:* In addition to selling or serving food authorized under a Tier I license, the holder of a Tier II license is entitled to sell or serve, in any combination, perishable, non-perishable, hot or cold prepackaged food only that has been prepared, packaged and stored off-site at a: (i) shared kitchen holding a valid shared kitchen license under Section 4-8-038, or (ii) retail food establishment holding a valid shared kitchen-supplemental license under Section 4-8-038. Final on-site preparation involving minimal assembly only of such prepackaged food is allowed (e.g. tossing a prepackaged salad; applying dressing to a prepackaged salad or sandwich; microwaving or heating prepackaged food; plating prepackaged food, etc.). On-site dining is allowed under a Tier II license.

(3) *Tier III license:* In addition to selling or serving food authorized under a Tier I and Tier II license, the holder of a Tier III license is entitled to sell or serve perishable, nonperishable, hot and cold food prepared on-site at the pop-up food establishment. The holder of a Tier III license is authorized to operate as a full-service restaurant. On-site dining is allowed under a Tier III license.

(c) *Duration of license – Change of location authorized when.*

(1) *Duration of license.*

(i) Tier I licenses under this section shall be issued for a 5-day, 30-day, 90-day, 180-day or one-year period, and may be reissued for additional consecutive terms.

(ii) Tier II and Tier III licenses under this section shall be issued for a 5-day, 30-day or 90-day period and may be reissued for additional consecutive terms. Provided, however, that under no circumstances shall a Tier II or Tier III licensee under this section operate a pop-food\* establishment at the same location for a period in excess of 90 days within any 365-day period.

(2) *Change in location authorized when.* The holder of a Tier I, Tier II or Tier III pop-up food establishment user license under this section is authorized, throughout the duration of such user license, to change the location of the premises where the licensed pop-up food establishment operates without having to obtain a separate pop-up food establishment user license under this section for such location, if all of the following conditions are met:

(i) the operation of a pop-up food establishment at the desired location is permitted under the Chicago Zoning Ordinance; and

(ii) the licensee complies with the recordkeeping requirements set forth in subsection (f)(6) of this

section; and

(iii) if the licensee is seeking to operate a Tier II or Tier III pop-up food establishment at the desired location, the owner or lessee of the premises where such licensee seeks to operate holds either a valid: (i) pop-up food establishment host license under Section 4-8-045; or (ii) shared kitchen license within the meaning of Section 4-8-038(b); or (iii) retail food establishment license and shared kitchen-supplemental license within the meaning of Section 4-8-038(b); and

(iv) the owner or lessee of the premises where the licensee seeks to operate the pop-up food establishment has authorized the licensee to use the premises to operate a pop-up food establishment, as evidenced by a written authorization to such effect identifying the start date and, if any, the end date to which such authorization applies.

(d) *License application.* In addition to the requirements in Section 4-8-030, an applicant for a pop-up user license shall provide the Department with the following additional information about the pop-up food establishment:

(1) whether the applicant is applying for a Tier I, Tier II, or Tier III pop-up food establishment user license;

(2) a statement describing the proposed menu of the food items that the applicant intends to sell or serve at the pop-up food establishment;

(3) proof that the applicant has completed a consultation with the Department of Health to review the applicant's proposed menu, equipment and food-safety operations at the pop-up food establishment, as required under Section 4-8-044(f)(1); and

(4) any other information that the Commissioner may reasonably require.

It is a condition of the license that all information in the license application be kept current. Any change in required information shall be reported in writing and without delay to the Commissioner.

(e) *License issuance prohibited when.* In addition to the prohibitions set forth in Section 4-8-025, no pop-up food establishment user license shall be issued under this section unless all of the following conditions are met:

(1) the operation of the pop-up food establishment at the desired location is permitted under the Chicago Zoning Ordinance; and

(2) if the applicant or licensee, as applicable, is seeking to operate a Tier II or Tier III pop-up food establishment at the desired location, the owner or lessee of the premises where the applicant or licensee seeks to operate the pop-up food establishment holds either a valid: (i) pop-up food establishment host license under Section 4-8-045; or (ii) shared kitchen license within the meaning of Section 4-8-038(b); or (iii) retail food establishment license and shared kitchen-supplemental license within the meaning of Section 4-8-038(b). Provided, however, that if the applicant or licensee is seeking only to operate a Tier I pop-up food establishment at the desired location, the requirements set forth in items (i) through (iii) of this subsection (e)(2) shall not apply; and

(3) the applicant for such license completes a consultation with the Department of Health, as required under subsection (f)(1) of this section.

(f) *Duties.* A licensee under this section shall have the following duties:

(1) *Consultation with the Department of Health – Required.* Prior to the issuance of any initial pop-up food establishment user license under this section, the applicant for such license shall complete a consultation with the Department of Health to review and approve for Code compliance the applicant's proposed menu, equipment, and food safety operations at the premises identified in the license application.

(2) *Conformity to approved menu required – Notification and approval of changes to approved menu required.* Each licensee under this section shall conform to the menu approved by the Department of Health. Prior to adding any new item of food to such menu, or any new or potentially hazardous ingredient to any approved item of food on such menu, such licensee shall first obtain written permission to do so from the Department of Health.

(3) *Special Equipment required when – Sanitation practices.*

(i) *Tier I licensees.* Persons holding a Tier I license only under this section shall not be subject to any special equipment requirements in connection with the operation of a Tier I pop-up food establishment.

Provided, however, that such persons shall comply with all applicable sanitation and other requirements set forth in the Department of Health Food Code Rules.

(ii) *Tier II licensees.* Persons holding a Tier II license under this section shall equip the licensed premises, or ensure that the licensed premises is equipped, with: (A) a hand sink, which may be portable; and (B) sufficient time/temperature control equipment to ensure the safety of heated or refrigerated foods. Such equipment shall conform to the Department of Health Food Code Rules governing hand sinks and time/temperature control equipment. In addition, Tier II licensees shall comply with all applicable sanitation and other requirements set forth in the Department of Health Food Code Rules.

(iii) *Tier III licensees.* Persons holding a Tier III license under this section shall comply with all equipment and other requirements applicable to restaurants, as set forth in the Department of Health Food Code Rules.

(4) *City of Chicago Food Service Sanitation Certificate – When required.* Persons holding a Tier III pop-up user license under this section shall have on-site at the licensed location, at all times when such location is open to the public for business, at least one employee who holds a City of Chicago Food Service Sanitation Certificate issued by the Department of Health.

(5) *Shared kitchen users – Food preparation, packaging and storage requirements.* If a shared kitchen user licensee under this Chapter 4-8 holds a Tier II pop-up food establishment license under this section, only food which has been prepared, packed and stored by such licensee at a properly licensed shared kitchen shall be sold or served at such shared kitchen user licensee's pop-up food establishment. Provided, however, that any food authorized under a Tier I pop-up food establishment user license may also be sold or served at such licensee's pop-up food establishment.

(6) *Change of location – Recordkeeping – Required when.*

(i) *Content of records.* If a pop-up food establishment user license is issued under this section, the holder of such license, during the duration of such license, changes the location of the premises where such licensee's pop-up food establishment is operating in accordance with subsection (c)(2) of this section, such licensee shall keep and maintain a written record containing the following information about each such premises: (1) the address of the premises; (2) the name of the owner or lessee of the premises; (3) the date(s) and time(s) of operation of the pop-up food establishment at the premises; (4) a copy of all agreements, which shall be in writing, entered into by the licensee with the owner or lessee of the premises where the pop-up food establishment is operating, including the effective date and, if any, the termination date of any such agreement; (5) if the pop-up food establishment discontinues, ends, terminates or otherwise withdraws from any such agreement, a record of the date on which such act occurred; (6) if the licensee operates a Tier III pop-up food establishment at the premises, the name of the person(s) holding a valid City of Chicago Food Sanitation Certificate, issued by the Department of Health, during the applicable period of operation at such premises; and (7) any other information the Commissioner may reasonably require in duly promulgated rules.

(ii) *Maintenance and inspection of records.* The records required under subsection (f)(6)(i) of this section shall be maintained by the licensee for a period of at least two years after the date of entry of such records. Except in cases where a licensee under this section consents to disclosure of such records or an exception to a warrant applies, including exigent circumstances, such records shall be subject to disclosure to an authorized city official, upon request by such official, pursuant only to a proper search warrant, administrative subpoena, judicial subpoena or other lawful procedure to compel the production of records that affords the licensee an opportunity for precompliance review by a neutral decisionmaker.

(g) *Prohibited acts.*

(1) It shall be unlawful for any licensee under this section to cater foods from the licensed pop-up food establishment location.

(2) It shall be unlawful for any licensee under this section to operate a pop-up food establishment in any: (i) non-stationary structure; or (ii) vehicle of any type, whether mobile or non-mobile; or (iii) building or portion thereof that the Commissioner determines, in duly promulgated rules and based on the building's condition, use or occupancy type, is unsafe or unsuitable for use as a Tier I, Tier II or Tier III pop-up food establishment, as applicable.

(3) It shall be unlawful for any licensee under this section to operate a pop-up food establishment in a private home or in any room used as sleeping or living quarters.

(h) *Violation – Penalty.* In addition to any other penalty provided by law, any person who violates this section shall be subject to the fine set forth in Section 4-8-068.

(i) *License suspension or revocation – Imminent threat – Post-deprivation hearing authorized when.* Any violation of this section may result in license suspension or revocation in accordance with Section 4-4-280. Provided, however, that if the Commissioner has good cause to believe that a licensee under this section is operating a pop-up food establishment in violation of this Code or any other applicable law and that continued operation of the establishment at the licensed location poses an imminent danger to the public health or safety, the Commissioner may order the immediate temporary suspension of such license for a period not to exceed ten days. Notice of the temporary suspension and the grounds for that suspension shall be sent or delivered to the licensee without delay. The licensee shall have an opportunity for a hearing before the Department of Business Affairs and Consumer Protection prior to the expiration of the ten-day temporary suspension period. If the licensee fails to request a hearing within the prescribed time indicated on the notice, or requests a hearing but fails without good cause to appear at such hearing, the pop-up food establishment user license shall be deemed revoked. Nothing in this section shall prevent the Department from suspending the licensee’s pop-up food establishment user license for a longer period of time or from revoking the license in accordance with Section 4-4-280.

(j) *Enforcement.* The Department of Business Affairs and Consumer Protection and Department of Health are authorized to enforce this section.

#### **4-8-045 Pop-up food establishment host.**

(a) *Definitions.* As used in this section, unless the context clearly indicates otherwise:

“Pop-up food establishment” has the meaning ascribed to that term in Section 4-8-010.

“Pop-up food establishment host” means the owner or lessee of any building, or any premises within a building, or any portion thereof, who rents, leases, or otherwise makes space available, for consideration, within such building or premises for use as a pop-up food establishment.

“Pop-up food establishment user license” has the meaning ascribed to that term in Section 4-8-044.

“Tier I pop-up food establishment” has the meaning ascribed to that term in Section 4-8-010. Tier I pop-up food establishments are limited to the activities set forth in Section 4-8-044(b)(1).

“Tier II pop-up food establishment” has the meaning ascribed to that term in Section 4-8-010. Tier II pop-up food establishments are limited to the activities set forth in Section 4-8-044(b)(2).

“Tier III pop-up food establishment” has the meaning ascribed to that term in Section 4-8-010. Tier III pop-up food establishments are limited to the activities set forth in Section 4-8-044(b)(3).

(b) *Pop-up food establishment host license – Required when – Exceptions.* No person shall engage in the business of pop-up food establishment host without first having obtained a pop-up food establishment host license under this section. Provided, however, that a pop-up food establishment host license under this section shall not be required if:

(1) the owner or lessee of the building or premises housing the pop-up food establishment holds either: (i) a valid shared kitchen license within the meaning of Section 4-8-038(b); or (ii) a valid retail food establishment license and shared kitchen-supplemental license within the meaning of Section 4-8-038(b); or

(2) the owner or lessee of the building or premises housing the pop-up food establishment only allows Tier I pop-up food establishments to operate in such building or premises; or

(3) the premises is a private residence and the occupant thereof hires a chef to prepare or serve food within that residence for such occupant’s own consumption or for consumption by such occupant’s invited guests; or

(c) *License classifications.* Pop-up food establishment host licenses shall be divided into two tiers based on the type of food activity occurring on the premises identified in the license application. The holders of such licenses shall be entitled to engage in the business of pop-up food establishment host subject to the following limitations:

(1) *Tier II host license:* The holder of a Tier II host license under this section is authorized to allow Tier



I and Tier II pop-up food establishments to operate at the licensed location.

(2) *Tier III host license*: The holder of a Tier III host license under this section is authorized to allow Tier I, Tier II and Tier III pop-up food establishments to operate at the licensed location.

(3) *Duration of license*. Pop-up food establishment host licenses shall be issued for a period of one year and shall be renewable for additional one-year terms. The fee for a pop-up establishment host license shall be as set forth in Section 4-5-010, and shall be determined based on the type of food activity occurring on the licensed premises, as follows: (i) If the licensee allows or intends to allow Tier II pop-up establishments only to operate on the licensed premises, the fee for the pop-up food establishment host license shall be \$150.00 for a one-year term. If the license allows or intends to allow Tier III pop-up food establishments to operate on the licensed premises, the fee for the pop-up food establishment host license shall be \$330.00 for a one-year term.

(d) *Application*. In addition to the requirements in Section 4-8-030, an applicant for a pop-up food establishment host license shall provide the Department with the following information:

- (1) whether the applicant is applying for a Tier II or Tier III pop-up food establishment host license; and
- (2) any other information that the Commissioner may reasonably require.

It is a condition of the license that all information in the license application be kept current. Any change in required information shall be reported in writing and without delay to the Commissioner.

(e) *Inspections*.

(1) Prior to issuing an initial Tier III pop-up food establishment host license under this section, the Department of Health shall inspect and approve the premises identified in the license application to ensure its suitability to house a Tier III pop-up food establishment.

(2) The Department of Health is authorized to conduct periodic inspections, during regular business hours or in case of an emergency, of the premises in which any Tier II or Tier III pop-up food establishment is located to ensure its compliance the applicable health, safety, equipment and sanitation requirements of the Code and applicable Department of Health Food Code Rules.

(f) *License issuance prohibited when*. In addition to the prohibitions set forth in Section 4-8-025, no pop-up food establishment host license shall be issued under this section:

- (1) if the applicant for such license fails to complete a consultation with the Department of Health, as required under Section 4-8-045(g)(1); or
- (2) if the operation of a Tier II or Tier III pop-up food establishment, as applicable, is not permitted under the Chicago Zoning Ordinance at the premises identified in the license application; or
- (3) if the condition, use or occupancy type of the building or premises identified in the license application has been determined by the Commissioner, in duly promulgated rules, to be unsafe or unsuitable for use as a Tier II or Tier III pop-up food establishment; or
- (4) if the premises identified in the license application is a private home or dwelling unit or is used as living or sleeping quarters.

(g) *Duties*. A licensee under this section shall have the following duties:

(1) *Consultation with Department of Health – Required*. Prior to the issuance of any Tier II or Tier III pop-up food establishment host license under this section, the license applicant shall complete a consultation with the Department of Health to review and approve the suitability of the applicant's premises for housing a Tier II or Tier III pop-up food establishment, as applicable.

(2) *Ensuring that users are properly licensed – Required*. A licensee under this section shall ensure that any person engaged in the business of pop-up food establishment at the licensed host location: (i) holds a valid pop-up food establishment user license under Section 4-8-044 and is operating within the scope of such license, and (ii) does not operate at the licensed host location for longer than the designated period of time indicated on the face of such person's user's license, or (iii) if the person engaged in business of pop-up food establishment at the licensed host location holds a Tier II or Tier III pop-up food establishment user license, such person does not operate such pop-up food establishment at the licensed host location for a period in excess of 90 days within any 365-day period.

(3) *Recordkeeping – Required*. A licensee under this section shall keep and maintain written records containing the following information: (i) a list of all pop-up food establishment users operating at the

licensed host location and their contact information; (ii) for each such user, a copy of the menu approved by the Department of Health for use by such user at the licensed location; (iii) a list setting forth the date(s) and time(s) each such user operated at the licensed location; (iv) if a Tier III pop-up food establishment operates at the licensed location, the name of the person(s) holding a valid City of Chicago Food Service Sanitation Certificate, issued by the Department of Health; (v) a copy of all agreements entered into by the pop-up food establishment host with each pop-up food establishment user, including the effective date and termination date of each such agreement; (vi) if the pop-up food establishment user discontinues, ends, terminates, or otherwise withdraws from any contract or agreement with the pop-up food establishment host or otherwise indicates his or her intent to stop operating at the host's licensed location, a record of the date on which such act occurred. The records required to be maintained by the pop-up food establishment host under this subsection (f)(3) shall be maintained by such licensee for a period of at least two years after the date of entry of such record. Except in cases where a licensee under this section consents to disclosure of the applicable pop-up food establishment user records required under this section or an exception to a warrant applies, including exigent circumstances, such records shall be subject to disclosure to an authorized city official pursuant only to a proper search warrant, administrative subpoena, judicial subpoena or other lawful procedure to compel the production of records that affords the licensee an opportunity for precompliance review by a neutral decisionmaker.

(4) *Special equipment required when – Sanitation practices.*

(i) *Tier II licensees.* Persons holding a Tier II pop-up food establishment host license under this section shall equip the licensed premises, or ensure that the pop-up food establishment user equips the licensed premises, with: (A) a hand sink, which may be portable; and (B) sufficient time/temperature control equipment to ensure the safety of heated or refrigerated foods. Such equipment shall conform to the Department of Health Food Code Rules governing hand sinks and time/temperature control equipment.

(ii) *Tier III licensees.* Persons holding a Tier III pop-up food establishment host license under this section shall equip the licensed premises, or ensure that the pop-up food establishment user equips the licensed premises, with all equipment required in restaurants in conformity with the Department of Health *Food Code Rules*.

(h) *Violation – Penalty.* In addition to any other penalty provided by law, any person who violates this section shall be subject to the fine set forth in Section 4-8-068.

(i) *License suspension or revocation – Imminent threat – Post-deprivation hearing authorized when.* Any violation of this section may result in license suspension or revocation in accordance with Section 4-4-280. Provided, however, that if the Commissioner has good cause to believe that a licensee under this section is hosting pop-up food establishments at the licensed location in violation of this Code or any other applicable law, and that continued hosting operations at the licensed location pose an imminent danger to the public health or safety, the Commissioner may order the immediate temporary suspension of the pop-up food establishment host license for a period not to exceed ten days. Notice of the temporary suspension and the grounds for that suspension shall be sent or delivered to the licensee without delay. The licensee shall have an opportunity for a hearing before the Department of Business Affairs and Consumer Protection prior to the expiration of the ten-day temporary suspension period. If the licensee fails to request a hearing within the prescribed time indicated on the notice, or requests a hearing but fails without good cause to appear at such hearing, the pop-up food establishment host license shall be deemed revoked. Nothing in this section shall prevent the Department from suspending the licensee's pop-up food establishment host license for a longer period of time or from revoking the license in accordance with Section 4-4-280.

(j) *Enforcement.* The Department of Business Affairs and Consumer Protection and Department of Health are authorized to enforce this section.

**4-8-047 License – Posting.**

Every license shall be posted in a conspicuous place in that part of a licensed establishment to which the public has access, but every mobile food vendor shall post each license or emblem in a conspicuous place in that part of the vehicle, cart or produce stand to which the public has access by sight, and every automatic food-vending machine operator shall post evidence of its license on the exterior surface of all automatic

food- vending machines in a conspicuous location to which the public has access.

#### **4-8-048 Applicants – Operating under supervision of outside Department of Health.**

(a) A license applicant who is located outside the jurisdiction of the Department of Health may obtain a retail food establishment license from the City of Chicago which authorizes the applicant to engage in the business of an automatic food-vending machine operator provided that the applicant is conducting his business under supervision of a state or local health authority and provided the ordinance regulating same is substantially equivalent to this chapter. The applicant shall, in addition to the application, if requested, provide reports including inspection reports and laboratory results within the previous ninety (90) calendar days from the date of application, from the aforementioned health authority in the jurisdiction where the commissary or commissaries are located, indicating satisfactory compliance with such provision. If such documentation is not available, approval shall be granted by the Department of Health, if the Department determines that applicable health standards are satisfied.

(b) Applicants for a mobile food vendor license to engage in a mobile food dispenser, mobile prepared food vendor, mobile frozen desserts vendor, or mobile food preparer business who are located outside of the jurisdiction of the Department of Health may obtain a license from the City of Chicago; provided, that the vehicle does comply with the applicable requirements of this Code and (i) the mobile food dispenser, prepared food vendor or mobile frozen desserts vendor applicant does dispense foods which are prepared and wrapped in a commissary which conducts its operations under the supervision of a state or local health authority; or (ii) the mobile food preparer applicant prepares food in compliance with rules of the Department of Health and the applicant conducts its operations under the supervision of a state or local health authority; provided that the ordinances regulating mobile food dispensers, prepared food vendors, mobile frozen desserts vendors and mobile food preparers are substantially equivalent to this chapter. The applicant shall, in addition to the application, provide inspection reports and a copy of the business license from the state or local health authority in the jurisdiction where the food source or commissary is located, indicating compliance with such provisions. If such documentation is not available, approval shall be granted by the Department of Health, if the Department determines that applicable health standards are satisfied. The Department of Health may require food to be submitted for laboratory testing.

#### **4-8-050 Notification of food poisoning.**

It shall be the duty of any owner, licensee or person in charge of any food establishment who has knowledge of, and of any physician who attends or prescribes for, and of every superintendent or person in charge of any hospital caring for, any person suffering from or suspected of suffering from food poisoning or infection or any form of such poisoning or infection, whether bacterial or chemical, at once to report this fact to the Department of Health and thereafter to submit to the Department of Health a written report stating the name and address of the person thus afflicted, the nature of the poisoning or infection and the source or probable source of the same.

#### **4-8-064 Rules.**

(a) A licensee shall comply with all of the particular regulatory provisions pertaining to: (i) each activity to be performed under a license issued pursuant to this chapter; and (ii) each food product used in the performance of such activities, including the provisions contained in Chapters 7-38, 7-40, and 7-42.

(b) Sections 750.10 – 750.1700 of the Food Service Sanitation Rules and Regulations; 77 Ill. Adm. Code 775, the Illinois Grade A Pasteurized Milk and Milk Products Rules and Regulation; and 77 Ill. Adm. Code 785, the Illinois Manufactured Dairy Products Rules and Regulations, of the Illinois Department of Public Health, as promulgated and amended from time to time pursuant to 20 ILCS 2305/2 (1994), 410 ILCS 620/21 and 410 ILCS 635/15, as amended, are expressly adopted as the rules of the city, except insofar as they may be modified or rejected by rules of the Department of Health. The Commissioner shall promulgate such additional rules as may be necessary for the proper administration and enforcement of this chapter.

#### **4-8-066 Prepackaged and nonperishable food – Exemption.**

(a) No establishment where the only food, drink, confection or condiment that is stored, sold or offered for sale is prepackaged and nonperishable shall be required to obtain a retail food establishment license. A limited business license may, however, be required pursuant to Chapter 4-4.

(b) In no event, however, shall this section exempt persons in the automatic food-vending machine business from the license requirements of this chapter.

**4-8-068 Violation – Penalty.**

Any person who violates or who resists enforcement of any provision of this chapter or any rule duly promulgated thereunder shall be fined not less than \$200.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

**4-8-293 Mobile food vehicle – Additional requirements for selling frozen desserts from commercial motor vehicles.**

In addition to the requirements of Section 4-8-037, every motor vehicle used by a mobile food dispenser or mobile food preparer for the sale, offering or display of frozen desserts shall be equipped with a signal arm. Any person who violates this section and the applicable rules of the Department of Health shall be subject to a fine of not less than \$200.00 and not more than \$500.00 for each offense.

## CHAPTER 7-32

### CHICAGO CLEAN INDOOR AIR ORDINANCE OF 2008\*

#### 7-32-005 Title.

This chapter shall be known as the Chicago Indoor Air Ordinance of 2008.

#### 7-32-010 Definitions.

In this chapter:

“Bar” means an establishment which has as its primary business the serving of alcoholic beverages for consumption by guests on the premises. “Bar” includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

“Department” means the City of Chicago Department of Public Health.

“Electronic cigarette” means any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance other than those produced by unenhanced human exhalation. “Electronic cigarette” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or under any other product name or descriptor. The term “electronic cigarette” does not include any asthma inhaler or other device that has been specifically approved by the United States Food and Drug Administration.

“Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a nonprofit entity.

“Employer” means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or nonprofit 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 partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

“Enclosed or partially enclosed sports arena” means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

“Event site for professional, collegiate, high school or organized amateur sporting events” means the entire physical area in which such sporting events occur. The event site shall include all open spaces and enclosed or partially enclosed sports arenas, including, but not limited to playing fields, dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, pedestrian walkways, bathrooms, dining areas, vendor areas, offices, and recreational areas.

“Gaming equipment or supplies” means gaming equipment / supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

“Gaming facility” means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

“Healthcare facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, assisted living establishments as defined in Section 4-6-100(a), long-term care facilities as defined in Section 4-6-100(a), adult family care homes as defined in Section 4-6-100(a), hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. “Healthcare facility” includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

“Live theatre location” means any building, playhouse, room, hall, or other place utilized by live performers to present artistic representations of real or imagined events in front of a live audience.

“Performance space” means the portion or portions of a live theater location where performances occur.

“Performance space” excludes all other portions of live theatre locations, including, but not limited to, hallways, lobbies, and public restrooms.

“Place of employment” means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a “place of employment.”

“Private club” means a not-for-profit association that (1) has been in active and continuous existence for at least three (3) years prior to January 1, 2008, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, “private club” means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. § 501.

“Private residence” means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

“Professional, collegiate, high school or organized amateur sporting events” includes: (1) baseball, softball, football, basketball, hockey, track and field, field hockey, lacrosse and soccer; and (2) any other game or other athletic competition organized by a league or association of persons.

“Public place” means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the City of Chicago, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A “public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A “public place” includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the City of Chicago or City subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

“Restaurant” means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. “Restaurant” includes a bar area within the restaurant.

“Retail tobacco store” means a retail establishment: (1) that derives more than 80 percent of its gross revenue from the sale, in any combination, of loose tobacco, cigarettes, cigarillos, cigars, pipes, other smoking devices and accessories, hookahs and related products, or electronic cigarettes and related products, components or parts thereof; and (2) in which the sale of products other than those listed in item (1) of this definition is merely incidental. The term “retail tobacco store” does not include a tobacco department or section of a larger commercial establishment or any establishment with a liquor or retail food establishment

license.

“Smoke” or “smoking” means either (1) the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment; or (2) the use of any electronic cigarette.

“Smokeless tobacco” means any product that contains cut, ground, powdered, or leaf tobacco and is intended to be placed in the oral or nasal cavity, including but not limited to, snuff chewing tobacco, dipping tobacco, dissolvable tobacco products and snus.

“Theatre actor” means an individual in the process of presenting an artistic representation of real or imagined events in front of a live audience, or in the process of rehearsing to do the same. The term “theatre actor” applies to both women and men.

“Use of smokeless tobacco” means the placing of any smokeless tobacco in the oral or nasal cavity.

### **7-32-015 Smoking in public places, places of employment and governmental vehicles prohibited.**

Unless an exemption contained in Section 035 of this chapter specifically applies, no person shall smoke in a public place or in any place of employment. No person may smoke in any vehicle owned, leased, or operated by the City of Chicago.

### **7-32-020 Posting of signs; removal of ashtrays.**

(a) “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of that place.

(b) Each public place and place of employment where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays shall be removed from any area where smoking is prohibited by this Chapter by the owner, operator, manager, or other person having control of the area.

### **7-32-025 Smoking prohibited in student dormitories.**

Notwithstanding any other provision of this chapter, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

### **7-32-030 Designation of other nonsmoking areas.**

Notwithstanding any other provision of this chapter, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in subsections (a) and (b) of Section 020 of this chapter.

### **7-32-032 Use of smokeless tobacco at sites for professional and amateur baseball and other sporting events prohibited.**

(a) No person shall use smokeless tobacco at an event site for professional, collegiate, high school or organized amateur sporting events.

(b) Persons having the authority to manage and control an event site for professional, collegiate, high school or organized amateur sporting events shall post at every entrance a conspicuous sign clearly communicating that the use of smokeless tobacco is prohibited. Such signs shall also be posted in all dugouts, bullpens, training rooms, locker rooms, press boxes, television and radio broadcast booth and bathrooms.

(c) A person, corporation, partnership, association or other entity who violates any provision of this section shall be fined pursuant to this section. Each day that a violation occurs is a separate violation.

(d) A person who uses smokeless tobacco at an event site for professional, collegiate, high school or

organized amateur sporting events shall be fined in an amount that is not less than \$100 and not more than \$250. A person who owns, operates, or otherwise controls an event site for professional, collegiate, high school or organized amateur sporting events that violates any provision of this chapter shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$2,500 for each additional violation within one year after the first violation and a 60-day suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

### **7-32-035 Exemptions.**

Notwithstanding any other provision of this chapter, smoking is allowed in the following areas:

(1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.

(2) Retail tobacco stores as defined in Section 010 of this chapter in operation prior to January 1, 2008. Any retail tobacco store that begins operation after January 1, 2008 may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited. Notwithstanding any other provision in this subsection, the use of electronic cigarettes is allowed in any retail tobacco store.

(3) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

In addition, theatre actors shall be allowed to use nicotine-free electronic cigarettes within performance spaces.

### **7-32-040 Enforcement; Complaints.**

(a) Chapter 7-32 shall be enforced by the department of public health, and the department of business affairs and consumer protection, or their authorized designees.

(b) Notice of the provisions of this chapter shall be given to all applicants for a business license in the City of Chicago.

(c) Any person who desires to register a complaint pursuant to this chapter may initiate enforcement with the Department by calling 3-1-1 or such other method as the Department may establish.

(d) The Department or its designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this chapter.

(e) An owner, manager, operator or employee of an establishment regulated by this chapter shall inform persons violating any provision of this chapter of the appropriate provisions thereof.

(f) In addition to the remedies provided by this chapter, the Department or any person aggrieved by the failure of the owner, operator, manager or other person in control of a public place or a place of employment to comply with the provisions of this chapter may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

### **7-32-045 Violations.**

(a) A person, corporation, partnership, association or other entity who violates any provision of this chapter shall be fined pursuant to this section. Each day that a violation occurs is a separate violation.

(b) A person who smokes in an area where smoking is prohibited under any provision of this chapter shall be fined in an amount that is not less than \$100 and not more than \$250. A person who owns, operates, or otherwise controls a public place or place of employment that violates any provision of this chapter shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$2,500 for each additional violation within one year after



the first violation and a sixty (60) day suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

**7-32-050 Discrimination prohibited.**

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this chapter. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter.

**7-32-055 Construction with other code provisions.**

No reference or omission in this chapter shall be construed to allow smoking if otherwise restricted or prohibited by other code provisions.

**7-32-060 Rules.**

The department of public health, and the department of business affairs and consumer protection, are authorized to adopt rules necessary for the administration of this chapter.

## **CHAPTER 7-38 FOOD ESTABLISHMENTS – SANITARY OPERATING REQUIREMENTS**

### **ARTICLE I. ALL FOOD ESTABLISHMENTS (7-38-001 et seq.)**

#### **7-38-001 All food establishments.**

The provisions of this article shall apply to all food establishments, unless otherwise specified. The term “food establishment” shall include all establishments, businesses and vehicles required to be licensed pursuant to chapter 4-8.

#### **7-38-005 Food requirements.**

All food shall be obtained from approved sources as defined by the rules of the Department of Health. All food shall be protected from contamination and the elements while being stored, prepared, displayed or sold at a food establishment and during transportation to or between such establishments or vending machine locations, and so shall all food equipment, containers, utensils, food-contact surfaces and devices and vehicles, in accordance with the provisions of this chapter, Chapters 4-8, 7-40 and 7-42 of this Code and the rules of the Department of Health.

#### **7-38-010 Food handler requirements.**

All employees who enter food processing areas, who prepare food, serve or handle in any manner unwrapped or unenclosed foods or utensils or receptacles or who handle foods on food-transporting vehicles shall maintain a high degree of personal cleanliness and conform to hygienic practices prescribed in and comply with all of the food handler requirements of the code and in the rules of the Department of Health.

#### **7-38-011 Food sampling in retail food establishments.**

Samples of food may be offered to persons within a licensed retail food establishment. If time/temperature control for safety food is prepared, held for service, or served, it shall be under the supervision of a person who holds a Department of Health food service sanitation certificate.

#### **7-38-012 Food service sanitation certificates.**

All food establishments shall employ and have present on the premises at all times that time/temperature control for safety food is being prepared, held for service, or served, a person in charge who holds a Department of Health food service sanitation certificate. Certification shall be achieved by successfully completing a Department approved food safety course and monitored examination offered by a Department approved provider and payment of a \$45.00 certificate fee to the Department of Health. Each certificate shall expire five years from the date that the individual successfully completes the examination. Every such original and valid food service sanitation certificate shall be posted conspicuously in that part of the retail food establishment to which the public has access. A food service sanitation certificate may be suspended or revoked by the Department of Health when an establishment under the control of the certificate holder has a record of repeated violations of this Code or the rules of the Department of Health.

#### **7-38-015 Maintenance of premises.**

Food establishment premises, including outdoor premises, shall be maintained in a clean, safe manner. Adequate facilities within every establishment shall be provided for the storage of employees’ personal belongings. The Commissioner of Health shall prescribe rules for the maintenance of food establishments.

#### **7-38-020 Control of vermin and insects.**

(a) In accordance with this section and the rules of the Department of Health, all necessary control measures shall be used to effectively minimize flying insects, and eliminate the presence of rodents, roaches

and other vermin and crawling insects on the premises of all food establishments, in food-transporting or mobile food vehicles and vending machines.

(b) All garbage and rubbish shall be stored, removed and disposed of as prescribed in this section and the rules of the Department of Health.

(c) Every food establishment shall maintain a log containing a written record of the control measures performed by exterminators. The food establishment shall keep the log on the premises of the food establishment and shall make the log open to inspection by the Department of Health, upon request. The content of the log shall be prescribed in the rules of the Department of Health.

#### **7-38-025 Equipment standards.**

All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable, durable, kept in good repair, and in all other ways compliant with the rules of the Department of Health.

#### **7-38-030 Compliance with city rules.**

(a) The floors, walls and ceilings of all rooms in which food or drink is stored, sold, offered for sale, cooked or prepared, or in which utensils and equipment are washed, shall be constructed and maintained in a manner prescribed by the building code of the City of Chicago and the rules of the Department of Health to ensure protection against contamination.

(b) All rooms in which food and drink are prepared or in which utensils are washed, rinsed, and sanitized shall be well-lighted. All food establishments shall have adequate ventilation systems which comply with the applicable requirements of the ventilation and fire prevention codes of the City of Chicago and rules of the Department of Health.

(c) All food establishments shall have adequate plumbing facilities that comply with all the requirements of the plumbing chapter of the Municipal Code of Chicago and the rules of the Department of Health.

(d) All food establishments, including mobile food vendors, shall comply with all applicable rules of the Department of Health.

#### **7-38-035 Submittal of plans and drawings.**

No new food establishment shall be constructed nor shall any major alteration or replacement of existing equipment affecting the sanitary requirements of this chapter or the rules of the Department of Health be permitted unless plans or complete drawings of this construction, alteration or replacement are submitted to the Department of Health and approved prior to such remodeling or construction. This requirement does not apply to an architect or structural engineer who has completed the Department of Buildings' self-certification program.

#### **7-38-040 Vehicle sanitation requirements.**

All vehicles used by food establishments for the carrying or transportation of foods shall comply with this chapter and the rules of the Department of Health.

#### **7-38-065 Alcoholic liquor sales – Health and sanitary requirements.**

Every person licensed under Section 4-60-100 of the Municipal Code of Chicago who shall sell any alcoholic liquor for consumption on the premises of such licensee, shall keep and maintain the licensed premises equipped with hot and cold water and adequate washing and sanitizing facilities for the cleaning of glasses and service utensils, shall provide adequate toilet facilities, and shall comply with the health and sanitary requirements of the Municipal Code of Chicago and the rules of the Department of Health.

#### **7-38-070 Food sanitarians.**

Any food sanitarian employed by the City of Chicago shall be empowered to enforce applicable provisions of this chapter, chapters 4-8, 7-40, 7-42, and the rules of the Department of Health.

## **ARTICLE II. MOBILE FOOD VENDORS (7-38-075 et seq.)**

### **Part A. General Provisions (7-38-075 et seq.)**

#### **7-38-075 Mobile food vendor vehicles.**

(a) Every vehicle used by a mobile food vendor in the conduct of such business shall comply with the rules of the Department of Health and the following requirements:

(1) the interior floor, walls and ceiling of each vehicle shall be of smooth, not readily corrodible, impervious material capable of withstanding repeated washing and scrubbing and shall be finished in a light color;

(2) the vehicle shall not be used for any purpose other than a mobile food vendor business; and

(3) all food service equipment utilized by the mobile food vendor shall be of easily cleanable construction and shall be maintained in good repair and a clean condition.

(b) Each mobile food vehicle shall be enclosed with top and sides.

(c) Each mobile food vehicle shall be registered as a commercial vehicle and any person who operates such vehicle must have a valid driver's license issued by the state of Illinois or another state, district or territory of the United States.

(d) Each mobile food vehicle shall be inspected and maintained by a licensed professional, including mechanics and, if applicable, by professionals who install and maintain fire prevention equipment, and propane tanks on mobile food vehicles, as often as necessary but not less than every ninety (90) calendar days, and copies of the last four maintenance reports must be kept in the vehicle at all times while the vehicle is in use.

(e) There shall be no more than 40 pounds of propane in a mobile food vehicle.

(f) Prior to the construction, remodeling, purchase or use of any mobile food truck or the addition of any new equipment for the storage or preparation of food in a mobile food vehicle, plans for such vehicle must be submitted to the Department of Health, and, if the mobile food vehicle uses propane, natural gas, or has a fire suppression hood, the Fire Department for approval.

#### **7-38-090 Refrigeration and heating equipment.**

All mobile food vendor vehicles shall have adequate mechanical or other refrigeration equipment as approved by the Department of Health, and such equipment shall be capable of maintaining time/temperature control for safety food in accordance with the rules of the Department of Health.

All mobile food vendor vehicles shall have adequate mechanical or other heating equipment as approved by the Department of Health, and such equipment shall be capable of maintaining time/temperature control for safety food in accordance with the rules of the Department of Health.

#### **7-38-115 Operational requirements.**

(a) Mobile food vehicles shall move from place to place upon the public ways and shall not be operated at a fixed location except as otherwise provided herein.

(b) Mobile food vehicle stops shall be made only to service customers and shall not exceed (i) a total of two hours or (ii) the maximum permitted period for parking, whichever is lesser, in any one block.

(c) No mobile food vehicle shall be equipped with any electronic sound-amplifying device. Permitted advertising devices shall be limited to bells, whistles, horns or other musical or noise-making devices which do not employ any electronic sound-amplifying device. Mobile food vehicles employing musical or noise-making devices shall only sound said devices when traversing the public way and shall be prohibited from sounding said devices while standing or parked.

(c-5) No mobile food vehicle equipped with a musical or noise-making device shall sound any such device at any location between the hours of 7:00 p.m. and 9:00 a.m., or at any time within 200 feet of a hospital, nursing home or while traversing any zone of quiet established under Chapter 10-8 of the Municipal Code.

(d) Unless specifically allowed in a mobile food vehicle stand, no sales from such mobile food vehicle shall be made between the hours of 2:00 a.m. and 5:00 a.m.

(e) No operator of a mobile food vehicle shall park or stand such vehicle:

- (i) within 20 feet of a crosswalk;
- (ii) within 30 feet of a stop light or stop sign; or
- (iii) adjacent to a protected bike lane.

(f) No operator of a mobile food vehicle shall park or stand such vehicle within 200 feet of any principal customer entrance to a restaurant which is located on the street level; provided, however, the restriction in this subsection shall not apply between 12 a.m. and 2 a.m.

Restaurant, for purposes of this section, means any public place at a fixed location kept, used, maintained, advertised and held out to the public as a place where food and drink is prepared and served for the public for consumption on or off the premises pursuant to the required licenses. Such establishments include, but are not limited to, restaurants, coffee shops, cafeterias, dining rooms, eating houses, short order cafes, luncheonettes, grills, tearooms and sandwich shops.

(g) Except as otherwise provided herein, no sale shall be made from a mobile food vehicle except from the curb side thereof, and then only when such vehicle is standing or parked in a legal parking spot.

(h) Mobile food vehicles that are being used to provide food and drink to persons engaged in construction in the City of Chicago and which are not equipped with noise-making devices are exempt from the provisions of (f) above, provided such vehicles are standing or parked in a legal parking spot.

(i) Any person who violates or resists the enforcement of subsection (c-5) of this section shall be fined as provided in section 7-38-128 of this Code for each violation. A separate and distinct offense shall be deemed to have been committed for each and every day on which any person shall be guilty of such violation; provided that, the intervening days between when a license holder whose license has been suspended applies for restoration of the license and a reinspection has been conducted by the Department of Health shall not constitute separate offenses if the violation was found to be corrected upon reinspection. A motor vehicle that is used in a second or subsequent violation of subsection (c-5) of this section shall be subject to seizure and impoundment under this subsection (i). The owner of record of such vehicle shall be liable to the city for an administrative penalty of \$750.00 in addition to fees for towing and storage of the vehicle. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this subsection, the police officer shall provide for the towing of the vehicle to a facility controlled by the city or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code. The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section. A violation of any provision of this section other than subsection (c-5) shall be punishable under Section 7-38-575.

(j) Mobile food vehicles shall be operated only by the mobile food vehicle licensee or by an authorized employee of such licensee.

(k) (1) No operation of a mobile food vehicle is allowed on any private property unless all of the following requirements are met:

(i) The mobile food vendor has obtained the express written consent of the owner or lessee of such property and such written consent is kept in the mobile food vehicle at all times when the vehicle is on the property;

(ii) The mobile food vendor is in compliance with all applicable requirements of the Chicago Zoning Ordinance; and

(iii) The mobile food vendor is in compliance with subsection (b)(i) and, except for the private property that allows the operation of the mobile food vehicle, subsection (f) of this section.

(2) Notwithstanding any other provision in subsection (k)(1), no operation of a mobile food vehicle is allowed on a privately-owned (i) vacant lot, or (ii) lot by a vacant building. For purposes of this subsection, the term "vacant" has the meaning ascribed to the term in section 13-12-125(e) of this Code.

(l) Each mobile food vehicle shall be equipped with a permanently installed functioning Global-Positioning-System (GPS) device which sends real-time data to any service that has a publicly-accessible application programming interface (API). For purposes of enforcing this chapter, a rebuttable presumption

shall be created that a mobile food vehicle is parked at places and times as shown in the data tracked from the vehicle's GPS device.

(m) An operator of a mobile food vehicle operating at the staging area, as delineated by the Commissioner of Aviation, of O'Hare International Airport shall be exempt from the requirements of paragraphs (b) and (f) above. The Commissioners of Business Affairs and Consumer Protection and Aviation shall have authority to jointly designate any other exempt location(s) on O'Hare International Airport property, provided that: (i) they conclude that such location(s) will not interfere with traffic or public safety, and (ii) they conclude that such location(s) are appropriate for mobile food vehicles based on the objective conditions and circumstances at each such location, and (iii) no such designation shall include an airport terminal. The Commissioner of Aviation is hereby authorized to assess a fee of \$200.00 per year, subject to escalation at the Consumer Price Index for all Urban Consumers (CPI-U) on any operator of a mobile food vehicle at O'Hare International Airport and to adopt rules to govern the operation of such mobile food vehicles.

### **7-38-117 Mobile food vehicle stands program.**

(a) A mobile food vehicle stands program ("program") is hereby created as provided in this section.

(b) The following definitions shall apply for purposes of this section:

(1) "Commissioner" means the City's Commissioner of Transportation.

(2) "Block" means both sides of the part of a street that lies between two intersecting streets, as the term "street" is defined in section 9-4-010 of this Code.

(3) "Stand" means a mobile food vehicle stand established by the Commissioner pursuant to this section.

(c) The Commissioner is authorized, subject to the approval of the City Council, to establish stands where mobile food vehicles may be operated at all times or during certain specified periods, if, after consulting with the alderman of the ward in which a proposed stand will be located and the Department of Police, the Commissioner determines that establishing such a stand: (1) will not create undue safety hazards in the use of the street by vehicular or pedestrian traffic; (2) will not impede the safe and efficient flow of traffic upon the street on which the mobile food vehicle stand is proposed; and (3) will provide benefit and convenience to the public. After engaging in the above consultations and posting appropriate signs, the Commissioner may amend the time of operation of mobile food vehicles at a mobile food stand. A minimum of 5 such stands shall be established in each community area, as such areas are designated in section 1-14-010 of this Code, that has 300 or more retail food establishments.

(d) The Commissioner shall designate mobile food vehicle stands by appropriate signs or curb markings or both. It shall be unlawful to stand or park a vehicle, other than mobile food vehicles, in violation of signs posted, in any mobile food vehicle stands that the Commissioner has designated by appropriate signs or markings; provided, however, that this provision shall not apply to a vehicle engaged in the expeditious loading or unloading of passengers when such standing does not interfere with a mobile food vehicle waiting to enter or about to enter into such a stand.

(e) Notwithstanding any other provision of this Code, in a block where a mobile food stand is established pursuant to this section, no person shall operate a mobile food vehicle from any other place on the public way in such block face except from the designated mobile food stand

(f) Operators of mobile food vehicles that operate from a mobile food stand shall be subject to the provisions of this section and all applicable requirements of this chapter, including section 7-38-115(b)(i) except for the requirement in section 7-38-115(f).

(g) The Commissioner and the Commissioner of Business Affairs and Consumer Protection shall have power to adopt rules as may be necessary or useful for the proper administration and enforcement of this program, including rules pertaining to the operation of mobile food vehicles from a designated mobile food stand.

(h) The Commissioner and the Commissioner of Business Affairs and Consumer Protection shall evaluate the effectiveness of the program and may recommend changes as may be adopted by ordinance.

(i) The Commissioner of Transportation is authorized to establish a mobile food vehicle stand within the side of the block where each of the following addresses is located:

- (1) 3627 North Southport Avenue;
- (2) 3420 North Lincoln Avenue;
- (3) 3241 North Lincoln Avenue;
- (4) 817 West Belmont Avenue;
- (5) 1005 West Wrightwood Avenue;
- (6) 1030 West Fullerton Avenue;
- (7) 2342 North Stockton Drive;
- (8) 1262 North Milwaukee Avenue;
- (9) 1218 North Milwaukee Avenue;
- (10) 2135 West Division Street;
- (11) 1155 North Oakley Boulevard;
- (12) 1615 West Chicago Avenue;
- (13) 149 North Ashland Avenue;
- (14) 831 North Wells Street;
- (15) 930 North LaSalle Drive;
- (16) 355 West Chicago Avenue;
- (17) 450 North Cityfront Plaza Drive;
- (18) 729 – 829 North Larrabee Street;
- (19) 30 East Lake Street;
- (20) 140 South Clark Street, provided that the mobile food vehicle stand at this location shall not be more than 40 feet in length;
- (21) 437 South Columbus Drive;
- (22) 902 West Adams Street;
- (23) 436 West Taylor Street;
- (24) 1400 West Adams Street;
- (25) 1851 West Jackson Boulevard;
- (26) 150 West Van Buren Street;
- (27) 65 East Harrison Street;
- (28) 2500 North Cannon Drive;
- (29) 3628 North Broadway;
- (30) 1760 North Sheffield Avenue;
- (31) 200 South LaSalle Street;
- (32) 151 North Franklin Street;
- (33) 185 North Upper Columbus Drive;
- (34) 105 East Monroe Street, provided that the mobile food vehicle stand at this location shall not be more than 40 feet in length;
- (35) 300 South Wabash Avenue, provided that the mobile food vehicle stand at this location shall not be more than 40 feet in length;
- (36) 2220 West Campbell Park Drive;
- (37) 145 South Franklin Street, provided that the mobile food vehicle stand at this location shall not be more than 40 feet in length;
- (38) 1002 South Paulina Street;
- (39) 1030 South Hamilton Avenue; and
- (40) 3601 West Bryn Mawr Avenue, provided that the mobile food vehicle stand at this location shall not be more than 40 feet in length.

**7-38-120 Name and license number.**

Every mobile food vendor shall have the business name and license number legibly affixed in letters and figures at least two inches in height in a conspicuous place on each lateral side of such vendor's mobile vehicle.

**7-38-124 Refuse receptacles.**

The operator of a mobile food vendor vehicle shall maintain a suitable, tight, non-absorbent washable receptacle for refuse. The operator shall be responsible for sanitation of the environs of the place of operation, if applicable, including the mobile food vehicle stand area used by the operator. Said refuse receptacle shall be adjacent to, but not an integral part of, the mobile food vendor vehicle. The operator of a mobile food vendor vehicle shall dispose refuse collected from the mobile food vendor vehicle and the environs of the place of operation at a commissary approved by the Department of Health.

**7-38-126 Inspections.**

Mobile food vendors shall make their vehicles available for inspection at the commissary approved or at a location determined by the Department of Health on a schedule determined pursuant to rules of the Department of Health.

Nothing provided in this section shall be construed to prohibit the Department of Health from conducting periodic inspection of mobile food vendor vehicles as provided in this Code.

**7-38-128 Enforcement.**

(a) Except as otherwise provided in this chapter, the Commissioner of Health shall have authority to adopt rules for the effective implementation of Article II of this Chapter, including regulations pertaining to construction and size requirements for mobile food vehicles, and, with input from the Fire Department, regulations pertaining to the installation, use, safety, and maintenance of propane tanks and natural gas apparatus in a mobile food vehicle.

(b) Except as otherwise specified in this chapter, any person who violates Article II of this Chapter shall be fined as provided in Section 7-42-090 of this Code.

(c) In addition to any other city department that has enforcement authority, the Department of Business Affairs and Consumer Protection and the Department of Transportation shall have authority to enforce sections 7-38-115 and 7-38-117 of this Chapter.

(d) Any person who violates sections 7-38-115 and 7-38-117 of this chapter shall be fined not less than \$1,000.00 and not more than \$2,000.00 for each offense. Each day that the violation occurs shall be considered a separate and distinct offense.

**Part B. Mobile Food Dispensers (7-38-130 et seq.)****7-38-130 Preparation and service of food and drink.**

(a) No food shall be sold or served by a mobile food dispenser, except the following:

(1) Individual portions of food that are totally enclosed in a wrapper or container and which have been manufactured, prepared or wrapped in a food establishment licensed by the city or a food establishment which is operating under the state or local health authority if the statute or ordinance regulating such food establishment is substantially equivalent to this chapter. Such food may undergo a final preparation step immediately prior to service to a consumer, provided such final preparation steps conform with the rules of the Department of Health.

(2) Coffee which is prepared in a licensed retail food establishment, refrigerated cream which is kept in a covered single-service container or an approved cream dispenser, and sugar which is served only in wrapped individual packages or in a covered closed pouring-spout type container, or in any other manner approved by the Department of Health, which is effective in preventing contamination;

(3) Other bulk soft drinks or beverages which are dispensed from an approved dispenser only. These approved bulk soft drink dispensers shall be serviced and filled only at a licensed retail food establishment which serves as a commissary for the mobile food dispenser. The drink outlet on all bulk liquid dispensers shall be protected from flies, dust and contamination;

(4) Individual portions of ice cream, ice milk, frozen dessert mix, sundaes or other frozen desserts that are totally enclosed in a wrapper or container and which have been manufactured, prepared or wrapped in a licensed food establishment; and



(5) Whole and uncooked fruits or vegetables.

(b) No mobile food dispenser licensee shall operate as a mobile food preparer without complying with all the requirements to operate as a mobile food preparer.

**7-38-132 Sinks, water storage tanks and other plumbing requirements.**

All mobile food dispenser vehicles that engage in a final preparation step as defined in the rules of the Department of Health shall be equipped with a handwashing sink and an adequate supply of running hot and cold water. The water storage tank shall be self-draining and cleaned and flushed not less than twice in each six-month period. Liquid waste from the handwashing sink shall be piped in fixed piping to a liquid waste retention tank 50 percent larger than the water storage tank. The liquid waste retention tank shall be located in a separate area from food storage or food-contact surfaces. The connection between the piping from the sink and the liquid waste retention container shall be tight-fitting and comply with the plumbing sections of this Code and the rules of the Department of Health. The liquid waste retention tank shall be emptied daily or more often if necessary, and only into a sanitary drainage facility in a manner and place approved by the Department of Health.

Liquid waste shall not be discharged from the retention tank when the mobile food vehicle is in motion.

**Part C. Mobile Food Preparers (7-38-134 et seq.)**

**7-38-134 Mobile food preparers – Operational requirements.**

(a) Any food sold or served by a mobile food preparer shall be prepared or wrapped in the mobile food vehicle or in a licensed retail food establishment.

(b) All time/temperature control for safety food products shall be stored as provided in this chapter and rules of the Department of Health until served to a customer. No food that is sold or served from a mobile food preparer's vehicle shall be stored or prepared in a residential home.

(c) During transportation and storage, food equipment, supplies and food contact surfaces shall be protected from contamination.

(d) Mobile food preparers shall list the food establishments from where they purchase articles of food on a daily basis. Mobile food preparers shall also keep in the vehicle copies of invoices from the foods' point of origin for thirty (30) calendar days for all food items except that invoices for shellfish must be kept for ninety (90) calendar days.

(e) Mobile food preparers shall also comply with the rules of the Department of Health and the following food and equipment handling requirements:

(1) no food shall be stored, displayed, or served from any place other than the mobile food vehicle. The use of tables, benches, and other such devices to display or serve food is prohibited;

(2) food condiments shall be protected from contamination. Food condiments provided for customer self-service shall be prepackaged or contained in approved dispensing devices;

(3) food products remaining after each day's operation shall be stored only in a licensed food establishment. Time/temperature control for safety foods held at or above the temperature prescribed in the rules of the Department of Health on a mobile food vehicle shall be discarded at the end of the day;

(4) customer self-service of unpackaged foods is prohibited; and

(5) all mobile food trucks must have a person in charge present who is a City of Chicago certified food service manager when food is being prepared or served as required in Section 7-38-012. All other employees who handle food or food equipment shall have food handler training as required by the State of Illinois.

(f) The Commissioner of Health shall have authority to provide by rules additional sanitation requirements and procedures for the operation of mobile food preparers.

**7-38-136 Mobile food trucks.**

(a) All mobile food trucks shall be equipped with a handwashing sink and a three-compartment sink with a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing in accordance with the

requirements of the Department of Health. The water storage tank shall be self-draining and cleaned and flushed once every 24 hours. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of the plumbing sections of this Code.

(b) A mobile food truck shall be equipped with a permanently installed liquid waste retention tank that is of at least 50 percent larger capacity than the water supply tank. Liquid waste shall be piped in a fixed piping to the liquid waste retention tank. Additionally, all connections on the vehicle for servicing shall be of different size or type than those used for supplying potable water. Liquid waste shall not be discharged from the retention tank when the mobile food vehicle is in motion. The connection between the piping from the sink and the liquid waste tank shall be tight-fitting and comply with the plumbing sections of this Code. The liquid waste tank shall be emptied daily or more often if necessary, and only into a sanitary drainage facility in a manner and place approved by the Department of Health. The liquid waste retention tank shall be located in a separate area from food storage or food-contact surfaces. The liquid waste retention tank connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

### **7-38-138 Servicing a mobile food truck.**

(a) The commissary linked to a mobile food preparer must have a servicing area approved by the Department of Health. The servicing area shall comply with the following requirements:

(1) the servicing area shall include at least an overhead protection for any supplying, cleaning, or servicing operation. The servicing area must have a location for the flushing and drainage of liquid waste in accordance with the rules of the Department of Health;

(2) the surface of the servicing area shall be a smooth non-absorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and graded to drain.

(b) The mobile food truck's liquid waste retention tank must be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal.

(c) The mobile food truck's grease, where used, shall be drained into a storage bin approved by the Department of Health. No grease shall be discharged to the sanitary sewage disposal.

(d) Garbage disposals shall be installed in compliance with the plumbing sections of this Code.

(e) A commissary must keep a log of all mobile food trucks serviced by the commissary as well as the date and time the trucks were serviced.

(f) Mobile food trucks must report to a commissary at least once per day for servicing.

## **Part D. Mobile Desserts Vendors (7-38-140 et seq.)**

### **7-38-140 Mobile desserts vendor.**

Except as otherwise provided in this section, a mobile desserts vendor, including a mobile frozen desserts vendor, shall comply with all applicable requirements of this Code, including the requirements set forth in Article II, Parts A and B of this Chapter, and the rules of the Department of Health pertaining to mobile units handling frozen desserts. A mobile desserts vendor is not required to comply with the following requirements:

(1) the hot food storage and heating appliance requirements set forth in Section 7-38-090;

(2) the sinks, water storage tanks and plumbing requirements set forth in Section 7-38-132;

(3) the refuse receptacle requirements set forth in Section 7-38-124;

(4) the mobile food vehicle requirement set forth in 7-38-075(b); and

(5) the additional vehicle requirements set forth in Section 4-8-293.

## **Part E. Produce Merchants (7-38-142 et seq.)**

### **7-38-142 Produce merchants – Operational requirements – Unlawful acts.**

It shall be unlawful for any produce merchant to engage in any of the following activities at any produce

stand operated by such produce merchant:

- (1) To equip such produce stand with an electronic sound-amplifying device;
- (2) Unless specifically allowed by the Commissioner of Business Affairs and Consumer Protection pursuant to objective criteria adopted by rule, to make sales from such produce stand between the hours of 10:00 P.M. and 6:00 A.M.;
- (3) To fail to comply with any applicable rules, including, but not limited to, any rules governing the physical characteristics, size, appearance or signage of a produce stand;
- (4) To conduct business activities at such produce stand in a manner that impedes the flow of vehicular or pedestrian traffic;
- (5) To use a portable generator at such produce stand or to connect such produce stand to water, electrical or utility services of any type;
- (6) To dump or dispose of water or waste onto the public way, private or public property;
- (7) To obstruct or block any sidewalk, driveway, public way, parking zone, loading zone or drop-off zone at or in connection with the operation of such produce stand;
- (8) To sell any items at such produce stand other than: (i) produce, or (ii) beverages meeting the definition of “prepackaged and non-perishable food” in Section 4-8-010. Any such beverages sold shall not contain more than 1 gram of added sugars per serving as the term “added sugars” is defined by the U.S. Food and Drug Administration at 21 C.F.R. Section 101.9(c)(6)(iii);
- (9) To combine any activity authorized under a mobile food vendor license to engage in a produce merchant business with any activity for which a different or separate license or permit is required under this Code, other than a public way use permit issued under Chapter 10-28 of this Code, including, but not limited to, any permit required in connection with participation in any farmers' market, as defined in Section 4-12-010, or any outdoor special event, as defined in Section 10-8-335;
- (10) To display produce items at such produce stand on the ground or in any area other than the designated produce stand;
- (11) To fail to affix and display in a conspicuous location at such produce stand a copy of a valid mobile food vendor license to engage in a produce merchant business, and, if the produce stand is on the public way, a valid public way use permit issued by the Department of Business Affairs and Consumer Protection;
- (12) To use or to cause to be used any open fire or flame at such produce stand, including, but not limited to, any candle, open-flame heating device, open-flame illuminating device, torch or similar object;
- (13) To allow such produce stand to touch, lean against or be affixed to any building, structure, vehicle or other fixture;
- (14) To fail to keep the area within 20 feet of such produce stand free of trash;
- (15) To fail to keep on the licensee’s person, at all times when such produce display stand is being set up, operated or disassembled, proof that the owner of the property on which such produce display stand is located has given the licensee written permission to erect and operate such produce display stand at that specific location at that specific time, or that the licensee has been issued a public way use permit for the operation of a produce stand at that specific location;
- (16) To exceed the scope of any written permission given to the licensee by the owner concerning the operation of such produce stand on the owner’s property, or the scope of any public way use permit;
- (17) To operate a produce stand directly in front of or immediately adjacent to any fixed business engaged in the business of selling the same produce as sold at the produce stand, or to operate a produce stand within 200 feet of another produce stand.

#### **7-38-144 Produce merchants – Record-keeping required.**

All persons engaged in a produce merchant business shall keep and maintain a written record identifying, for each produce stand in operation on any given day, the date, time and location of such operation(s). Such written records shall also include a copy of the written permission of the property owner authorizing the sale of produce from the produce stand on such owner's property, as required under subsection (15) of Section 7-38-142. The records required to be kept under this section shall be maintained by the licensee throughout the duration of the license period. Upon request by any authorized city official, the licensee shall make such

records immediately available for inspection by such authorized city official.

**7-38-146 Designating areas underserved by grocery stores.**

The Commissioner of Planning and Development shall (1) identify areas underserved by grocery stores using data gathered by the Department of Planning and Development, the Department of Health, the Department of Business Affairs and Consumer Protection and other appropriate city departments; (2) post and maintain on the city's website a current list or map of such areas, along with a summary statement of the data supporting the designation of such area as an area that lacks adequate access to fresh and healthy food; and (3) promptly notify the Commissioner of Business Affairs and Consumer Protection in writing of any change to such list or map.

**Part F. Mobile Prepared Food Vendors (7-38-148 et seq.)**

**7-38-148 Mobile prepared food vendor.**

Except as otherwise provided in this section, a mobile prepared food vendor shall comply with all applicable requirements of this Code, including the requirements set forth in Article II, Parts A and B of this chapter, and the rules of the Department of Health pertaining to mobile units handling food. A mobile prepared food vendor is not required to comply with the following requirements:

- (1) the additional vehicle requirements set forth in Section 4-8-293;
- (2) the mobile food vehicle requirement set forth in 7-38-075(b), (c), (d), (e) and (f);
- (3) the mobile food vehicle operational requirements in 7-38-115;
- (4) the mobile food vehicle stands program in Section 7-38-117; and
- (5) the sinks, water storage tanks and plumbing requirements set forth in Section 7-38-132.

**ARTICLE III. AUTOMATIC FOOD – VENDING MACHINES (7-38-150 et seq.)**

**7-38-150 Vending machines – Food manufacture, delivery and storage.**

All food offered for sale through vending machines shall be manufactured, processed, prepared in and delivered from commissaries or establishments which comply with the health and sanitation requirements for food service establishments set forth in this Code and in the rules of the Department of Health.

**7-38-190 Water supply and plumbing requirements.**

All water used in vending machines shall be supplied under pressure properly connected to the city water supply. All plumbing connections and fittings shall be installed in accordance with the requirements of that portion of the Municipal Code relating to water supply and distribution.

**7-38-212 Water-vending machines – Location restriction.**

No water-vending machine may be installed, operated or maintained, except at a retail food establishment.

**7-38-214 Water-vending machines – Equipment and maintenance.**

(a) Responsibility for ensuring compliance with the requirements of this section shall be placed both on the owner of the machine and the operator of the retail food establishment where a water-vending machine is located.

(b) No water-vending machine shall be installed, used or maintained, or permitted to be installed, used or maintained, unless inspected and approved by the Departments of Health and Water Management.

**ARTICLE IV. COFFEE CART VENDORS (7-38-220 et seq.)**

**7-38-220 Coffee carts – Required features.**

Every coffee cart used by a coffee cart vendor in the conduct of said business shall comply with rules of the Department of Health.

## **ARTICLE V. SLAUGHTERING, RENDERING AND PACKING ESTABLISHMENTS\* (7-38-460 et seq.)**

### **7-38-495 Notice to alderman.**

Thirty (30) calendar days before a wholesale food establishment license which authorizes an applicant to engage in the business of a slaughtering, rendering and packing establishment may be issued to an applicant who has not been previously licensed to engage in such business, the city clerk shall mail a notice of such application to the alderman representing the ward in which the applicant intends to engage in such business, and to the alderman whose ward or any part thereof is within a radius of three miles from the proposed location for which application is made to carry on such business.

### **7-38-500 Unlicensed premises – Slaughtering permitted when.**

The slaughtering of animals for food shall not be permitted or conducted in any place in the city other than in a duly licensed slaughterhouse.

### **7-38-510 Slaughtering on public ways prohibited.**

No animals shall be slaughtered, or the meat or any part thereof dressed, or hung, wholly or partly, within any public way or place; nor shall any blood or dirty water or other substance from such animals, meat or place of killing, or the appurtenances thereof, be allowed to run, fall, or be in any such public way or place.

### **7-38-515 Slaughterhouse – Maintenance and construction.**

Every slaughterhouse or any part thereof shall at all times be kept adequately and thoroughly ventilated. No blood shall be allowed to remain therein over night. Adequate underground connections shall be made from every such building with a public sewer, and the floor of any building on which slaughtering is done and any yard connected therewith shall be cemented and paved with brick or other suitable material so as not to absorb blood and so as to carry all liquids into the sewers.

### **7-38-520 Hours for slaughtering.**

No owner or person in possession, charge or control of a slaughterhouse shall slaughter animals for food between the hours of 7:00 p.m. and 7:00 a.m. or on Sundays, without first notifying the Department of Buildings.

### **7-38-525 Method of slaughtering.**

The keeping and slaughtering of livestock, the preparation and keeping of all meat, birds and fowls, the rendering of all animal matter, and the manufacture of glue and all byproducts from animal matter, shall be conducted in the manner which is, or is generally reputed or known to be, the best adapted to secure and continue their safety and wholesomeness as food, and to avoid all offensiveness of such keeping, slaughtering, rendering and manufacturing. Blood from slaughtered animals shall not be allowed to flow into any sewer or into the Chicago River or any of its branches, but while still fresh shall be treated so as not to become offensive.

All offensive odors arising from the handling of meat or other animal matter, melting or rendering, and the treating of and caring for offal, blood or any other material stored or manufactured, shall be destroyed by combustion, condensation or other means equally effective, and according to the best and most approved means and processes, and shall not be allowed to escape into the outside air.

### **7-38-530 Method of condensation.**

In the event that condensation shall be adopted as a method of destroying offensive odors or gases, the method of condensation employed shall be as follows:

Every rendering establishment shall use tank or other suitable airtight condensing appliances for

condensers. The said appliances shall have an overflow connecting with a sewer, and shall have a feed water pipe of sufficient diameter by which a continuous stream of cold water shall pass into the condenser and escape through the said overflow at or near the top. All gases generated in the process of boiling shall be carried to and entered into the bottom of and under the body of water contained by said condenser. Such gases as are not condensed in the water shall be carried through another pipe connected with the top of the condenser, to the boilers or other places where heat of not less than 600 degrees Fahrenheit is maintained, and shall there pass through such fire and be consumed. While the condenser is in use, it shall be obligatory on the part of the user to allow sufficient water to flow through the condenser to maintain a temperature not higher than 100 degrees Fahrenheit.

A condenser of the spray, jet or other suitable pattern shall be connected with all dryers, and a fan or pump shall draw the vapors from the dryer and force them through such condenser, the water from which shall pass into the sewer, and a sufficient quantity of water shall be used to condense thoroughly any and all vapors and odors conveyed thereto.

To the end that a proper inspection may be readily made by the authorities of the temperature maintained in such condensers there shall be attached to each of such condensers an automatic or self-registering thermometer of such a character as will automatically keep a daily record of the temperature maintained in each such condenser at all times during the use thereof.

#### **7-38-535 Offensive gases and odors prohibited.**

No person shall boil any offal, swill or bones, nor any fat, tallow or lard, except while the same is fresh and otherwise inoffensive, nor shall the business of bone crushing, bone boiling, bone grinding, bone burning, shell burning or gut cleaning, nor the skinning of or making of glue from any dead animal or part thereof, nor the storage or keeping of scrap, fat or greases or offensive animal matter be permitted or conducted at any place within the limits of the city, or within one mile thereof, in such a manner as to generate any offensive or deleterious gas, vapor, deposit or exhalation that is dangerous or detrimental to life or health.

It shall constitute, and it is hereby declared, a nuisance for any person so to steam or boil or in any way render any offal or tainted or damaged lard or tallow, or so to steam or render any animal substances, as to occasion any offensive smell, or to steam or boil or render any substance which by undergoing such process so taints the air as to render it unwholesome or offensive to the smell or detrimental to health, within the limits of the city, or within a distance of one mile therefrom.

Every person engaged in the business of boiling or rendering of fat, lard or animal matter shall cause the scrap or residuum to be so dried or otherwise prepared as effectually to deprive such material of all offensive odors, and to preserve the same entirely inoffensive immediately after the removal from the receptacles in which the rendering process may be conducted.

#### **7-38-545 Entry of carcasses prohibited.**

No person shall bring, or cause to be brought, into any slaughterhouse in the city the carcass of any dead animal.

#### **7-38-550 Conveyance of refuse.**

No offal or butcher's refuse shall be conveyed through any public way or public place within the city without a permit from the Department of Buildings.

Vehicles conveying such refuse shall be constructed of one or more tight compartments, each of which compartments shall be covered with a wooden or sheet metal cover attached to such compartments by substantial hinges.

#### **7-38-555 Sleeping on premises prohibited.**

No person shall use for the housing, sheltering and harboring of its employees or other persons any packing or slaughterhouse or any place which is occupied for the purpose of slaughtering or rendering cattle, sheep or hogs, or of dressing, cleaning, treating or preparing for shipment or canning meats and other foodstuffs by hand or machinery, or cause or permit same to be used as sleeping quarters or living apartments by such

employees or other persons. Any such house or place so used or occupied for sleeping or living purposes is hereby declared to be a nuisance.

Whenever any such nuisance shall be found upon any premises within the City, the Department of Buildings is hereby authorized and directed to cause the same to be summarily abated in such a manner as it may direct.

For the purpose of carrying the foregoing provisions into effect, it shall be the duty of the Department of Buildings to cause to be detailed a sufficient number of police immediately upon complaint of any citizen. These police shall make a thorough and systematic examination of any such plant or plants and building or buildings and ascertain and report any such violations of this section, and for this purpose investigators shall be permitted at all times to visit or enter upon any building, lot or ground within the city limits and make examination thereof.

**7-38-560 Inspection.**

The Department of Buildings, or any of its authorized employees, shall be permitted entrance at all hours of the day or night to all buildings used for the business of a slaughtering, packing and rendering establishment, and shall further be permitted to make free and unrestrained examination of all apparatus or utensils used in such business, or in the disposition of gases generated in such business, and all matters and things relating to the health of the community.

**7-38-570 Abatement of nuisance.**

In all cases where a nuisance shall be found in any building or upon any ground or other premises used for the slaughtering or rendering, 24 hours notice shall be given in writing, signed by the Commissioner of the Department of Buildings, to the owner or occupant of such building or other premises, where he is known and can be found, to remove such nuisance. In case of his neglect or refusal to abate the same, in accordance with such notice, the Commissioner of the Department of Buildings is hereby authorized in his discretion to cause the same to be summarily abated in such manner as he may direct, and such person shall be chargeable with the expenses which may be incurred in the abatement or removal of such nuisance, to be collected by suit or otherwise, in addition to the fine and penalty provided for.

**ARTICLE VI. PENALTY FOR VIOLATION OF CHAPTER PROVISIONS\* (7-38-575 et seq.)**

**7-38-575 Violation – Penalty.**

The penalty for violations of this chapter is set forth in Section 7-42-090.

## CHAPTER 7-40 FOOD ESTABLISHMENTS – CARE OF FOODS\*

### ARTICLE I. GENERAL PROVISIONS (7-40-005 et seq.)

#### **7-40-005 Protection of food.**

All foods shall be protected from contamination in all places, other than a private dwelling, where such foods are displayed, stored, offered, prepared, cooked, or served.

Food shall be protected in accordance with this chapter and the rules of the Department of Health. Nothing in this section shall be construed to prohibit the necessary exposure of food during the immediate processes of preparation, cooling, assortment or packing in a building or place screened and free from insects, or during loading or unloading, or during the actual process of servicing or selling.

#### **7-40-010 Unwholesome or adulterated drugs or food.**

No person shall sell or deliver any drugs not conforming to the rules and standards of the United States Pharmacopoeia, nor any food which is unwholesome, or adulterated.

#### **7-40-020 Reporting of unwholesome food.**

It shall be the duty of every person knowing of any food being brought into the city or sold in the city which is not sound, healthy or wholesome for such food, to forthwith report such facts and the particulars relating thereto to the Department of Health.

#### **7-40-025 Confiscation of unwholesome food.**

It shall be unlawful for any person to sell, display, store, prepare, cook, or serve any food which may be deemed unwholesome; and it shall be the duty of the Department of Health to enter at any time and place, other than a private dwelling, to seize and destroy all such food; provided, that in case there is a doubt as to the condition of any such food, the Department of Health may affix or cause to be affixed to the food, or to the container in which it may be enclosed, a seal indicating that the food and its containers have been held for further investigation by the Department of Health. It shall be unlawful for any person to alter, remove, deface or obliterate any seal so affixed, or to remove the food or container so sealed to any other place, or to instigate or permit the changing, removal, defacement or obliteration of the seal or the removal to any other place of the food or the container thereof, so sealed.

#### **7-40-050 Misrepresentation prohibited.**

(a) No food shall knowingly be bought, sold, labeled, or any representation made in respect thereof, under a false name or quality, or under any false representation whatsoever respecting its wholesomeness, soundness or safety for food or drink.

(b) Any retail food establishment which shall treat fresh fruits, fresh vegetables and other raw food with a sulfiting agent must inform consumers of such treatment pursuant to the rules of the Department of Health.

#### **7-40-060 Animals in retail food establishments.**

It shall be unlawful for the owner of, or the person having the care or custody of any animal, to suffer or permit such animal to enter any store, meat market, bakery or other place where foodstuffs are sold or on display; provided, that the person owning or operating such store or place may permit a watchdog to remain therein if chained or bound in such a way that the dog cannot come in contact with any of the foodstuffs; provided, further, that when a person with a disability is accompanied by a service animal, neither shall be denied the right of entry and use of the facilities subject to § 35.136 of the Americans with Disabilities Act (28 C.F.R. § 35.136). Any violation of this provision will be enforced under Section 7-42-090.



## **ARTICLE II. MEAT (7-40-065 et seq.)**

### **7-40-065 Compliance required – Inspections.**

All meats and meat-food products sold or held for sale within the City of Chicago shall comply with the standards, requirements and regulations of the United States Department of Agriculture and the Illinois Department of Agriculture, and the rules of the Department of Health. The Department of Health shall make such inspections as are necessary to ensure compliance with this section.

### **7-40-070 Department of Agriculture inspection – Required.**

It shall be unlawful for any person to sell within the city or for any dealer in meats or any manufacturer of meat-food products to purchase, accept, hold or store within the city any carcass of cattle, sheep, swine or goats, or any meat-food products thereof, unless they shall have been inspected and passed by a duly authorized inspection of the United States Department of Agriculture or the Illinois Department of Agriculture.

### **7-40-075 Condition of meat.**

No person shall bring or cause to be brought into or sold in any public or private market within the city any meat or any dead animal, the flesh of which is intended to be used for food, until such meat or such dead animal shall have been fully and properly cooled and until all blood shall have ceased dripping therefrom. Nor shall any person bring or cause to be brought into any such public or private market in the city any dead animal intended to be used for food unless the hide, horns, feet, head and entrails shall have been removed therefrom, nor bring or cause to be brought into such market any gut fat or any unwholesome or offensive matter or thing; provided, that this section shall not be construed as relating to poultry, game or fish.

### **7-40-080 Immature calves, pigs and lambs – Sales restrictions.**

No person shall bring into or sell in the city for food any calf or any part of the meat thereof which at the time it was killed was less than four weeks old, or any pig or any part of the meat thereof which at the time it was killed was less than five weeks old, or any lamb or any part of the meat thereof which at the time it was killed was less than eight weeks old.

### **7-40-085 Markets and stables – Sanitary requirements.**

Every keeper of a meat market, or dealer in meats, and every person owning, leasing or occupying any place, room or building where any cattle are killed or dressed, and every person being the owner, lessee or occupant of any room or stable where any cattle may be kept, shall cause such place, room, building, stall or market, and its yards and appurtenances, to be thoroughly cleansed and purified, and all offal, blood, fat, garbage, refuse and unwholesome or offensive matter to be removed therefrom at least once in every 24 hours after the use thereof for any of the purposes herein referred to; and shall also at all times keep all woodwork, except floors and counters, in any building, place or premises aforesaid, thoroughly painted or whitewashed.

## **ARTICLE III. WATER\* (7-40-095 et seq.)**

### **7-40-110 Drinking Water.**

It shall be the duty of every person, officer, board or department having any authority and control in regard to any water designed for human consumption to take all usual, and also all reasonable, measures and precautions, to secure and preserve the purity and wholesomeness of such water.

### **7-40-115 Drinking fountains.**

No person shall destroy or in any way injure or impair any drinking fountain or part thereof in the city; nor shall any person interfere with the use of or enjoyment of the water therein or therefrom, or interrupt the flow thereof, nor shall any person put any dirt, poisonous, medicinal or noxious substance into or near such water

or hydrant whereby such water is made, or may be regarded as, dangerous or unwholesome as a drink.

**7-40-120 Use of impure water.**

No person shall use water taken from the Chicago River or any of its branches, or from any body of water within the city which is stagnant, or in which there is refuse, waste, garbage, sewage or any other material tending to destroy the purity of the water, for domestic purposes, for watering livestock, for preparing meats, poultry or provisions which are intended for human consumption, or for any other purpose whatever which endangers the public health; but nothing in this section contained shall be construed as limiting or prohibiting the right of persons to use water as a means of supplying motive power for mechanical purposes.

**ARTICLE IV. POULTRY\* (7-40-125 et seq.)**

**7-40-135 Poultry – License required – Sanitary requirements.**

It shall be unlawful for any person to sell at retail any live poultry or other live fowl, or to slaughter or cause to be slaughtered for sale at retail any live poultry or other live fowl without first having obtained a retail food establishment license, in accordance with Chapter 4-8. No license shall be issued unless the premises on which the poultry or fowl is slaughtered or to be slaughtered complies with all pertinent rules of the Department of Health.

**ARTICLE V. FROZEN DESSERTS AND MIXES\* (7-40-250 et seq.)**

**7-40-300 Compliance with city rules.**

No mix or frozen dessert shall be sold for consumption within the City of Chicago, unless it has been produced, processed, transported and handled in compliance with the requirements of the rules of the Department of Health.

**ARTICLE VI. MILK AND MILK PRODUCTS\* (7-40-310 et seq.)**

**7-40-350 Pasteurization of milk and milk products.**

No milk or milk products shall be sold in the City of Chicago except grade A pasteurized milk and milk products. Grade A pasteurized milk and milk products shall conform with the rules of the Department of Health for Grade A pasteurized milk and milk products.

**7-40-375 Milk and milk products shipped from beyond inspection limits.**

Milk and milk products from points beyond the limits of inspection of the City of Chicago may not be sold in the City of Chicago unless produced and pasteurized under provisions identical with those of this chapter and approved by the supervising inspectional agency.

**ARTICLE VII. VIOLATION OF CHAPTER PROVISIONS\* (7-40-390 et seq.)**

**7-40-390 Violation – Penalty.**

The penalty for violations of this chapter is set forth in Section 7-42-090.

## **CHAPTER 7-42**

### **FOOD ESTABLISHMENTS – INSPECTIONS, VIOLATIONS AND HEARING PROCEDURES\***

#### **7-42-010 Inspections.**

For the purposes of Sections 7-42-010, 7-42-015 and 7-42-020, the word “owner” shall include the owner, operator, licensee or person in charge of any food establishment or vehicles used for the storage, transportation or vending of foods, subject to the provisions of Chapter 4-8.

(a) The Department of Health shall have authority to inspect food establishments at such intervals as set forth in rules of the Department of Health to determine such food establishments’ compliance with the requirements of this code and the rules of the Department of Health. For purposes of such inspections, the Department of Health shall create categories of food establishments based on the level of potential risk that such food establishments may pose to the public health.

(b) Whenever the health authority inspects an establishment, the inspector shall record the findings of the inspection on a summary report form provided by the Department of Health for this purpose. Such reports shall be signed by both the inspector and the establishment’s representative, and one copy of the summary report shall be left with the management of the establishment and shall be posted by the health authority upon an inside wall of the establishment in an area visible to all diners; if the food establishment is a grocery store or delicatessen, the summary report shall be posted in an area visible to all customers. It shall be unlawful for any person except an authorized agent of the Department of Health to deface or remove any such posted summary report, and a violation of this provision may result in suspension of any and all licenses and permits issued to the owner of that particular food establishment.

(c) It shall be the duty of every owner to permit a representative of the Department of Health, after proper identification, to enter at any reasonable time and make inspections of the facilities, equipment and vehicles for determining compliance with the requirements of this Municipal Code and the rules of the Department of Health relating to health and sanitation and, when required to do so, the owner shall furnish samples of any foods prepared, kept, sold or transported by any such food establishment as often as the Commissioner of Health may deem necessary to determine that the foods are free from alteration, not misbranded, do not contain an excessive number of microorganisms or their toxins, and otherwise comply with the provisions of this Municipal Code and the rules of the Department of Health. The owner shall answer all reasonable and proper questions and permit the health authority to examine records of the establishment to obtain pertinent information relating to food and supplies received or used and persons employed. Any samples provided shall be examined or analyzed under the direction of the Department of Health, and a record of each such examination or analysis shall be made and kept in the offices of the department. Upon failure or refusal by an owner to permit inspection or to furnish required samples, the Commissioner shall immediately suspend any and all licenses or permits issued to the owner of that particular food establishment.

#### **7-42-015 Low-risk food establishments self-certification.**

(a) As a programmatic alternative to conducting its own inspections as provided in Section 7-42-010 of this code, the commissioner of health is authorized to require licensed low-risk food establishments to self-certify compliance with this code and the rules and regulations of the department of health.

(b) If the commissioner implements a self-certification program, all low-risk food establishments shall submit one self-inspection report every two years to the department of health to demonstrate compliance. An establishment's failure to submit a complete and accurate report required by this section within the timeframes established by the commissioner shall subject the establishment's license to immediate suspension as provided in Section 7-42-035.

(c) The department of health is authorized: (i) to develop forms and protocols to administer this section, (ii) to define, consistent with 77 Illinois Administrative Code Part 615, what constitutes a “low-risk food establishment”, and (iii) to adopt other rules and regulations as may be necessary or useful for the proper administration and enforcement of this section.

#### **7-42-020 “Held for inspection” procedures.**

(a) Upon written notice to the owner, the Department of Health may place a “Held for Inspection” order on any food which the health authority determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. At the request of the owner, foods so held for inspection shall be permitted to be suitably stored pending analysis reports or voluntarily denatured and disposed of under Department of Health supervision.

(b) It shall be unlawful for any person to remove the “Held for Inspection” tag or seal placed on the food by the Department of Health, nor shall the containers of such food be removed from the premises or destroyed without permission of the Department of Health except on order of a court of competent jurisdiction. The Department may vacate a “Held for Inspection” order or may by written order direct the owner or person in charge of the food to denature or destroy such food, bring it in compliance with the provisions of this Code and the rules of the Department of Health or dispose of it for nonhuman use as may be approved by the Department of Health. Any order of the Department of Health to denature or destroy food shall be stayed pending appeal if the order is appealed to a court of competent jurisdiction within three (3) calendar days. Nothing in this section shall preclude any court action based upon a finding of unwholesome or adulterated foods.

(c) Upon written notice to the owner, a “Held for Inspection” order may be placed by the Department of Health on any piece of equipment that is believed to be inoperable or that the Department has not approved for commercial use. “Held for Inspection” shall have the meaning ascribed to this term in the rules of the Department of Health.

#### **7-42-030 Violations of provisions – Classification and notice.**

(a) *Classification of violations.* The Commissioner of Health shall promulgate rules classifying violations of this chapter, Chapter 7-38 or Chapter 7-40, or the rules of the Department of Health, or rules promulgated by the Illinois Department of Public Health that are incorporated by reference into this Code, or any other provision of this Municipal Code relating to health and sanitation in any food establishment, or Sections 2, 4, or 7 of the most current version of the FDA’s Pasteurized Milk Ordinance, as priority item, priority foundation item, or core item.

(b) *Notice of violations.* When the Department of Health finds a violation of this chapter, Chapter 7-38 or Chapter 7-40, or the rules of the Department of Health, or rules promulgated by the Illinois Department of Public Health that are incorporated by reference into this Code, or any other provision of this Municipal Code relating to health and sanitation in any food establishment, or Sections 2, 4, or 7 of the most current version of the FDA’s Pasteurized Milk Ordinance, the Department shall deliver to the licensee written notice of the violation with a copy of the inspection report which shall set a date by which the violation shall be corrected and designate each violation as priority item, priority foundation item, or core item as classified by the Commissioner of Health.

(c) *Correction of violations.* Core item violations that are not corrected by the next routine inspection of the Department of Health shall be classified as a priority foundation item violation. Priority foundation item violations that are not corrected in the time frame specified by the Department of Health shall be classified as priority item violations.

#### **7-42-035 License suspension.**

Whenever an inspection indicates that the conditions in the food establishment create an imminent hazard to the public health, the license of the food establishment shall be immediately suspended, including whenever an inspection indicates the existence of a priority item violation that cannot be corrected prior to the conclusion of the inspection. The Department may grant additional time to correct a priority violation in lieu of immediately suspending a license if the Department deems that the violation does not pose an imminent health hazard.

#### **7-42-040 Request for time extension.**

(a) After the owner receives a notice of a violation from the Department of Health, as evidenced by the

inspection report, but before the allotted time has elapsed for compliance, the owner may request an extension in writing. The Commissioner of Health may promulgate rules to administer this subsection.

(b) Nothing in this section shall prevent the Commissioner from immediately suspending a license or permit pursuant to Section 7-42-035 or seeking an enforcement action pursuant to Section 7-42-085.

**7-42-050 Removal of suspended licenses and permits.**

Upon suspension of any license and permits of a food establishment, all operations related to any such suspended license or permits shall cease at once, and such license and permits shall be removed from the establishment and delivered to the Department of Health. The Department of Health may conspicuously place a “license suspended” sign upon that part of the food establishment related to any such suspended license or permits and to which the public has access. It shall be unlawful for any person to remove, cover, or deface a “license suspended” sign placed on a food establishment unless authorized to do so by the Department of Health. The health authorities shall promptly notify the Chicago Police Department of the suspension, and the Police Department shall enforce the cessation of all affected operations.

**7-42-060 Application for restoration of suspended license.**

A license holder whose license has been suspended may at any time apply for restoration of the license. Within two (2) business days after the Department of Health receives such application, accompanied by a statement signed by the licensee that the provisions previously violated have been complied with, the Department of Health shall reinspect the establishment to assure that the applicant is complying with the requirements of this Code. When the reinspection indicates full compliance, the license shall be restored and the Chicago Police Department so notified.

**7-42-065 Partial closures.**

In any instance in which a license is suspended under this chapter, the Commissioner of Health may order closed that portion of the food establishment which created a public health hazard, and allow the remaining portion of the establishment to remain open for business, if the Commissioner determines that a partial closure would not jeopardize public health or safety.

**7-42-070 Reinspection fee.**

A \$100.00 reinspection fee shall be assessed against the licensee of any establishment for each inspection conducted by the department of health to address a violation previously identified by the department.

**7-42-080 License revocation.**

Upon a record of repeated violations of this Code or the rules of the Department of Health related to health and sanitation, or repeated suspensions of a food establishment license, the Commissioner may recommend the revocation of the license and any other license relating to the conduct of business at the food establishment to the Department of Business Affairs and Consumer Protection in accordance with the requirements of Chapter 4-4 of this Code.

**7-42-085 Enforcement.**

(a) If any person violates, or resists the enforcement of, this chapter, Chapter 7-38 or Chapter 7-40, or the rules of the Department of Health, or rules promulgated by the Illinois Department of Public Health that are incorporated by reference into this Code, or any other provision of the Municipal Code relating to health and sanitation in any food establishment, or Sections 2, 4, or 7 of the most current version of the FDA’s Pasteurized Milk Ordinance, the Commissioner of Health or the Commissioner’s designee may issue a notice of violation to initiate an action with the Department of Administrative Hearings seeking to impose a fine. The Commissioner may also recommend to the Department of Business Affairs and Consumer Protection the revocation of the owner’s licenses and permits.

(b) The pertinent jurisdiction referenced in the FDA’s Pasteurized Milk Ordinance is the City of Chicago,

and the pertinent “regulatory agency” referenced in that Ordinance is the Department of Health.

(c) Nothing in this chapter shall preclude bringing court action based on any violations of this Code.

**7-42-090 Violation – Penalty.**

Except as otherwise provided in this Code, any person who violates, or who resists the enforcement of, this chapter, Chapter 7-38 or Chapter 7-40, or the rules of the Department of Health, or rules promulgated by the Illinois Department of Public Health that are incorporated by reference into this Code, or any other provision of the Municipal Code relating to health and sanitation in any food establishment, or Sections 2, 4, or 7 of the most current version of the FDA’s Pasteurized Milk Ordinance, shall be fined \$500.00 for each priority violation; and \$250.00 for each priority foundation violation. A separate and distinct offense shall be deemed to have been committed for each and every day on which any person shall be guilty of such violation; provided that, the intervening days between when a license holder whose license has been suspended applies for restoration of the license and a reinspection has been conducted by the Department of Health shall not constitute separate offenses if the violation was found to be corrected upon reinspection.