

## ORDINANCE

### AN ORDINANCE AMENDING CHAPTER 8 ("BUSINESS LICENSING") ARTICLE 24 ("FOODS AND FOOD ESTABLISHMENTS")

**WHEREAS**, the Village of Oak Park ("Village") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit, the Village of Oak Park's powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

**WHEREAS**, the sanitation requirements for food establishments shall be regulated in accordance with the terms of the 1975 edition of the Illinois Department of Public Health, "Food Service Sanitation Rules and Regulations Pertaining To The Sanitation Of Food Service Establishments," and as may be amended from time to time; and

**WHEREAS**, pursuant to the Village's home rule authority and the Illinois Department of Public Health Rules and Regulations, the Village has determined to adopt this Ordinance to be in compliance with the latest edition of the Illinois Department of Public Health's Rules and Regulations.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein by reference as though fully set forth.

**Section 2. Village Code Amended.** Chapter 8 ("Business Licensing") Article 24 ("Foods and Food Establishments"), of the Oak Park Village Code is amended by deleting the overstricken language and adding the underlined language to read as follows:

#### Article 24 FOODS AND FOOD ESTABLISHMENTS

**8-24-1: DEFINITIONS:**

**8-24-2: GENERAL PROVISIONS:**

**8-24-3: ADULTERATED AND MISBRANDED FOOD; EXAMINATION AND CONDEMNATION OF FOOD AND OTHER ARTICLES:**

**8-24-4: ENFORCEMENT:**

## 8-24-1: DEFINITIONS:

The following words and phrases shall have the meanings, and are hereby defined, as follows:

ADULTERATED FOOD: The condition of any food that:

1. Contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
2. Contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or is in excess of such tolerance if one has been established.
3. Consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
4. Has been processed, prepared, packed or been held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to the public's health.
5. Is in whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter.
6. Whose containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

ACCESSIBLE: Capable of being exposed for cleaning and inspection with the use of simple tools such as a screwdriver, pliers or open-end wrench.

APPROVED: Acceptable to the Health Department of the Village of Oak Park based on a determination as to conformance with appropriate standards and good public health practice of conformity with principles, practices, and generally recognized standards that protect public health.

~~BAKERIES: Any establishment for mixing, compounding or baking for sale, or purpose of a restaurant, any bread or breadstuffs, or any food product of which flour or meal is the principle ingredient; provided that places where such foodstuffs are baked in restaurant kitchens for consumption on such premise only, shall not be considered as bakeries.~~

CLEANING: The physical removal of residues of foods, ingredients and other soiling materials.

CORE ITEM: A provision of the current edition of the US FDA food code that is not designated as a priority item or a priority foundation item. A core item is related to general sanitation,

operational controls, sanitation standard operating procedures, facilities or structures, equipment design or general maintenance.

CRITICAL LIMIT: The maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

DEPARTMENT: Oak Park Department of Public Health.

DIRECTOR: The Director of the Department of Public Health or his or her duly appointed representative.

FOOD ESTABLISHMENT: ~~Includes every person, firm or corporation engaged in conducting or operating any of the following businesses as defined in this Article:~~ An establishment that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food pantry; and relinquishes possession of food to a consumer directly, or indirectly, through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

1. A food establishment includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

2. A food establishment does not include an establishment that offers only prepackaged foods that are not time/temperature control for safety foods; a produce stand that only offers whole, uncut fresh fruits and vegetables; a food processing plant including those that are located on the premises of a food establishment; a kitchen in a private home, such as a small family daycare provider or a bed and breakfast operation as defined in the Illinois Bed and Breakfast Act, 50 Illinois Compiled Statutes 820/1 et seq., as amended, that prepares and offers food to guests; a private home that receives catered or home delivered food; a closed family function where food is prepared or served for individual family consumption; or a cottage food operation as defined in 410 Illinois Compiled Statutes 625/4, as amended.

FOOD DELIVERY VEHICLES: Includes, but not necessarily limited to the following: Any vehicles, wagons, motor vehicles and vehicles propelled by manpower, for the storage or transportation of any meat or meat products, milk or milk products, fish or fish products, bread or bakery

products or any other provision intended for human consumption, excluding carbonated beverages and alcoholic liquors, within the Village for the purpose of delivering the above commodities to any premise within the Village.

~~FOOD PROCESSING ESTABLISHMENT: An establishment in which food is processed, prepared, packaged or distributed for human consumption. This does not include a food service establishment or retail food store.~~

FOOD PROCESSING PLANT: A commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments. Food processing plant does not include a food establishment.

~~FOOD REFRIGERATION LOCKER PLANT: An establishment in which space in individual lockers is rented for the storage of food at or below a temperature of minus eighteen (-18) Centigrade degrees (0 Fahrenheit degrees), and which may contain any of the following facilities: A chill room, locker room, sharp freezing facilities and equipment for cutting, preparing, wrapping and packaging of meat and meat products, poultry and poultry products and food and food products.~~

~~FOOD SERVICE ESTABLISHMENT: Any place where food which is intended for individual service, consumption and/or is routinely provided completely prepared; this shall include any place, regardless of whether consumption is in, on or off the premises, and regardless of whether there is a charge for the food; however, this shall not include the following:~~

~~A private home where food is prepared for individual noncommercial consumption; or~~

~~The location of food vending machines; or~~

~~A retail store which does not cook, prepare or otherwise combine ready-to-eat foods which could be potentially hazardous for human consumption if not properly handled or stored.~~

FROZEN FOODS: Any food or food product which has been preserved by freezing or subjected to a process of refrigeration sufficient to reduce every portion to minus eighteen (-18) Centigrade degrees (0 Fahrenheit degrees) or lower.

GOOD REPAIR: The absence of any deterioration, damage or wear which may harbor dirt or food; items not in good repair would display property which impedes cleaning.

HACCP: Hazard analysis and critical control point (HACCP).

HACCP PLAN: A systematic approach to the identification, evaluation and control of food safety hazards.

HERMETICALLY SEALED CONTAINER: A container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

ILLINOIS FOOD CODE: The latest edition of the Illinois Food Code, as amended, promulgated by the Illinois Department of Public Health and adopted herein by reference.

ILLINOIS LOCAL HEALTH PROTECTION GRANT CODE: The latest edition of the Illinois Local Health Protection Grant Code, as amended, promulgated by the Illinois Department of Public Health and adopted herein by reference.

MISBRANDED: Food may be deemed to be misbranded:

1. If the label, brand, tag or notice under which it is sold is false or misleading in any particular as to the kind, grade or quality or composition;
2. If it is sold as the product of one manufacturer when in reality it is the product of another manufacturer; or
3. If on the label, brand, tag or notice under which it is sold there is any false statement concerning the sanitary conditions under which it is manufactured.

MOBILE FOOD ~~UNIT~~ ESTABLISHMENT: Any food service establishment capable of being readily moved from location to location; one without a fixed location.

PERISHABLE FOOD: Any food of a type or in such condition as may spoil, but does not include foods or beverages enclosed in hermetically sealed containers, unless such container is labeled so as to indicate that the contents are perishable.

~~POTENTIALLY HAZARDOUS FOOD: Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, and which is capable of supporting rapid progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole, uncracked odor free shell eggs.~~

PRIORITY ITEM: A provision in the US FDA Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. A priority item includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and an item is an item that is denoted in the US FDA Food Code with a superscript P<sup>-</sup>.

PRIORITY FOUNDATION ITEM: A provision in the US FDA Food Code whose application supports, facilitates or enables one or more priority items. A priority foundation item includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and an item that is denoted in the US FDA Food Code with a superscript Pf - <sup>Pf</sup>.

RETAIL FOOD STORE: Grocery store; meat market; poultry market; fresh fruit and vegetable market; confectionery; nut store; or any other establishment whether fixed or moveable where food, intended for human consumption off the premise is manufactured, produced, prepared, handled, transported, sold or offered for sale at retail to the general public. A delicatessen or other facility by whatever name, where foods are cooked or prepared, located, within a food store, shall have to comply with such other food sanitation regulations that apply to such food preparation operations.

~~SHARP FREEZING FACILITY: A facility capable of maintaining temperatures of minus eighteen (-18) Centigrade degrees (0 Fahrenheit degrees) or lower on still air or contact, and temperatures of minus eighteen (-18) Centigrade degrees (0 Fahrenheit degrees) or lower when forced air circulation is used (with a tolerance of minus fifteen [-15] Centigrade degrees [5 Fahrenheit degrees] for either type of cooling) for twelve (12) hours after fresh food is put in the facility for freezing.~~

SAFE MATERIALS: Articles manufactured from or composed of materials that may reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food with which they may contact. If materials used are food additives or color additives as defined in section 20.1(s) or (t) of The Federal Food, Drug or Cosmetic Act, they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or section 706 of the Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 20.1(s) or (t) of The Federal Food, Drug and Cosmetic Act and are used in conformity with all applicable regulations of the Food and Drug Administration.

#### SAFE TEMPERATURES:

~~As applied to potentially hazardous foods, temperatures at seven (7) Centigrade degrees (45 Fahrenheit degrees) or below, and sixty (60) Centigrade degrees (140 Fahrenheit degrees) or above.~~

~~As applied to frozen perishable foods, temperatures at minus eighteen (-18) Centigrade degrees (0 Fahrenheit degrees) or below except for a variation of minus ten (-10) Centigrade degrees (15 Fahrenheit degrees) during transit, unloading or defrosting during a mechanical defrosting~~

~~cycle. Temperatures shall be determined by measurement of the actual product temperature or the ambient air temperature in the storage device.~~

TEMPORARY FOOD ESTABLISHMENT: A food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD: a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

US FDA FOOD CODE: The current edition of the United States Food and Drug Administration model food code, as amended, and adopted herein by reference.

WHOLESOME: In sound condition, clean, free from adulteration and otherwise suitable for use as human food.

#### **8-24-2: GENERAL PROVISIONS:**

A. License Required, Posting; Duration. It shall be unlawful for any person who does not possess a valid license obtained from the Village ~~Clerk~~, which is neither revoked nor suspended, to establish, maintain or operate a food establishment within the Village. Such license shall be posted in a conspicuous place at the food establishment. The license for a food establishment shall be valid for the licensing period unless revoked or suspended as provided herein and must be renewed annually. Licenses are not transferable from one person to another or from one location to another. Every person licensed and operating vehicles under the provisions of this Article shall ~~have securely fastened on the windshield of each vehicle used in the conduct of the business licensed under this Article a decal for the current year issued by the Village Clerk, having stamped thereon the words "Food Vehicles" and a number corresponding to the number of license issued for such vehicle~~ maintain a copy of their active Village license in their vehicle.

B. Application for and Issuance of License; License to Remain in Force. The application for a food establishment license shall be made in conformity with the general requirements of this Code. The application shall convey to the Village ~~Clerk~~ such pertinent information as may be necessary and required in order to inform that office fully as to the size and nature of the place to be used for the purpose of the business and the conditions, equipment and facilities for conducting the business therein. Before any license shall be issued, and before any food may be dispensed, the Village ~~Clerk~~ shall refer all applications for a license to operate a food establishment to the Public Health and Code Administration Departments for inspection. The Public Health and Code Administration Departments shall inspect the premises for which the license application is made and report the findings thereon to the Village ~~Clerk~~ within seven (7) days with a recommendation for either approval of the license or advising against the issuance of the license applied for.

When a person who has applied for a license has complied with all of the requirements of this Chapter, and the General Licensing Chapter, the Village ~~Clerk~~ shall issue the license requested.

All licenses for the operation of a food establishment now held by any person shall continue in force for the period for which they are issued.

C. Transferability. No license issued for the operation of any food establishment shall be assigned or transferred to any other person, nor to any other location; but a new license must be obtained by any new operator or owner of any such business, or if the location thereof be changed, the old license must be surrendered, and a new license shall be obtained and the fees therefor must be paid. No refund shall be granted by an unexpired period of the former license.

D. Suspension and Revocation of License. The Village Manager and/or Director of Public Health may, without warning, notice or hearing, suspend any license to operate a food ~~dealer~~ establishment if the holder of the license does not comply with the requirements of this Article, or if the operation of the establishment does not comply with the requirements of this Article, or if the operation of the food ~~dealer~~ establishment otherwise constitutes a substantial hazard to public health.

When a license is suspended, food operations shall immediately cease. The holder of the license shall be notified in writing that the license, upon service of the notice, is immediately suspended and that an opportunity for a hearing before the Director of Public Health will be provided if a written request for a hearing is filed within ten (10) days. The Director of Public Health may end the suspension at any time if reasons for the suspension no longer ~~exists~~ exist.

The Board of Health may, after providing opportunity for a hearing, revoke a license for serious or repeated violations of any of the requirements of this Article or for interference with the Director of Public Health or his or her duly appointed representative in the performance of duty.

Prior to revocation or refusal to renew a license for a food establishment, a hearing shall be held before the Board of Health. Acting as the hearing board authorized by Section 8-1-15 the Board of Health may act upon its own motion, or upon the verified complaint in writing of any person setting forth facts which if proven would constitute grounds for the denial of an application for a license, the refusal or removal of a license, and the revocation of a license, or upon the petition of an applicant investigate the applicant or licensee. Proceeding shall be as provided in Section 8-1-15, provided the hearing body shall be the Board of Health.

The Board of Health shall make findings of fact and render a decision which shall be entered upon record of the Board.

The decision of the Board of Health may be appealed to the Board of Trustees in which event the proceedings shall be reviewed and a decision rendered by the Board of Trustees based on the written record before the Board of Health.



Whenever a revocation of a license has become final, the holder of the revoked license may make written application for a new license.

~~E. Location of Food Establishments. Each food establishment shall be so located as to permit prompt receipt and distribution of perishable foodstuffs.~~

~~E F.~~ Construction and Remodeling Food Establishments. Any person who desires or proposes to remodel an ~~old~~ existing building or portion thereof which is being used or is proposed to be used to conduct a food establishment, or who desires or proposes to construct a new building which is to be used in whole or in part to conduct a food establishment, shall, prior to such remodeling or construction, submit plans and specifications ~~therefor in triplicate~~ to the ~~Director of Public Health Village~~ for review and approval. The plans and specifications shall include a menu and indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of fixed equipment and facilities. All equipment installed pursuant to this Section shall be listed most recently published ~~by the~~ National Sanitation Foundation ~~in the 1985~~ Annual listing of Food Service Equipment or meet equivalent standards. The ~~Director of Public Health Village~~ shall review the plans, and if they conform to the sanitation and construction requirements of this Code, the Village ~~he~~ shall approve them and return one copy thereof with ~~his~~ approval written thereon. The Village ~~He~~ shall retain the other copies for the files and records of the ~~Department of Public Health Village~~.

If the ~~Director of Public Health Village~~ finds that the plans do not conform to the sanitation and construction requirements of this Code, ~~he~~ the Village shall ~~note on all three (3) copies of the plans the items therein which do not conform~~ communicate in writing said item to be corrected prior to Village approval. ~~Thereupon he shall hold one copy in the files and return two (2) copies of the plans so marked to the person submitting them.~~ Whenever plans and specifications have been approved by the Village ~~Director of Public Health~~, the Village ~~he~~ shall cause to have made such inspections as may be necessary prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this Code.

~~E G.~~ Reopening of Discontinued Food Establishments. If any food establishment which is now being maintained and operated shall be vacated, discontinued or unused for a period of six (6) consecutive months or more and shall thereafter be reopened or reestablished as a food establishment, it shall be considered a new food establishment for the purpose of this Article and treated accordingly.

~~G H.~~ Inspection of Food Establishments. The Director of Public Health shall make or cause to have made an inspection of all food establishments at least as often as prescribed in the Illinois Local Health Protection Grant Code, but no less than at least once each six (6) months. Other inspections, surveys, investigations and studies of food establishments shall be performed as may be necessary to determine that all food establishments are constructed, operated and maintained in compliance with the standards and requirements set forth in this Article. In case a violation of any item of sanitation shall be discovered by the Health Inspector he shall make a

second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the requirements of this Article.

H.4. Report of Inspections. Whenever an inspection of a food establishment is made, the findings shall be recorded on an inspection report form provided by the Director of Public Health. The inspection report form shall summarize the sanitary requirements of this Chapter and set forth a weighted point value for each requirement. The rating score of the food establishment shall be the total of the weighted point value for all violations subtracted from one hundred (100) Article. A copy of the completed inspection report form shall be furnished to the license holder at the conclusion of the inspection.

The most recent copy of the inspection report provided to the license holder shall be posted upon the inside wall of the food establishment under the license. The most recent inspection report shall not be defaced or removed by any person except the Director of Public Health or his or her representative. Another copy of the inspection report shall be filed with the records of the Department of Public Health. The completed inspection report form is a public document and shall be made available for public disclosure to any person who requests it according to law.

1. The inspection report shall state the penalty (including license suspension or revocation) for failure to correct inspection determined deficiencies within the time limits for corrections. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the Director of Public Health within ten (10) days after delivery of the inspection report. If a request for hearing is received, a hearing shall be held by the Director of Public Health within twenty (20) days of receipt of the request.

2 Whenever a food service establishment is required under the provision of this section to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

I.4. Correction Of Violations: ~~The completed inspection report shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions~~ Violations shall be corrected as follows:

1. Priority Item or Priority Foundation Item Violation: A licensee shall correct a priority item or priority foundation item violation or HAACP plan deviation as follows unless otherwise required by the Village:

a. Seventy-Two (72) hours after an inspection for the licensee to correct a priority item violation; or

b. Ten (10) calendar days after an inspection for the licensee to correct a priority foundation item violation or HACCP plan deviation.

2. Core Item Violation: A license holder shall correct a core item violation by a date and time as required by the Village but no later than ninety (90) calendar days after an inspection. The Village may approve an extension of said period if a written schedule of compliance is submitted by a licensee and approved by the Village.

~~1. If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Director of Public Health.~~

~~2. All violations, of four (4) or five (5) point weighted items shall be corrected as soon as possible, but in any event, within ten (10) days following inspection. Within fifteen (15) days after the inspection, the holder of the license shall submit a written report to the Director of Public Health stating that the four (4) or five (5) point weighted violations have been corrected. A follow up inspection shall be conducted to confirm corrections.~~

~~2. All one or two (2) point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.~~

~~3. When the rating score of the food establishment is less than sixty (60), the license holder shall initiate corrective action on all identified violations within forty eight (48) hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.~~

4.5. Temporary Food Establishment Violation: In the case of temporary food service establishments, all violations shall be corrected within twenty four (24) hours. If violations are not corrected within twenty four (24) hours, the food establishment shall immediately cease food service operations until authorized to resume by the Director of Public Health.

5. Imminent Health Hazard/Ceasing Operations and Reporting: A licensee shall immediately discontinue operations and notify the Village if an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

a. A licensee is not required to discontinue operations in an area of an establishment unaffected by an imminent health hazard.

b. The Village may allow a licensee to continue operations in the event of an extended interruption of electrical or water service based upon the nature of the potential hazard and the complexity of the necessary corrective action if:

(1) A written emergency operating plan has been approved;

(2) Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and

(3) The Village is informed upon implementation of the written emergency operating plan.

J K. Access: Free access to all food establishments shall be accorded to the Director of Public Health or his or her representatives at all reasonable times for the purpose of inspection and examination of such places and of the food stored, manufactured, processed, prepared, displayed, handled, served, sold or offered for sale therein or thereon. No person holding a valid license, including such person's agents and employees, shall obstruct or otherwise hinder, delay or detain the Director or his or her representative in making such inspections in pursuance of his or her duty. Free access to any or all records of food received, used or purchased shall also be accorded the Director or his or her representative.

K L. Food Establishments Located outside the Village: Food establishments not located in the Village but whose products are sold or served in the Village must be approved by the state department of public health in the state in which such food establishment is located, or by other properly constituted enforcing agencies. At the direction of the Director, such extraterritorial food establishments may be required to have placed on file with the department the latest copy of an inspection report from the state board of health or other proper enforcing agency having cognizance over the nonlocal establishment stating this food establishment is in compliance with all the requirements of the applicable code relating to sanitation. On receipt of such report, the department may permit the sale or serving of the products from such food establishments in the Village as long as such establishment remains in compliance with the requirements of the applicable code.

L M. Sanitation Requirements For Food Establishments: The sanitation requirements for food establishments shall be regulated in accordance with the terms of the ~~1975 edition of the Illinois department of public health, "Food Service Sanitation Rules And Regulations Pertaining To The Sanitation Of Food Service Establishments"; and the terms of the 1968 Illinois department of public health "Rules And Regulations For Retail Food Stores"~~ Illinois Food Code, and as may from time to time thereunder be amended, ~~three (3) copies of which are and shall remain on file in the office of the Village Clerk; provided, that the following additions to the Illinois department of public health rules and regulations shall have precedence.~~

~~N. Toilet And Lavatory Facilities: Toilet facilities with lavatory, conveniently located and complying with chapter 12 of this code, shall be provided for employees in accordance with the following:~~

<del>Maximum Number Of Persons Employed</del>	<del>-</del>	<del>Minimum Number Of Toilets</del>
<del>-</del>	<del>-</del>	<del>-</del>
<del>1 to 9</del>	<del>-</del>	<del>1</del>
<del>10 to 24</del>	<del>-</del>	<del>2</del>
<del>25 to 49</del>	<del>-</del>	<del>3</del>
<del>-</del>	<del>-</del>	<del>1 for each additional 30 persons</del>

~~If there are five (5) or more male employees and five (5) or more female employees, separate toilet facilities, according to the above schedule, shall be provided for each sex.~~

~~The number of toilets for males may be reduced by one third ( $\frac{1}{3}$ ) (but never to less than 1, minimum); provided, that one approved urinal shall be installed for each toilet omitted from the total required.~~

~~Where toilet rooms are accessible only through the kitchen, they shall not be used by guests of the food establishment.~~

~~Toilet facilities shall be provided for customers of any restaurant designed to seat twenty five (25) or more customers at one time. Such facilities shall be easily accessible to the customer, separate for each sex, and shall provide at least one toilet and one handwashing facility for each sex. An adequate supply of soap, sanitary towels and toilet paper shall be available for use at all times.~~

~~Ø M. Health and Education of Food Establishment Employees. Food establishment license holders and their employees may be required to attend a food handlers' educational program at a time and place designated by the Director of Public Health.~~

N. Prevention Of Foodborne Disease Transmission By Employees: No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any food establishment, and no food establishment shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the food establishment manager suspects that any employee has contacted any disease in a communicable form or has become a carrier of such disease, he shall prohibit further work by such employee and shall notify the Director of Public Health immediately.

When suspicion arises as to the possibility of transmission of infection from any food establishment employee, the Director of Public Health is authorized to require any or all of the following measures:

1. The immediate exclusion of the employee from all food establishments.
2. The immediate closing of the food establishment concerned until in the opinion of the Director of Public Health no further danger of disease outbreak exists.
3. Adequate medical examination of the employee and his or her associates with such laboratory examinations as may be indicated.
4. Restriction of the employee's services to some area of the food establishment where there would be no danger of transmitting disease.

O.P. Inspection of Food Establishments Upon Sale or Change of Ownership; Penalties: No existing food establishment, as defined in this Article, shall be sold or otherwise undergo a transfer of ownership unless the seller furnishes the buyer or prospective new owner or operator with a Health Department report of ~~pre-sale~~ change of ownership inspection, said report to be provided no more than sixty (60) days prior to the sale or transfer of ownership of the business but no later than the day of said sale or transfer of ownership. The ~~presale~~ change of ownership inspection report shall be based on an inspection, performed by the Public Health Department, of all food supplies, equipment and utensils, sanitary facilities and controls, and the construction and maintenance of the physical facilities as defined in the Code of the Village or any other applicable code(s) adopted by reference herein. The report shall list all known violations, if any, of applicable sanitary rules and regulations of the Village. The request for a ~~presale~~ change of ownership inspection must be made by the seller or seller's agent at least two (2) weeks prior to the scheduled sale or transfer of ownership. A sale for the purpose of this Section includes contract sales, exchanges and transfers of possession or control of a food establishment.

Any person participating in such a sale in violation of this Section, either as a seller or by receipt of a sales commission in conjunction therewith, shall be deemed in violation thereof and be subject to penalties as provided in Section 1-1-5 of this Code. Any contract executed in violation of this Section shall be voidable by the buyer. Nothing herein shall relieve the buyer of complying with this Section or other applicable provisions of this Code.

#### **8-24-3: ADULTERATED AND MISBRANDED FOOD; EXAMINATION AND CONDEMNATION OF FOOD AND OTHER ARTICLES:**

A.G. Rules and Regulations; Enforcement of ~~Chapter Article~~. It shall be unlawful for any person within the Village to manufacture for sale, produce or offer for sale or sell any article of food which is adulterated, misbranded or insufficiently labeled or otherwise violates the provision of this Article.

The provisions of this Article shall be enforced by the Director of Public Health who shall adopt such measures, prepare and prescribe such rules and regulations, as he may deem necessary, to facilitate proper enforcement and to carry out the purpose and intent of this Article.

B 1. Food may be examined or sampled by the Health Department as often as necessary for enforcement of this Article. The Health Department may, upon written notice to the license holder or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of any section of this Article. The Health Department shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, sold or moved from the establishment without permission from the Health Department.

C 2. The Health Department shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

D 3. The hold order shall state that a request for hearing may be filed with the Health Department within ten (10) days, and that if no hearing is requested, the food shall be destroyed. If a request for a hearing is received, the hearing shall be held within five (5) days after receipt of the request. On the basis of evidence produced at that hearing, the hold order may be vacated or the license holder or person in charge of the food may be directed by written order to denature or destroy such food or bring it into compliance with the provisions of this Article.

E 6. Specifications for Labels. The label on any bottle, package or container of food shall correspond in size and purpose with that required by the State.

F 8. Defacing, Etc., Marks, Labels or Brands. It shall be unlawful for any person to deface, change, erase or remove any mark, label or brand required by law with the intent to mislead deceive or violate any of the provisions of this Article or Statutes of the State.

G 11. Eggs. No person shall buy, sell or offer for sale, within the Village, eggs for human consumption that are unfit for human food.

For the purpose of this Section, an egg is unfit for human food if it is addled or moldy; if it contains black rot, white rot or a blood ring; if it has an adherent yolk or a bloody or green white color or if it consists in whole or in part of a filthy, decomposed or putrid substance.

In all advertising of shell eggs for sale at retail, the grade and size or "ungraded" shall be stated.

No person other than those who sell only eggs produced by their own flock, shall sell, offer for sale or advertise for sale shell eggs as "fresh eggs" or under the words of similar import (such as "new laid eggs") any eggs which do not meet the minimum requirements for consumer Grade A as prescribed by State standards for individual shell eggs.

H F. Slaughterhouses Prohibited. No slaughterhouse shall be constructed or permitted in any part of the Village.

~~A. Definitions. For the purpose of this Article, an article of food shall be deemed to be adulterated:~~

~~1. In Case of Confectionery:~~

~~a. If it contains terra alba, barytes, talc, chrome yellow, paraffin, mineral fillers or poisonous substances or poisonous color or flavor.~~

~~b. If it contains any ingredient deleterious or detrimental to health or any vinous, malt or spirituous liquor or compound or narcotic drug.~~

~~2. In Case of Food:~~

~~a. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality, strength or purity.~~

~~b. If any substance has been substituted wholly or in part for such food.~~

~~c. If any valuable constituent of such food has been wholly or in part abstracted or left out; provided, that in the manufacture of skim milk or separated cheese, the whole or part of the butter fats in the milk may be abstracted.~~

~~d. If it is mixed, colored, powdered, coated, polished or stained in any manner whereby damage or inferiority is concealed or it is made to appear better or of greater value than it really is; or if a substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength.~~

~~e. If it contains any poisonous or deleterious ingredient which may render such article injurious to health; provided, that when in preparation of food products for shipment they are preserved by an external application, applied in such a manner that the preservation is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of the preservatives shall be printed on the covering of the package, the provisions of this Section shall be construed as applying only when such products are ready for consumption; and formaldehyde, hydrofluoric acid, boric acid, salicylic acid, sulphuric acid and all compounds and derivatives thereof are hereby declared unwholesome and injurious.~~

~~f. If it consists in whole or in part of an infected or tainted animal or vegetable substance or article, or any portion of an animal unfit for food, whether~~



~~manufactured or not, or if it is the product of a diseased animal or one that has died otherwise than by slaughter.~~

~~g. If it has been produced, prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health.~~

~~3. In Case of Foods, Beverages or Confectionery: If it is colored with any coloring matter or dye other than harmless vegetable colors or coal tar colors permitted and approved by the United States Department of Agriculture and/or the U.S. Food and Drug Administration provided, however, that no color permitted herein is used contrary to the other provisions of this Section.~~

~~B. When Article Deemed Misbranded. For the purpose of this Article, an article of food shall be deemed to be misbranded:~~

~~1. In Case of Food:~~

~~a. If it is an imitation of or offered for sale under the distinctive name of another article or if it does not conform to the standards set forth in this Article.~~

~~b. If it is so labeled as to make the identity of the manufacturer, packer or dealer who sells or offers the same for sale uncertain or undoubtful, or which is so labeled or branded as to indicate on the receptacle, vessel or container the name of any firm or corporation other than the firm or corporation actually manufacturing, packing or dealing in the article or product so sold or offered for sale; or if it is labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and refilled by contents of a different quality or of a different manufacturer, packer or dealer, or if it shall fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilid or any derivatives or preparation of any such substance contained therein.~~

~~c. If in package form, the true quantity of the contents is not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, however, that reasonable variation shall be permitted and tolerance and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of the Statutes of the State.~~

~~d. If it is a manufactured article of food or food sold in package form, and is not distinctly labeled, marked or branded with the true name of the article and with~~

~~either the name of the manufacturer and place of manufacture, or the name and address of the packer or dealer who sells the same, or if its label does not conform to the regulations set forth in this Article.~~

~~e. If the packaging containing it or its label shall bear any statement, design or device regarding the ingredients of the substance contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases.~~

~~(1) In the case of mixtures or compounds which may now or from time to time hereafter be known as articles of food under their own distinctive name, and which mixture or compound is not an imitation of or offered for sale under the distinctive name of another article, if the name is accompanied on the same label or brand with the name and address of the packer or dealer, and the net measure of the contents.~~

~~(2) In case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends and the word "compound", "imitation" or "blend" as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term "blend" as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring only; provided further, that nothing in this Article shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredients to disclose their trade formulas, except insofar as the provisions of this Article may require to secure freedom from adulteration or misbranding.~~

~~(3) In the case of mixtures of corn syrup (glucose) or corn sugar (dextrose) or corn sugar syrup, with cane or beet sugar (sucrose) or cane or beet sugar syrup.~~

#### **8-24-4: ENFORCEMENT:**

A. Issuance of Citations. Whenever existing violations have not been corrected within the time periods specified in Section 8-24-2H3, the Director of Public Health or his or her duly appointed representative are authorized to issue citations to any person who fail to undertake or cause the correction of violations specified in the inspection report.

The citation may be delivered to the ~~license holder~~ licensee personally, may be delivered to a member of the ~~license holder's~~ licensee's household of age ten (10) years or older or may be delivered to the ~~license holder's~~ licensee's address by registered or certified mail.

B. Penalty. Notwithstanding the provisions of this Code, a ~~license holder~~ licensee who is convicted for a violation of this Article or for resisting enforcement of any of the provisions of this Article, shall be punished in accordance with the provisions of Section 1-1-5 of this Code.

**Section 3. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**ADOPTED** this day \_\_\_\_ of \_\_\_\_\_, 2019, pursuant to a roll call vote as follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Andrews				
Trustee Boutet				
Trustee Buchanan				
Trustee Moroney				
Trustee Taglia				
Trustee Walker-Peddakotla				

**APPROVED** this \_\_\_\_ of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Anan Abu-Taleb, President

**ATTEST**

\_\_\_\_\_  
Vicki Scaman, Village Clerk

Published in pamphlet form this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Vicki Scaman, Village Clerk