



City of Chicago



O2014-4212

Office of the City Clerk

Document Tracking Sheet

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| Meeting Date: | 5/28/2014 |
| Sponsor(s): | Maldonado (26) |
| Type: | Ordinance |
| Title: | Amendment of Municipal Code Titles 4, 7 and 10 concerning mobile prepared food vendors |
| Committee(s) Assignment: | Committee on License and Consumer Protection |

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO

SECTION I. Chapter 4-5 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

4-5-010 Establishment of License Fees.

(Omitted text is not affected by this ordinance)

(15)

(Omitted text is not affected by this ordinance)

Mobile Food Vendor—Produce Merchant (4-8) ~~\$275~~100.00
Mobile Food Vendor—~~Mobile Desserts~~Prepared Food Vendor
\$275100.00
Mobile Food Vendor—Mobile Food Dispenser \$700.00
Mobile Food Vendor—Mobile Food Preparer \$1,000.00

(Omitted text is not affected by this ordinance)

SECTION II. Chapter 4-8 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

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 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.

(Omitted text is not affected by this ordinance)

“Mobile ~~frozen desserts prepared food vendor~~” means any person who, by traveling from place to place upon the public ways, serves from a two-wheeled or three-wheeled motorized vehicle or a non-motorized vehicle (including but not limited to a two-wheeled or three wheeled vehicle, pushcart, or handcart) individual portions of ice cream, ice milk, frozen dessert mix, sundaes or other frozen desserts~~food~~ that are totally

enclosed in a wrapper or container and which have been manufactured, prepared or wrapped in a licensed food establishment, or coffee or other beverages.

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

(Omitted text is not affected by this ordinance)

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

(Omitted text is not affected by this ordinance)

“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 granola bars, nuts, dried fruit ~~and~~ and, 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.

“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, and dried, roasted, or baked agricultural, plant-based items that are prepackaged and non-perishable food, including, but not limited to, roasted nuts, apple chips, or granola.

“Produce merchant” means any person who sells produce outdoors from a produce stand, and who conducts at least 50 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, located on the public way in an area underserved by grocery stores, 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.

(Omitted text is unaffected by this ordinance.)

4-8-020 Licensing requirements- Exceptions.

(Omitted text is not affected by this ordinance)

(c) (4) No person shall engage in the business of a mobile ~~desserts-prepared~~ food vendor without first having obtained a mobile food vendor license to engage in a mobile ~~desserts-prepared food~~ vendor business.

(Omitted text is not affected by this ordinance)

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 or mobile ~~desserts-prepared food~~ 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, ~~or~~ mobile food preparer, or mobile prepared food vendor 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, ~~or~~ mobile food preparer, or mobile prepared food vendor business shall make the applicant's ~~mobile food~~ vehicle available for inspection by the department of health at a location determined by the department of health:

(Omitted text is not affected by this ordinance)

(c) The commissioner of business affairs and consumer protection is authorized to issue color-coded emblems for the following mobile food vendor business categories:

(Omitted text is not affected by this ordinance)

3. A mobile food vendor license to engage in a mobile ~~desserts-prepared food~~ vendor business.

(Omitted text is not affected by this ordinance)

SECTION III. Chapter 7-38 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

7-38-075 Mobile vendor~~food~~ vehicles.

(a) In addition to the requirements contained in subsection (a) of section 7-38-040, every vehicle used by a mobile food ~~dispenser or mobile food preparer~~vendor in the conduct of such business shall comply with the following requirements:

(1) the vehicle shall be enclosed with top and sides;

(2) 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;

(3) the vehicle shall not be used for any purpose other than a mobile food ~~dispenser or as a mobile food preparer~~vendor business;

(4) all food service equipment utilized by the mobile food ~~dispenser or mobile food preparer~~vendor shall be of easily cleanable construction and shall be maintained in good repair and a clean condition

~~(c5)~~ the 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;

~~(d6)~~ the 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 90 days, and copies of the last four maintenance reports must be kept in the vehicle at all times while the vehicle is in use; and

~~(17)~~ there shall be no more than 40 pounds of propane in the vehicle.

~~(e)~~ 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, 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.

(Omitted text is not affected by this ordinance)

7-38-090 Refrigeration and heating equipment.

All mobile ~~vendor~~food vehicles shall have adequate ~~mechanical~~ refrigeration equipment as approved by the department of health, and such equipment shall be capable of maintaining food or drink at a temperature of 40 degrees Fahrenheit or less, if any food or drink is required to be kept cold.

All mobile ~~vendor~~food vehicles shall have adequate ~~mechanical~~ heating equipment as approved by the department of health, and such equipment shall be capable of maintaining food or drink at a temperature of 140 degrees Fahrenheit or more, if any food or drink is required to be kept hot, or capable of heating food or drink to a temperature of 165 degrees Fahrenheit or more, if any food or drink is required to be heated.

All ~~mechanical~~ refrigeration and heating equipment shall be equipped with a thermometer.

(Omitted text is not affected by this ordinance)

7-38-115 Operational requirements.

(Omitted text is not affected by this ordinance)

(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.

(Omitted text is not affected by this ordinance)

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

(Omitted text is not affected by this ordinance)

7-38-124 Refuse receptacles.

The operator of a mobile food vehicle shall maintain a suitable, tight, non-absorbent washable receptacle for refuse. ~~The operator~~ A mobile food vendor shall be responsible for sanitation of the environs of the place of operation, 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 vehicle. The operator of a mobile food vehicle shall dispose refuse collected from the mobile food vehicle and the environs of the place of operation at a commissary approved by the department of health.

(Omitted text is not affected by this ordinance)

7-38-130 Preparation and service of food and drink.

(a) No food shall be sold or served by a mobile food dispenser or mobile prepared food vendor, 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 and regulations of the board of health.

(2) Coffee which is prepared in a duly licensed 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 duly licensed food establishment which serves as a commissary for the mobile food ~~vendor~~ 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.

(Omitted text is not affected by this ordinance)

PART D. Mobile ~~Desserts-Prepared Food~~ Vendors.

7-38-140: Mobile ~~desserts-prepared food~~ vendor.

Except as otherwise provided in this section, a mobile ~~desserts-prepared food~~ vendor shall comply with all applicable requirements of this Code, including the applicable requirements set forth in Article II, Parts A and B of this Chapter, and the rules and regulations of the department of health pertaining to mobile units handling ~~frozen desserts~~ food. A mobile ~~desserts-prepared food~~ 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~~-vendor vehicle requirement set forth in Section 7-38-075(a)(1); and~~

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

(Omitted text is not affected by this ordinance)

Part E Produce Merchants

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:

(Omitted text is unaffected by this ordinance)

(18) To sell cut produce that is not prepackaged and non-perishable food, unless the produce has been cut and packaged in a licensed food establishment.

SECTION IV. Chapter 10-28 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

10-28-050 Maintenance of stands.

It shall be unlawful for any person to erect, place or maintain in, upon or over any public way or other public place in the city, any fruitstand, shoeshining stand, flower stand, vegetable stand, lunch wagon, table, box, bin or any other arrangement or structure for the display or sale of goods, wares or merchandise, or for the pursuit of any occupation whatsoever unless a permit for the same shall be obtained from the commissioner of business affairs and consumer protection; provided that such permit shall not be required for produce merchants in areas underserved by grocery stores as defined in Section 4-8-010; ~~that the commissioner of business affairs and consumer protection shall issue no such permits except for the purpose of operating a produce stand by a produce merchant, as provided in Section 10-28-060 of this chapter~~, and provided that the commissioner of transportation shall issue no such permits except for the purpose of exhibiting for sale daily newspapers, within such districts as are or have been designated by the city council.*

10-28-060 A produce stand on the public way ~~pilot~~ program.

(a) A produce stand on the public way ~~pilot~~ program (“~~pilot~~ program”) is hereby created as provided in this section.

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

(1) “Area underserved by grocery stores” has the meaning ascribed to that term in Section 4-8-010 of this Code.

(2) “Commissioner” means the commissioner of business affairs and consumer protection.

(3) “Department” means the department of business affairs and consumer protection.

(4) “Produce” has the meaning ascribed to that term in Section 4-8-010 of this Code.

(5) “Produce stand” has the meaning ascribed to that term in Section 4-8-010 of this Code.

(c) It shall be unlawful for any person to erect or operate any produce stand on the public way without first obtaining a public way use permit from the department as

provided herein, unless the produce stand is located on the public way in an area underserved by grocery stores as defined in Section 4-8-010 of this Code.

(d) (1) The commissioner is authorized to issue a public way use permit for operating a produce stand, ~~at locations designated pursuant to subsection (d)(2) of this section.~~

~~(2) The commissioner of housing and economic development, in consultation with the commissioner of business affairs and consumer protection and the commissioner of transportation, is authorized to designate by rule up to 30 locations in the city where public way use permits may be issued for operating produce stands. In designating such locations the commissioner of housing and economic development shall consider such factors, as determined by rule, that would help to determine appropriate locations for operating produce stands on the public way, including, but not limited to, any one or more of the following:~~

~~— (i) the proximity of the location to public transit stations;~~

~~— (ii) the amount of pedestrian traffic in the location; or~~

~~— (iii) the proximity of the location to an area underserved by grocery stores, or the existence of the location in an area underserved by grocery stores.~~

~~(3) If the commissioner determines that there are more qualified applicants for a public way use permit to operate a produce stand on the public way than the maximum number of available public way locations specified in this subsection, the commissioner shall conduct a lottery or other neutral process for allocating permits among qualified applicants as set forth by rules promulgated by the commissioner.~~

(e) An application for a public way use permit for a produce stand shall be made to the department and shall include the following:

(i) the name and address of the applicant;

(ii) verification that the applicant is licensed as a mobile food vendor to engage in a produce merchant business or has applied for such license;

(iii) the location or proposed location of such produce stand;

(iv) the types of produce that will be sold from the stand;

(v) the days and times the stand will be operating;

(vi) a statement verifying that the applicant will conduct at least 50 percent of his produce merchant business within areas underserved by grocery stores, as defined in Section 4-8-010 of this Code;

(vii) a statement that such permit will be accepted subject to the conditions and provisions thereof and subject to the conditions and provisions of all laws and ordinances affecting the maintenance of such produce stand now or hereafter in effect; and

(viii) any other information or supporting material required by the commissioner that is reasonably necessary to determine compliance with this Code and all applicable rules and regulations, including plans, drawings and photographs of the applicant's proposed produce stand.

(f) ~~The commissioner shall forward a copy of an application for a public way use permit for a produce stand to the commissioner of transportation and the commissioner of housing and economic development within three business days after receipt of the application. The commissioner shall not issue a public way use permit for a produce stand unless the commissioner of transportation and the commissioner of housing and economic development approve the application. In addition, the issuance of a public way~~

use permit for the operation of a produce stand shall be dependent on the issuance of a valid mobile food vendor license to engage in a produce merchant business.

(g) The commissioner shall deny or revoke a public way use permit for operating a produce stand if: (i) the granting of the public way use is not in the best interest of the public, would have a deleterious impact on the neighborhood, or would create a nuisance either on the public way or in the surrounding area; (ii) the design of, or materials used in, the public way use does not comport with the quality or character of the existing streetscape; (iii) the use interferes with or impedes the flow of pedestrian or vehicular traffic, or ingress or egress from any surrounding building, the use of any pole, traffic signs or signals, hydrants, mailboxes or other objects located near the location of the proposed use; or (v) the applicant makes any false statements, submits any false information or misrepresents any information required under this section.

(h) A public way use permit for operating a produce stand shall be issued for a one year period from the time of its issuance. The fee for each public way use permit to operate a produce stand shall be \$75.00 per year, and the fee shall not be prorated.

(i) A public way use permit for operating a produce stand shall be subject to all of the following requirements:

(1) The permit shall be valid only to the person to whom it was issued.

(2) As a condition of the permit, the permittee shall keep all information current. Any change in required information shall be reported to the department within 30 days after the change.

(3) As a condition of the permit, the commissioner may enter into a written agreement with the permittee pertaining to the use of the public way for operating a produce stand.

(4) The issuance of the permit shall be subject to the requirements of Section 10-28-015(e) of this Code.

(j) In addition to all the requirements applicable to a produce merchant, the following requirements shall apply to operating a produce stand on the public way:

(1) All produce stands located on the public way must leave six feet of public way unobstructed for pedestrian passage.

(2) Any produce stand operating on the public way shall not be greater than 6.5 feet long, 3.5 feet wide, and 8 feet high.

(k) The commissioner shall have power to adopt rules as may be necessary or useful for the proper administration and enforcement of this pilot-program, including rules pertaining to the maintenance and appearance of produce stands on the public way.

(l) Advertisements may be displayed on produce stands operating on the public way as provided by rules and regulations adopted by the commissioner.

~~(m) This pilot program shall expire on December 31, 2014. Sixty (60) days before the expiration of the pilot program, the commissioner, the commissioner of transportation, the commissioner of housing and economic development, and the commissioner of health shall evaluate the effectiveness of the pilot program and may recommend the continuation of the program with or without changes as may be adopted by ordinance.~~

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