



City of Chicago



O2016-4791

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	6/22/2016
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Titles 4, 7 and 10 regarding produce stands on public way program
Committee(s) Assignment:	Committee on Health and Environmental Protection

H17h



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 22, 2016

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Public Health, I transmit herewith an ordinance amending Chapter 10-28 and other provisions of the Municipal Code regarding the produce stands in the public way program.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

WHEREAS, The City of Chicago (“City”) is a home rule municipality as described in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, In May of 2012, the City established by ordinance at Chapter 10-28 of the Municipal Code of Chicago a produce stand on the public way pilot program (“Program”); and

WHEREAS, The Program’s goal was to expand consumption of fresh produce across Chicago, including in neighborhoods unserved or underserved with options for accessing nutritious food; and

WHEREAS, The Program was originally set to expire on December 31, 2013, and has, from time to time, been extended by ordinance, and is now set to expire on June 30, 2016; and

WHEREAS, The Chicago Department of Public Health (“Department”) desires to end the pilot status of the Program and expand its scope to allow for the sale of additional beverages that are pre-packaged and free from added sugar, increase the maximum number of permits, expand the areas in which vendors may sell produce, and reduce the licensing fee for vendors; and

WHEREAS, The Mayor and City Council of the City of Chicago have determined that it is in the best interest of the residents of the City to undertake the foregoing and make the Program permanent; now, therefore,

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

SECTION 1. The foregoing recitals are adopted and are incorporated into and made a part of this Ordinance.

SECTION 2. Section 4-5-010 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 unaffected by this ordinance)

(15) Food – Retail Food Establishment (4-8)

(Omitted text is unaffected by this ordinance)

Food – Mobile Food Vendor – Produce Merchant (4-8) ~~\$275.00~~ \$125.00

(Omitted text is unaffected by this ordinance)

SECTION 3. Section 4-8-010 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.

(Omitted text is unaffected by this ordinance)

“Produce merchant” means any person who sells produce outdoors from a produce stand, and who conducts at least ~~50~~ 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.

(Omitted text is unaffected by this ordinance)

SECTION 4. Section 7-38-142 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

7-38-142 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)

(8) ~~To sell non-produce items at such produce stand; provided, however, bottled water~~ 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. §101.9(c)(6)(iii).

SECTION 5. Section 10-28-60 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and inserting the language underscored, as follows:

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.

(Omitted text is unaffected by this ordinance)

(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 planning and 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~~ 50 locations in the city where public way use permits may be issued for operating produce stands. In designating such locations, the commissioner of planning and 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. No applicant may possess more than 15 permits at one time.

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

(Omitted text is unaffected by this ordinance)

(vi) a statement verifying that the applicant will conduct at least 50 33 percent of his produce merchant business within areas underserved by grocery stores, as defined in Section 4-8-010 of this Code;

(Omitted text is unaffected by this ordinance)

(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.

(Omitted text is unaffected by this ordinance)

~~(m) This pilot program shall expire on June 30, 2016. Sixty (60) days before the expiration of the pilot program, the commissioner, the commissioner of transportation, the commissioner of planning and 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.~~

SECTION 6. This Ordinance shall take effect upon passage and approval, and shall be retroactive to July 1, 2016.