



Office of the Chicago City
Clerk



O2011-4487

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date: 6/8/2011

Sponsor(s): Waguespack, Scott (32)

Type: Ordinance

Title: Amendment of Titles 4, 7 and 9 of Municipal Code to further regulate mobile food dispensers and facilities

Committee(s) Assignment: Committee on License and Consumer Protection
Joint Committee on License and Consumer Protection and Economic, Capital and Technology Development

ORDINANCE

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

SECTION I. Chapter 4-8 of the Municipal Code of Chicago is hereby amended by adding new sections 4-8-038 and 4-8-039, 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 unaffected by this ordinance)

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

“Commissary” means any duly licensed food establishment that serves mobile food dispensers, mobile food facilities, vending machines or other food dispensing operations in which where (i) food, containers or supplies are stored; (ii) kept, food is handled, prepared; or prepackaged for sale or service at other locations; (iii) utensils are cleaned; or (iv) liquid and solid wastes are disposed of or portable water is obtained and directly from which vending machines or other food dispensing operations are serviced.

“Commissioner” means the commissioner of the department of health.

(Omitted text is unaffected by this ordinance)

“Menu change” means a modification of a food establishment's menu that requires a change in the food establishment's food preparation methods, storage equipment or storage capacity previously approved by the department of health. The term “menu change” shall include, but is not limited to, the addition of potentially hazardous food to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

“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.

“Mobile food dispenser” means any person who, by traveling from place to place upon the public ways, serves prepared and enclosed or wrapped individual portion food, or coffee, milk, milk products, frozen desserts, or soft drinks or beverages from a wheeled vehicle.

“Mobile food facility” means any vehicle used in conjunction with a commissary or other food

dispensing establishment to cook, sell, or distribute at retail, food.

"Mobile support unit" means a vehicle used in conjunction with a commissary or other food dispensing establishment, that travels to and services mobile food facilities to replenish supplies, including food and potable water, clean the interior of the facility, or dispose of liquid or solid wastes.

(Omitted text is unaffected by this ordinance)

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

"Tight-fitting" means fabricated so that joining members are in contact along the entire seam with no opening greater than 1/64th inch (.04 cm).

(Omitted text is unaffected by this ordinance)

4-8-020 Licensing requirements.

(a) No person shall engage in the business of a retail food establishment without first having obtained a retail food establishment license.

(b) No person shall engage in the business of a wholesale food establishment without first having obtained a wholesale food establishment license.

(c) No person shall engage in the business of a mobile food dispenser without first having obtained a mobile food dispenser license.

(d) No person shall engage in the business of a mobile food facility without first having obtained a mobile food facility license.

(e) No person shall engage in the business of a commissary without first having obtained a commissary license.

~~(d)~~(f) A separate license shall be required for each separate place of business.

~~(e)~~(g) If a person engages in both retail and wholesale food sales at the same establishment, only a retail food establishment shall be required.

~~(f)~~(h) 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.

~~(g)~~(i) Nothing in this chapter shall be construed to prohibit the sale of fruits and vegetables from a vehicle or otherwise as permitted in accordance with Sections 4-244-010 and 4-244-020 of the Municipal Code pertaining to peddlers.

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

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, mobile food

facilities, mobile support units, commissaries and other 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 the 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) 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, mobile food facilities, mobile support units, commissaries, vending machines and other equipment and facilities for compliance with the Municipal Code of Chicago and the rules and regulations of the board of health.

(Omitted text is unaffected by this ordinance)

4-8-038 License – Application – Mobile food facility.

In addition to the general application requirements, an applicant for a mobile food facility license shall, in a form satisfactory to the commissioner of business affairs and consumer protection, supply or submit the following:

- (1) the name and address of the owner of the mobile food facility, and if the operator of the mobile food facility is other than the owner, the name and address of the operator shall also appear on the application;
- (2) sample route map that the applicant will follow for five business days with times and length of stay at each stop;
- (3) plan of the mobile food facility and any associated mobile support unit approved by the department of health; and
- (4) the name and address of a commissary or other location approved by the department of health where the mobile food facility, including any mobile support unit that services the mobile food facility, will be stored and cleaned.

4-8-039 Restrictions – mobile food facilities.

Notwithstanding any other provision of this chapter, the city council may from time to time prohibit the issuance of additional mobile food facility licenses in specified areas of the city in the interest of preserving public health and safety or avoiding traffic congestions.

4-8-040 License fees.

The license fees shall be as set forth in Section 4-5-010 of this Code and shall be paid before any license may be issued. All licenses shall expire in accordance with the terms of Section 4-4-021.

(Omitted text is unaffected by this ordinance)

(c) *Mobile food dispenser license.* A separate license is required for each vehicle used by the mobile food dispenser in the conduct of his business. The fee for such license shall be as set forth in Section 4-5-010.

(d) Mobile food facility license. A separate license is required for each mobile food facility. The fee for such license shall be as set forth in Section 4-5-010.

(e) Commissary license. A separate license is required for each commissary. The fee for a commissary license shall be as set forth in Section 4-5-010.

4-8-045 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 dispenser, mobile food facility and coffee cart vendor shall post each license in a conspicuous place in that part of the vehicle 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 health department.

(Omitted text is unaffected by this ordinance)

(c) Applicants for a mobile food facility license that are located outside of the jurisdiction of the department of health may obtain a license from the City of Chicago; provided that (i) the mobile food facility, including any mobile support unit that services the mobile food facility, complies with the requirements provided in Chapter 7-38 of this Code and the rules and regulations enacted by the board of health; (ii) the applicant is conducting the business under the supervision of a state or local health authority; and (iii) the ordinance regulating the mobile food facility is substantially equivalent to the provisions of this Code regulating mobile food facilities. The applicant shall, in addition to the application, provide reports including inspection reports and laboratory results 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.

4-8-064 Rules and regulations.

(Omitted text is unaffected by this ordinance)

(c) At the time of license application, the city clerk shall issue to each applicant a copy of that portion of the Municipal Code of Chicago and a copy of the Board of Health Rules and Regulations relating to retail or wholesale food establishments or mobile food dispensers or mobile food facilities or commissaries, as appropriate.

SECTION II. Chapter 7-38 of the Municipal Code of Chicago is hereby amended by inserting new sections 7-38-128 to 7-38-146, by deleting the language struck through and by

inserting the language underscored, as follows:

7-38-040 Vehicle sanitation requirements.

(Omitted text is unaffected by this ordinance)

(c) In addition to the requirements contained in paragraph (a) of this section, every vehicle used by a mobile food dispenser, mobile food facility or mobile support unit in the conduct of said 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, provided other requirements are complied with, as a mobile food facility or mobile support unit; and
- (4) all food service equipment utilized in the mobile food dispenser, mobile food facility or mobile support unit shall be of easily cleanable construction and shall be maintained in good repair and shall be clean;

ARTICLE II. MOBILE FOOD DISPENSERS AND FACILITIES

Part A. Mobile Food Dispensers

7-38-080 Mobile food vendors – Prohibited districts.

No person shall engage in the occupation of mobile food dispenser at any time within any district that has been or shall be hereafter designated by the city council. A description of such districts shall be kept in the office of the city clerk. Any person who violates this section shall be subject to a fine of not less than \$200.00 and not more than \$500.00 for each offense.

Part B. Mobile Food Facilities

7-38-128 Mobile food facilities – Operation, sanitation and storage.

(a) Any mobile food facility must be operated in conjunction with a licensed commissary or other food dispensing establishment. A mobile food facility may also be operated in conjunction with an approved mobile support unit.

(b) Any mobile support unit must be operated from a licensed commissary or other food dispensing establishment and it must be taken to such commissary or food dispensing establishment for cleaning and servicing at least once per an operating day.

(c) Any mobile food facility and any mobile support unit shall be stored at or within a licensed commissary or other location approved by the department of health in order to have protection from unsanitary conditions.

(d) Unless serviced by a mobile support unit, or operating at a community event, a

mobile food facility must be taken to a licensed commissary or other food dispensing establishment on a daily basis for cleaning and servicing.

7-38-130 Health and safety of food.

(a) Any food sold or served from a mobile food facility shall be manufactured, prepared or wrapped in the mobile food facility or a food dispensing establishment licensed by the city or a food establishment which is operating under the state or local health authority, and provided the ordinance regulating same is substantially equivalent to this chapter.

(b) Mobile food facilities that prepare, handle, or serve non-prepackaged potentially hazardous food are required to have an owner or employee who has successfully passed an approved and accredited food service sanitation managers' course.

(c) In addition to any other applicable requirements, mobile food facilities shall comply with the food handler sanitation requirements provided in sections 7-38-010 and 7-38-012 of this Code.

(d) All perishable food products shall be stored as provided in this chapter or as provided by the rules and regulations adopted by the board of health until served to a customer. No food that is sold or served from a mobile food facility shall be stored in a residential home.

(e) During transportation and storage of a mobile food facility or mobile support unit, food and food contact surfaces shall be protected from contamination.

(f) Owners or operators of a mobile food facility shall list the food purveyor establishments from which they purchase articles of food for the facility on a daily basis. Owners or operators of a mobile food facility shall also keep in the facility copies of invoices from the foods' point of origin for a period of 30 days.

7-38-132 Restricted areas and events.

No operator of a mobile food facility vehicle shall park or stand such vehicle

(1) within 200 feet of a food establishment that offers a similar service;

(2) within 100 feet of any food establishment without the express written consent of the business owner;

(3) on any private property without the express written consent of the owner or lessee of such property and unless such written consent is kept in the mobile food facility at all times when the facility is on the property; and

(4) on special events and on properties of the Chicago Park District unless additional permits are obtained in accordance with the provisions of this Code and other applicable law.

7-38-134 Operational requirements.

(a) The following requirements shall apply during the operation of a mobile food facility:

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

(2) food condiments shall be protected from contamination. Food condiments

provided for customer self-service shall be prepackaged or shall be from approved dispensing devices. Potentially hazardous foods, such as chili or perishable cheese, cannot be held as a condiment on an unenclosed mobile food facility;

(3) food products remaining after each day's operation shall be stored only in a licensed food establishment. Potentially hazardous foods held at or above 140 degrees Fahrenheit on a mobile food facility shall be discarded at the end of the day;

(4) utensils and equipment shall be handled and stored so as to be protected from contamination. Single-service utensils shall be obtained from sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once;

(5) wiping cloths must be stored in a clean solution containing 100 parts per million of available chlorine as a hypochlorite. Other approved sanitizing compounds at appropriate concentrations may be used. A testing strips kit shall be provided to check the concentration of the sanitizing solution;

(6) only a mobile food facility operator shall dispense all unpackaged foods. Customer self-service of unpackaged foods is prohibited;

(7) thermometers shall be provided for all warming units and refrigeration units. A probe-type thermometer shall also be available for use on a mobile food facility that handles potentially hazardous foods; and

(8) all potentially hazardous foods shall be maintained at or below 41 degrees Fahrenheit or at or above 135 degrees Fahrenheit at all times.

(b) The board of health shall have authority to provide by rules and regulations additional operational requirements and procedures consistent with the provisions of this chapter for food handling, and cleaning and sanitizing of food contact surfaces and utensils on a mobile food facility. Any owner or operator of a mobile food facility shall also comply with such operational requirements and procedures.

7-38-136 Facility requirements – sinks, refuse receptacles and restrooms.

(a) Any mobile food facility shall be equipped with a hand-washing sink, unless the mobile food facility serves only prepackaged and non-perishable food, a three compartment ware-washing sink, and an adequate supply of running hot water. The hot water storage tank shall be self-draining and cleaned and flushed not less than twice in each six-month period. Liquid waste from the hand-washing and ware-washing sinks shall be piped in fixed piping to a wastewater retention storage container or tank of adequate size not located in food storage or food serving sections of the vehicle. The connection between piping from the sinks and the wastewater container shall be tight-fitting and comply with the plumbing provisions of this Code. The wastewater tank or container 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.

(b) Any mobile food facility shall be equipped with a suitable, tight, non- absorbent washable receptacle for refuse. The owner or operator of the mobile food facility shall be responsible for sanitation of the environs of the place of operation. The refuse receptacle shall be adjacent to, but not an integral part of, the mobile food facility.

(c) Mobile food facility license holders shall, by a written agreement with other business establishments, arrange for the availability of a restroom and hand-washing sink that may be used by employees working in the mobile food facility when the facility is parked in the same place for more than two hours. The restroom and hand-washing sink must be within 200 feet of the mobile food facility. The copy of the agreement shall be kept in the facility at all times and shall be made available for inspection by the department of health.

7-38-138 Mobile food facility vehicles.

(a) Any mobile food facility vehicle shall be registered as a commercial vehicle and shall be constructed and kept in compliance with the requirements provided in Section 7-38-040 of this Code. A mobile food facility vehicle must also be inspected and maintained at least once 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. 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.

(b) Every mobile food facility vehicle shall have the name and address of the licensee legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of the vehicle.

(c) Every mobile food facility licensee shall obtain from the city clerk, at the time his license is issued, a metal plate or other suitable emblem to be affixed in a conspicuous place on the outside of each mobile food facility vehicle. Such plate or emblem shall have stamped or imprinted thereon the words "Chicago Mobile Food Facility." Such plate or emblem shall be of a different color and design for every license period and shall have stamped thereon a number corresponding to the license number for the mobile food facility.

7-38-140 Plan submission.

Prior to the construction, remodeling, purchase or use of any mobile food facility or mobile support unit, three copies of the plan for such facility or unit must be submitted to the department of health for approval. Plan submission shall also be required for a menu change. Plans shall be submitted with a plan review fee of \$750.00. The form, size and content of the plan shall be as determined by rules and regulations enacted by the department of health.

Rejected plans may be resubmitted to the department of health after making required changes. If the plan is resubmitted within 30 days from the time of the rejection of the previous plan, no additional plan review fee shall be paid for the first resubmission.

7-38-142 Construction requirements.

The board of health shall have authority to provide by rules and regulations construction requirements for mobile food facilities and mobile support units.

7-38-144 Inspection.

Before using any mobile food facility or mobile support unit for the first time or after making a change of menu, or before renewal of a mobile food facility license, such facility or unit shall be brought to the department of health for inspection; provided, however, initial inspection of a new facility or unit is not necessary if the facility or unit is purchased from a commercial manufacturer of the facility or unit approved by the department of health. Mobile food facilities or mobile support

units shall not be used unless such facilities or units are built or remodeled in compliance with an approved plan. The fee for initial inspection of each mobile food facility or mobile support unit shall be \$400. The fee for inspection of each mobile food facility or mobile support unit for the purpose of renewing a mobile food facility license shall be \$200.00.

Nothing provided in this section shall be construed to prohibit the department of health from conducting periodic inspection of mobile food facilities and mobile support units as provided in this Code.

7-38-146 Enforcement.

(a) The board of health shall have authority to enact rules and regulations for the effective implementation of the provisions of Part B of Article II of this Chapter.

(b) Except as otherwise specified in this chapter, any person who violates the provisions of Part B of Article II of this Chapter shall be fined as provided in Section 7-38-575 of this Code.

SECTION III. Sections 4-5-010, 7-40-280, 7-42-010, 9-80-190 of the Municipal Code of Chicago are hereby amended by inserting the language underscored, as follows:

4-5-010 Establishment of license fees.

This chapter shall establish fees for various licenses created by this title unless otherwise provided. The following fees shall apply for the specified licenses. The chapter in which each fee requirement is created is also provided. Unless otherwise stated, fees shall be assessed every two years. For every license application which includes fingerprinting of the applicant as part of the application process, a fingerprint fee sufficient to cover the cost of processing fingerprints will be assessed in addition to the below fees. The fingerprint fee will be assessed regardless of whether the license applied for is issued or denied. The amount of the fee will be set forth by regulation promulgated by the commissioner of business affairs and consumer protection.

(Omitted text is unaffected by this ordinance)

(31) Food – Retail food establishment (4-8)

0 – 4,500 square feet	\$660.00
4,500 – 10,000 square feet	\$880.00
over 10,000 square feet	\$1,100.00

In computing the square footage of a retail food establishment, the gross area of the entire premises shall be measured, including the food service, storage and preparation areas.

Special retail food establishment (4-8)

Per event	\$125.00
Food – Wholesale food establishment (4-8)	\$660.00
Food – Mobile food dispenser (4-8)	\$275.00
<u>Food – Mobile food facility (4-8)</u>	<u>\$660.00</u>
<u>Food – Commissary (4-8)</u>	<u>\$330.00</u>

(Omitted text is unaffected by this ordinance)

SECTION IV. Sections 7-40-280, 7-42-010 and 9-80-190 of the Municipal Code of Chicago are hereby amended by inserting the language underscored, as follows:

7-40-280 Sampling procedure.

(Omitted text is unaffected by this ordinance)

(c) Samples of frozen desserts or mix from retail food purveyors, food dispensing establishments, mobile food dispensers, mobile food facilities, commissaries, automatic food vending machines, and any other place where frozen desserts are made available to the public in the City of Chicago, shall be taken for analysis by the department as often as it may require, but in no case less than four times within any six-month period. The proprietors of such places shall furnish the department with the names of all persons from whom frozen desserts or mix are obtained, upon request.

7-42-010 Inspections.

For the purposes of Section 7-42-010 and Section 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 inspect all food establishments at least once every six months and as often as necessary to determine that the requirements of this Municipal Code are being complied with. In addition, the department of health shall inspect mobile food dispenser

and mobile food facility vehicles serving ice cream, milk or other frozen desserts at least once every 90 days during the period from April 1st through October 1st of every year.

(Omitted text is unaffected by this ordinance)

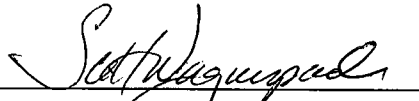
9-80-190 Mobile food dispensers, mobile food facilities and peddlers prohibited in medical center district.

No person shall conduct the business of a mobile food dispenser, mobile food facility or peddler as defined in this Code, on any portion of the public way within the boundaries of the medical center district and no person shall operate, stop or park any vehicle on any portion of the public way within the medical center district for the purposes of conducting any such businesses.

For the purpose of this section, "medical center district" means the area bounded by Ashland Avenue on the east, Congress Parkway on the north, Oakley Street on the west, and a line co-incident with the north line of the property at or near 14th Street and 15th Street, owned or used by the Baltimore and Ohio Chicago Terminal Railroad Company for railroad purposes, on the south.

Any person who violates the provisions of this section shall be fined not less than \$50.00 nor more than \$500.00 for each offense.

SECTION V. This ordinance shall take full force and effect 90 days after passage and approval.



Scott Waguespack
Alderman, 32nd Ward

Chicago, September 8, 2011

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration an ordinance introduced by Alderman Scott Waguespack (which was referred on June 8, 2011), amending Titles 4, 7 and 9 of the Municipal Code of Chicago to further regulate Mobile Food Trucks, begs leave to recommend that Your Honorable Body *re-refer* the ordinance which is transmitted herewith **to the Joint Committee on License and Consumer Protection and Committee on Economic Development.**

This recommendation was concurred in by a viva voce vote of the members of the committee on September 7, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emma Mitts", written in a cursive style.

EMMA MITTS
CHAIRMAN, COMMITTEE ON
LICENSE AND CONSUMER
PROTECTION