



INSTITUTE FOR JUSTICE
CLINIC ON ENTREPRENEURSHIP

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Dear Alderman:

Chicago's mobile food industry is burgeoning with possibilities for entrepreneurship and economic growth. From the immigrant who sells tamales during rush hour to the gourmet chef who can afford a truck but not a new restaurant, many creative entrepreneurs hope to build honest businesses by serving good, affordable food to customers wherever they want it. Meanwhile, Chicagoans are clamoring for mobile food: crowding under tents in a rain storm for a food truck summit, lining up for cupcakes downtown, and Tweeting the whereabouts of their favorite street vendors. Yet, the city of Chicago is making it very difficult for mobile food entrepreneurs to create jobs and serve customers to the best of their abilities. The current laws limit mobile food dispensers to selling prepackaged food, no earlier than 10:00 am, from a distance of 200 feet from restaurants.

In a welcome effort toward reform, Alderman Waguespack introduced the Amendment of Titles 4, 7 and 9 of the Municipal Code regulating Mobile Foods on June 8, 2011. The proposed amendments create a sensible system for regulating health and sanitation of mobile food businesses, while allowing them to prepare food fresh from trucks and carts. We commend Alderman Waguespack on his responsiveness to mobile chefs and their customers and hope the Committee on License and Consumer Protection reviews the proposed amendments expediently.

If the amendments were adopted as proposed, however, the law would still pose **major barriers to entrepreneurship** by mobile chefs. At the Institute for Justice Clinic on Entrepreneurship at the University of Chicago Law School, which provides free legal assistance for low-income entrepreneurs, we see every day how unnecessary restrictions can handicap small businesses and deprive consumers of valuable choices. Chicago can and should do better by her entrepreneurs and her citizens. I urge the following improvements to the amendments under review.

- First and foremost, the new ordinance should **allow mobile food businesses to stop and serve customers wherever they can do so safely**. The proposed law prohibits serving customers within 100 feet of a food establishment and within 200 feet of a food establishment that "offers a similar service." As the maps attached show, this rule could block mobile food from major swaths of the city, especially business districts where customers are most likely to gather. The proximity restrictions should be cut out of the ordinance, because they are crippling and anticompetitive.
 - The term "similar service" is vague and poses a **brutal compliance challenge** for mobile food businesses. Imagine a truck that serves sandwiches: the law requires the owner to know the menus of every grocery store and restaurant in town so it can try to figure out which ones offer similar services and stay 200 feet away. The business is at the mercy of

police and inspectors who may issue pricy tickets because they have a different idea of what is “similar” to the sandwiches for sale at the truck.

- More fundamentally, it is unfair favoritism to squelch the mobile food businesses to protect the brick-and-mortar restaurants. Citizens of Chicago have a constitutional right to **equal protection**: the city may not give special protection to one group of business owners. Such protectionism is also short-sighted. Imagine if Chicago had told Groupon it couldn't sell coupons online to protect the newspapers that print coupons. Or told Ives McGaffey he couldn't sell the portable vacuum cleaner he invented here because sweepers might lose their jobs. Think what we would have lost! It is not the City's role to pick and choose which business models will be allowed to succeed, or to dictate what choices customers should make.
- It is important to **leave food vending open as an option for low-income people** trying to earn an honest living. Vending should not be the exclusive realm of people who can afford tricked-out trucks. Section 7-38-136(a) should make clear that a vendor selling packaged food does not need sinks for washing dishes. Section 7-38-138 should allow for carts to operate as mobile food facilities without commercial vehicle registrations and driver's licenses.
- The process for submitting vehicle plans to the health department, in 7-38-140, should be straightforward and economical. Though entrepreneurs should have the option of getting plans approved before investing in a vehicle, they should not have to check with the city “prior to” purchasing or building a truck or cart. They **should not have to pay a fee of \$750 for the review of a standardized vehicle** that has previously been approved by the department.
- Finally, mobile chefs should be **allowed to serve customers during breakfast hours** as well as late-night hours. Section 7-38-115(d) of the current code should also be amended to allow more hours of opportunity for entrepreneurial mobile food businesses.

Office workers, tourists, and local families on-the-go – plus anyone feeling peckish in the mid-afternoon – should be allowed to get a hot dog (Chicago-style with all the toppings) from a cart or a crème brulee caramelized while they wait by a truck window. And entrepreneurs should be allowed to try to compete and serve customers safe and healthy food in every corner of the city. I urge you to open up these new opportunities for Chicagoans by moving quickly to amend the mobile food laws in Chicago without imposing the burdens on entrepreneurs that are listed above. Please let me know if I can be of any help.

Sincerely,

Elizabeth Milnikel
Director, IJ Clinic on Entrepreneurship