

Effective Date: October 1, 2010

8/3/2010
7/27/10

64-O-10

AN ORDINANCE

**Amending Title 8 of the City Code
to Add Chapter 26, "Mobile Food Vehicle Vendors"**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: That Title 8 of the Evanston City Code of 1979, as amended, is hereby further amended by adding Chapter 26, "Mobile Food Vehicle Vendors" to read as follows:

8-26: MOBILE FOOD VEHICLE VENDORS

8-26-1: DEFINITIONS:

Mobile food vehicle: A commercially manufactured, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution. A mobile food vehicle must be owned and operated by the owner or agent of a licensed food establishment in the city, and must be affiliated with that establishment.

Mobile food vehicle vendor: The owner of mobile food vehicle or the owner's agent; hereinafter referred to as "vendor."

8-26-2: PERMIT REQUIRED; APPLICATION:

(A) It shall be unlawful for any person to operate within the city a mobile food vehicle, as defined in this chapter, without first having obtained a license for that purpose.

(B) Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Director of the Health Department. The application for such license shall be on forms provided by the Director of the Health Department and shall include the following:

1. Name, signature and address of each applicant and each corporate officer.

2. Name and address of the approved commercial supply source and the affiliated licensed food establishment in the city.
3. A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.
4. The anticipated volume of food to be stored, prepared, and sold.
5. Plans and specifications for the mobile food vehicle, including the proposed layout, photographs, mechanical schematics, construction materials, finish schedules, equipment types, manufacturers, model numbers, locations, dimensions, weight of vehicle per wheel, performance capacities, power source, installation specifications, and information on any custom fabricated equipment.
6. Proof of access to restrooms with a hand sink for use by employees within two hundred feet (200') of the mobile food vehicle during times when the vehicle is parked in one location for more than two hours. Proof of access shall be evidenced by written agreement between the vendor and the business or entity which will provide such access.
7. A valid copy of all necessary licenses or permits required by state health or transportation authorities.
8. A signed statement that the vendor shall hold harmless the city and its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Vendor shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City of Evanston Law Department. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City of Evanston Law Department.
9. The proposed location(s) and times of operation for conducting business in accordance with this chapter. Vendor shall be required to provide to the city a signed statement that the vendor shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. No application will be accepted for a permit to operate at a location where a current permit has been issued or a complete application is pending. If the proposed location is private property, the applicant shall provide to the city written consent from the property owner.

Vendor shall notify the Director of the Health Department within thirty (30) days of any changes to application information.

It shall be the duty of the Director of the Health Department to inspect the vehicle and determine the fitness and suitability of the vehicle for its intended use.

(C) LICENSE FEES:

All vendors licensed under this chapter shall pay an annual license fee of five hundred dollars (\$500.00).

(D) FORM AND CONDITION OF PERMIT:

In addition to naming the vendor, the approved operating location site diagram, and other information deemed appropriate by the Director of the Health Department, the mobile food vehicle vending permit shall contain the following conditions:

1. Each mobile food vehicle vending license shall expire on December 31 of each year.
2. The license shall not be transferrable from person to person or from place to place without the approval of the Director of the Health Department.
3. The approved operational location may be changed, either temporarily or permanently, by written notice of the Director of the Health Department or his or her designee.
4. The license is valid for one (1) vehicle only.
5. There shall be issued to each vendor a suitable decal that shall be permanently and prominently affixed to the vehicle.

(E) REFUSAL TO ISSUE; SUSPENSION; REVOCATION:

Licenses authorized to be issued pursuant to this Chapter may be suspended, revoked or refused to be issued upon good cause shown. The issuing authority may refuse to issue, revoke, or suspend a license if any applicant or agent thereof refuses to comply with any requirement of this Chapter.

8-26-3: LOCATION REVIEW AND RESTRICTIONS:

Proposed operating locations shall be reviewed as follows:

(A) Upon receipt of a complete application for a license, the license shall be referred to the Director of Public Works for approval or disapproval. The use of the licensed operating location for mobile food vending must be compatible with the public interest in use of the public right-of-way. In making such determination, the Director of Public Works shall consider the width of the public way, parking issues and traffic congestion, the weight that can be supported by the paving or street surface at the proposed location, the proximity and location of existing street furniture, including but not limited to, utility poles, parking meters, bus shelters, benches, street trees, news racks, as well as the presence of bus stops, truck loading zones, taxi stands, valet parking zones, or other businesses or approved mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

(B) The Director of Public Works shall not approve a location where a mobile food vehicle would substantially obstruct a public way, impair the movement of

pedestrians or vehicles, or pose a hazard to public safety. The Director of Public Works shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within thirty feet (30') of an intersection, within three feet (3') of a curb, or directly in front of a property entryway. Pedestrian walkways of no less than six feet (6') must be maintained around the mobile food vehicle.

(C) It shall be unlawful for a mobile food vehicle vendor to park, stand, or operate in a location which is adjacent to or within one hundred feet (100') of a licensed food establishment. This requirement may be waived if the application is submitted with the written consent of the proprietor of the adjacent licensed food establishment. No person or corporation shall either pay or accept payment for the written consent provided herein. This requirement shall not apply to the licensed food establishment affiliated with the mobile food vehicle vendor.

(D) The approved operating location(s) shall be indicated on the license and shall include the area of the mobile food vehicle. The license must be prominently displayed on the vehicle.

(E) If a permit for the requested operating location(s) is denied, the applicant may select an alternate location(s), which shall also be referred to the Director of Public Works for review.

(F) The city shall not approve more than one (1) mobile food vehicle per private parking lot, which must remain in compliance with the zoning code, including the off-street parking requirements for the host parking lot. The vehicle shall not block required drive aisles.

(G) Vendor shall not operate a mobile food vehicle within five hundred feet (500') of any fair, carnival, circus, festival, special event, or civic event that is licensed or sanctioned by the city except when vendor has obtained a temporary food permit from the city.

(H) On days when school is in session at Evanston Township High School, it shall be unlawful for any vendor to operate a mobile food vehicle on the following streets:

Church Street between Pitner Avenue and Dewey Avenue;

Dodge Avenue between Lyons Street and Dempster Street; and

Lake Street between Pitner Avenue and Darrow Avenue.

On days when events are being conducted within the Evanston Township High School Memorial Stadium, it shall be unlawful for any vendor to sell or offer for sale any food, beverages or any other merchandise whatsoever on the following streets:

Church Street between McDaniel Avenue and Dewey Avenue;

Hartrey Avenue between Emerson Street and Church Street;

Lyons Street between Leland Avenue and Hartrey Avenue; and

Pitner Avenue between Church Street and Lake Street.

(I) On days when school is in session at elementary, middle, and secondary schools (public or private), it shall be unlawful for any vendor to operate a mobile food vehicle within five hundred feet (500') of the property of said schools. Exception: During summer school sessions, this restriction shall apply only to those individual schools which are in operation.

(J) It shall be unlawful for any vendor to operate a mobile food vehicle in or within one hundred feet (100') of the public parks enumerated in sections 7-10-1 and 7-11-1 of this code, or without first obtaining written authorization from the city. This restriction may be waived by the City Manager or his/her designee.

(K) A vendor shall not operate on private property within the corporate limits of Evanston without first obtaining written consent to operate from the affected private property owner.

8-26-4: APPROVED FOOD AND BEVERAGE LIST:

The Director of the Health Department shall maintain a record of approved food and beverage items which may be prepared and sold by mobile food vehicle vendors. Requests to have a food or beverage item considered for approval shall be submitted in writing to the Director of the Health Department, who shall determine whether the food or beverage item is capable of preparation and service from the mobile food vehicle based on the equipment being used and the design and construction of the vehicle.

8-26-5: SANITATION:

(A) All mobile food vehicles shall be kept in a clean and sanitary condition. It shall be the duty of the Director of the Health Department to make or cause to be made such inspections as may be necessary to ensure all mobile food vehicles are kept in a clean and sanitary condition.

(B) All food storage, preparation and distribution of food, and vehicle equipment must meet applicable Illinois Department of Public Health standards and requirements, as well as standards to be determined by the Director of the Health Department.

(C) All food, beverages, ice and other materials sold or used in preparation of goods to be sold must be obtained from an approved commercial source.

(D) All off-site food preparation and food storage must be done at the primary licensed food establishment. Food cannot be prepared in a home.

(E) All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the affiliated licensed restaurant. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place except the affiliated licensed restaurant. A garbage receptacle shall be easily accessible for customer use. Vendor shall be responsible for all litter and garbage left by customers.

8-26-6: RESTRICTIONS ON USE:

(A) Hours of operation shall be limited to the hours between 7:00 a.m. and midnight. The hours of operation for mobile food vehicles located within three hundred feet (300') of a residential building or a mixed use building with a residential component shall be limited to the hours between 7:00 a.m. and 10:00 p.m. No approved mobile food vehicle shall be left unattended on a public way nor remain on a public way outside of these allowed hours of operation.

(B) No mobile food vehicle vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns, or whistles.

(C) No mobile food vehicle shall use external signage, bollards, seating, or any other equipment not contained within the vehicle.

(D) The mobile food vehicle shall not have a drive-through.

(E) Vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public way or remove the vehicle entirely from the public way if necessary to avoid such congestion or obstruction.

(F) The mobile food vehicle must prominently display the name and address of the owner.

(G) Any power required for the mobile food vehicle located on a public way shall be self-contained and shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from an adjacent property only when the owner provides written consent. All other power sources must be self-contained. No power cable or equipment shall be extended at grade across any city street, alley or sidewalk.

(H) All identifying information, logos, advertising, decorations, or other displays on the exterior of a mobile food vehicle shall conform to the Purposes set forth in section 4-12-2 of the Evanston City Code regulating commercial signage, to the extent applicable. In particular, exterior displays shall be designed to minimize confusion or distraction that jeopardizes vehicular and pedestrian safety and shall

be harmonious with the surroundings and consistent with the character of the community in which the mobile food vehicle operates.

8-26-7: LICENSE ADVERSE ACTION:

An application or approved license may be denied, revoked, suspended, or not renewed for any of the following reasons:

(A) The application contains material omissions or false, fraudulent, or deceptive statements.

(B) The vehicle is operated in such a manner as constituting a public nuisance per the Evanston Code of Ordinances or state statutes.

(C) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to food, fire prevention, public health or safety.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

8-26-8: PENALTIES:

Any person licensed under this Chapter or any agent thereof violating any of the provisions of this Chapter shall, upon conviction thereof, be fined not less than five hundred dollars (\$500.00) for each violation.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: That if any provision of this Ordinance 64-O-10 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance 64-O-10 that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: August 9, 2010

Approved:

Adopted: September 13, 2010

September 17, 2010

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel