

DATE: May 9, 2018

TO: Honorable Mayor Jerry Smith
City Council

FROM: Patty Hoppenstedt, Interim City Manager
Jo Ellen Charlton, Community Development Director
Dean Frieders, City Attorney

SUBJECT: Approving a Temporary Process for Interim Licensure of Food and Beverage Vending Vehicles.

I. Summary

Staff is in the process of evaluating significant revisions to various sections of the City's Codes that regulate certain types of events and operations within DeKalb. As an interim step, this resolution would implement temporary processes for regulating Food and Beverage Vending Vehicles.

II. Background

In 2017, the DeKalb Rotary conducted a "Trucktober" food truck event as a City-permitted event. During the course of that event, the Rotary expressed concern about some of the rigors of going through the City's permit process for food trucks when involved in a special event. Accordingly, the City worked to streamline the process for the Trucktober event in 2017 (in response to concerns raised). The City has also continued discussions with the Rotary since the event, with the intent of again streamlining the process for their anticipated 2018 event. That event is anticipated to be presented to Council for approval in the coming months.

At the same time, the City is working on a number of proposed special events to occur in the downtown during 2018. The City has looked at the regulations that are ordinarily applicable to such events, and again is looking at methods of streamlining those processes. There are at least three events that are proposed to come forward to City Council for independent approval, again as beta test events, during 2018.

Based on the experiential data gathered during the food truck events and other special events described above, and based on feedback from the Council and public, staff would prepare proposed updates to City's Code that could be adopted this winter and be effective in 2019. The goal of taking that event for separate approval is to provide an opportunity to beta test simplified regulatory standards that should enable more convenient food truck operation within the City, as a component of special events. This

will give the City actual experience with a simplified event, rather than reflexively changing ordinance standards to an untested model that may not produce superior results. This flexible approach has been in place for several months and was implemented based upon the concerns of some residents and groups who contacted the City to inquire about methods of simplifying the process. In response to inquiries received by the City, the City was flexible and rapid in putting together an alternate approach that enables Council to consider approval of events on acceptable terms.

Recently, a newspaper story was published with regard to food truck operation in DeKalb. That story indicated there was a food truck vendor who felt that the City license fees were excessive, and the standards were inflexible. Surprisingly, the City was not contacted by the food truck vendor with any concerns, nor was the City contacted by the newspaper with any questions regarding the story. Had either party contacted the City, they could have been advised both of the flexible approach that the City is taking to special events and food trucks, and the current provisions in City Code that allow the Mayor to waive or reduce fees for food trucks upon request. In other words, the City was addressing this issue before the public or media had raised any questions or inquiries regarding the process or current regulations. This resolution has been brought forward to more clearly inform the public of the current approach to this issue.

As noted above, the interim approach is recommended so the City can actually test changes in code. The current regulations were implemented in 2013, based upon actual concerns with regard to this topic. For example, other area communities have had ice cream truck drivers be convicted of Class 4 felonies after engaging in predatory sexual behavior. The City requirements for background investigations of those who will be staffing food trucks are based off concerns such as these.

Separate from those more extreme situations, the City has had very serious safety concerns regarding local food trucks. For example, when Mediterraneo first attempted to relocate into a food truck, the owner retrofitted an RV for his purposes. He installed a deep fryer immediately adjacent to the sole entrance/exit from the rear of the RV, without any fire extinguisher or suppression system. This haphazard installation posed an incredibly significant threat both to occupants of the food truck and to those who would patronize the establishment. Again, the City worked directly with the owner to implement quick and efficient safety changes to the RV to enable it to operate. Accordingly, while the City does not perform health department inspections of food trucks, ensuring that the City inspects the trucks for safety reasons (presence of a safe hood, fire suppression, gas cylinders secured, generator fumes properly exhausted, etc.) is still a critical concern for public safety.

The streamlined process contemplated in the resolution allows two separate approaches to food trucks. Where a food truck is proposed to be involved in a special event in the City, no background check would be required. The truck would be required to have all required licenses and permits (e.g. health department license, vehicle license) and would be subject to a brief inspection by the City to confirm the absence of safety concerns (e.g.



lack of fire extinguisher, unsafe deep fryers, etc.). The Mayor would have the ability to approve requests and to impose a basic fee to cover the City's costs of inspection.

For food trucks that are proposed to be used on a mobile basis in the community, a background check would still be required. However, the license would carry a reduced fee (a \$50 application fee and a \$50 inspection fee, along with standard background check fee) and the license would be effective for the entire calendar year (through December 31 of the year of application).

These proposed temporary steps are consistent with the City's flexible approach to food trucks that has been in place since the end of 2017 and it is recommended to consider adoption to formally implement this interim process.

III. Community Groups/Interested Parties Contacted

This topic is anticipated to be discussed at a City Council meeting to provide an opportunity for public feedback. In order to provide for expedited implementation, it has not previously been presented at a Committee of the Whole meeting.

IV. Legal Impact

The City has the legal authority to implement an interim process. The resolution indicates that it supersedes any conflicting City standard and remains in effect until repealed. It would be automatically repealed upon the adoption of formal updates to Chapter 33 of the City's Code.

V. Financial Impact

This item is not anticipated to have any significant financial impact for the City.

VI. Options

1. Approve the resolution.
2. Request modifications to the resolution.
3. Do not approve the resolution.

VII. Recommendation

Approval of the resolution is recommended.



RESOLUTION 2018-

**APPROVING A TEMPORARY PROCESS FOR INTERIM
LICENSURE OF FOOD AND BEVERAGE VENDING
VEHICLES.**

WHEREAS, the City of DeKalb is a home-rule Illinois Municipal Corporation with powers and authority pursuant to the Illinois Constitution of 1970 and the applicable provisions of the Illinois Municipal Code and the Intergovernmental Cooperation Act; and

WHEREAS, the City seeks to create a temporary process for interim licensure of food and beverage vending vehicles, and the City Council finds that said process is necessary and advantageous to the City, and protects the health, welfare and morals of the City's residents and students within the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

Section 1: Interim Process Authorized:

The City Council, by and through its home rule authority, approves of this Resolution to establish an interim process for licensure of Food and Beverage Vending Vehicles, notwithstanding any contrary provision of Chapter 33 of the City Code. This process shall remain in full force and effect until it is repealed, or until it is superseded by the adoption of any update to Section 33.13 of the City Code.

A) Special Events:

Where a Food and Beverage Vending Vehicle (as defined in Chapter 33) is anticipated to be utilized as a component of a Special Event. A Special Event shall be defined herein as a limited duration event of not more than three (3) days, in a fixed location, as a component of either an event being organized by a business located in the City of DeKalb or as a component of a community event (e.g. Farmer's Market). A Special Event shall not include generally locating Food and Beverage Vending Vehicles in the City as standalone food providers, nor shall it include mobile Food and Beverage Vending Vehicles, such as ice-cream trucks that circulate neighborhoods.

- 1) Where a party seeks to have a Food and Beverage Vending Vehicle as a component of a Special Event, the applicant shall submit a written request for approval of the Special Event on a form acceptable to the Community Development Director. The application shall describe the date, nature and duration of the event, and the number and identity of Food and Beverage Vending Vehicles involved.
- 2) Any application submitted shall be reviewed by the Police Department, Fire Department, Community Development Department and City Manager's Office for

concerns relating to each department. Each department shall forward a recommendation to the Mayor.

- 3) The Mayor shall be authorized and directed to approve of Food and Beverage Vending Vehicle Special Event Licenses, with the recommendation of City staff. Such license may include the requirement that the applicant pay a fee in an amount specified by the Mayor, intended to cover the City's actual costs of inspection.
- 4) Each license shall be conditioned upon the completion of an inspection of the Food and Beverage Vending Vehicles involved in the Special Event; said inspection may occur in advance of the Special Event or may be scheduled to occur at the Special Event. The purpose of such inspection is to confirm that there are no public safety hazards that would be generated by the operation of the Food and Beverage Vending Vehicle (e.g. unsecured gas cylinders, deep fryers located in hazardous locations or without appropriate venting / fire suppression, unvented or improperly located generators, etc.).
- 5) There shall be no limit on the number of Special Event permits available. Operation of a Food and Beverage Vending Vehicle at a Special Event shall not require completion of a criminal background check. Operators shall be required to provide evidence that they have all required licenses and permits necessary to lawfully operate the Vehicle (e.g. license, registration, Health Department approval) and shall be required to comply with all other City codes and ordinances, including those relating to imposition and collection of taxes.
- 6) Special Event Licensure for Food and Beverage Vending Vehicles may be included as a component of the approval of a Special Event permit for any event occurring within the City which is licensed or permitted under any other process, permit or license.
- 7) This same process may also be utilized for temporary food and beverage vending operations conducted at Special Events, where the food vendors are mobile/temporary but are not located within a vehicle.

B) Standalone Operation:

Where a Food and Beverage Vending Vehicle proposes to operate on a standalone or mobile basis, it shall be required to comply with the conditions of Chapter 33 of the City Code, provided however that the licensure fee shall consist of an application fee of \$50, plus any required fees for criminal background investigations. If an application is conditionally approved, the Food and Beverage Vending Vehicle shall be inspected for compliance with Chapter 33 and the conditions described in Chapter 33; the cost for inspection shall be \$50 (and any reinspection required based upon non-compliance discovered during the initial inspection shall also carry a \$50 charge). Once approved, a Food and Beverage Vending Vehicle license issued under this Section 1(B) shall be

valid for the period commencing on the date of issuance and concluding on December 31 of the year of issuance.

C) Authorization:

The Mayor and City staff are authorized and directed to take all actions as shall be necessary to implement this policy, notwithstanding any contrary provision of Chapter 33 of the City Code. Any vehicle inspection required hereunder shall be completed by the Chief Building Official or a designee thereof.

Section 2: That the City Clerk of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's Signature and shall be effective thereupon.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the ___ day of _____ 2018 and approved by me as Mayor on the same day.

ATTEST:

SUSANNA HERRMANN, City Clerk

JERRY SMITH, Mayor