

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
11/14/2017

SUBJECT:	SUBMITTED BY:
Mobile Food Vendor Ordinance	David Fieldman Village Manager

SYNOPSIS

An ordinance has been prepared amending the mobile food vendor ordinance.

STRATEGIC PLAN ALIGNMENT

Food Truck Ordinance was a High Priority Action Item for 2015-2017.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the October 3 and October 17, 2017 Village Council meetings. Staff recommends approval at the November 14, 2017 Village Council meeting.

BACKGROUND

This matter was discussed at the [October 3, 2017](#) Village Council meeting. Based on the Village Council discussion, the following changes to the regulations have been prepared for consideration:

- Permit duration will be changed to a rolling 12 months. The permit will remain valid for only one mobile food vehicle. Section 8.16.2(E)
- Only the owner/applicant who operates in a public park shall be fingerprinted as opposed to all mobile food vendors and operators of the vehicle. Section 8.16.2(F).
- Background investigations will be required for only the persons having an ownership interest of five percent or more. Section 8.16.3.
- The permit fee shall be amended to \$100 for a 12-month permit and \$25 for a permit renewal. Section 8.16.2(B).

Background

On [July 5, 2016](#), the Village Council adopted an ordinance to allow permitted mobile food vendors to operate in certain areas of the Village between the hours of 7:00 a.m. and 10:00 p.m., seven days a week. In 2016, only one mobile food vendor permit was issued. Five vendors expressed interest in a license, but did not submit an application. The five vendors who did not pursue a permit cited a variety of reasons as to why they declined to submit an application.

On [December 6](#), [December 13](#), and [December 20 2016](#), the Village Council discussed potential changes to the ordinance based on the mobile food vendor's requested change. Village Council discussed the annual cost of the permit, the requirement of background checks for all employees, and the limitations on the areas of operation. Based on Council discussion, the ordinance was amended to reflect changes in the areas of operation to include Esplanade, Highland Landmark, Highland Oaks, and all phases of the business corridors at Finley Road. The cost of the mobile food vendor permit and the requirement of background checks for all employees remained unchanged until the Council could evaluate the ordinance after a full year of implementation.

Since the adoption of the proposed change to the areas of operation:

- 1 mobile food vendor permit has been issued (The permitted vendor renewed their application)
- 4 additional vendors expressed interest in obtaining a license, but did not submit an application.

Village staff has engaged with these mobile food vendors and other stakeholders within the community to evaluate the permit process, and identify potential issues that may deter a vendor from submitting an application. When asked for feedback on the application process, all of the vendors cited the high cost of the annual permit and mandatory background checks for all employees as some of the reasons why they did not submit an application. The only permitted mobile food vendor in the Village has stated that they are hesitant to renew their permit for 2018.

Alter Brewing Company has worked extensively with several mobile food vendors around the area to encourage the vendors to apply for a permit. Alter Brewing stated that several mobile food vendors around the area have agreed not to purchase mobile food vendor permits in Downers Grove to discourage other municipalities from adopting ordinances with similar regulations. As one of the stakeholders invested in the mobile food vendor ordinance, Alter Brewing Company has provided Council with a report regarding their interactions with local food vendors, local breweries, and general research on mobile food vendor ordinances around the area and across the nation in order to assist with the evaluation process. That report is attached.

The information below details the issues and concerns that both food vendors and stakeholders have cited as barriers that prevent potential vendors seeking a mobile food vendor application.

Issue/Concern	Requested Change
Total annual permit cost	Reduce the annual fee
Cost and administrative burden of background checks for all employees	Require background checks for only employees with ownership interests

Total Annual Permit Cost

The Village currently charges an annual permit fee of \$250. In addition, the applicant is responsible for paying background check fees. The permit fee is issued on a calendar year basis and is not reduced or prorated for applicants seeking a permit for a partial year.

Staff researched other surrounding communities' permit fees for mobile food vendors. The fees below reflect the base permit fee, other charges may be incurred. All permit fees are yearly unless noted otherwise:

Chicago - \$1,000 (2-year permit)	Northbrook - \$210	Elmhurst - \$100
Evanston – \$500 (\$250 for year 1 if issued after July 1)	Westmont - \$200	Lombard - \$50
Downers Grove - \$250	Schaumburg - \$190	Lisle - \$50

Cost and Administrative Burden of Background Checks for All Employees

The current ordinance requires background checks for all employees of mobile food vendors. The background check requires fingerprints for each individual. Finger printing costs about \$60 per person. This cost must be paid by the applicant and is in addition to the application fee. Most mobile food vendors have 3 to 8 employees in a year. In addition, the industry has a high rate of employee turnover. Mandatory fingerprinting for all employees could significantly increase the total cost of a Mobile Food Vendor permit due to the cost of fingerprinting each employee as well as potential ongoing costs if a vendor has high turnover. The estimated cost for employee background checks ranges from \$180 to \$480.

Estimated Cost for Mobile Food Vendor Permit

Type of Fee	Cost
Permit Fee	\$250
Fingerprint Fees*	\$180 - \$480
Total	\$430-730

*Mobile Food Vendors typically have a staff ranging from 3-8 rotating employees.

ATTACHMENTS

Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: November 14, 2017
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING PERMIT AND BACKGROUND INVESTIGATION PROVISIONS FOR FOOD TRUCK VENDORS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend permit and background investigation provisions for food truck vendors.

RECORD OF ACTION TAKEN:

MTV-Rev

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PERMIT AND BACKGROUND
INVESTIGATION PROVISIONS FOR FOOD TRUCK VENDORS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 8.16.2. is hereby amended to read as follows:

8.16.2. Permit Required; Application

(A) It shall be unlawful for any person to operate within the Village a mobile food vehicle, as defined in this Chapter, without first having obtained a permit from the Village for that purpose. The Village shall issue only ten (10) permits per year and they shall be issued on a first-come first-serve basis.

(B) Application shall be made by the Vendor in writing to the Village on a form as required and approved by the Village. A permit and application fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be submitted with the application. A permit shall be valid ~~until December 31st of the year in which it was issued~~ for twelve (12) months from the date of issuance and shall only be valid for one (1) mobile food vehicle. Application for renewal, along with the renewal fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", shall be filed with the Village no later than thirty (30) days prior to the expiration of the permit.

(C) The Vendor shall be required to include in the application a true statement of certain facts including, but not limited to: whether the Vendor is a corporation, partnership or sole proprietorship; the state of incorporation of the Vendor if the Vendor is a corporation; whether the Vendor is organized and qualified to do business under the laws of the State of Illinois if the Vendor is a corporation; the names of the individuals who own the Vendor; the registered agent of the Vendor; the Vendor's principal place of business; and the principal office of the Vendor.

(D) The Vendor shall, with its application for a permit, register or cause to be registered the mobile food vehicle operated by, or operated for, such Vendor within the Village. The following information for the mobile food vehicle to be registered shall be provided:

(1) The year, make, model, color, license plate number and vehicle identification number of the vehicle.

(2) Name, address, and telephone number of the owner of the vehicle.

(E) A description of the food product(s) offered for sale, including the intended menu.

(F) ~~The Any~~ Any Vendor, ~~intending on operating in public parks, pursuant to Section 8.17(A)(2), applicant(s) and any employee(s) or agent(s) who will be operating the mobile food vehicle~~ shall submit his/her fingerprints to be used in completing the review of the application. Such individuals are required to present themselves for fingerprints to be taken by the Downers Grove Police Department or by a State approved agency. A fingerprint fee, as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", shall be paid. Provided, in the case of a renewal application, fingerprints and the fingerprinting fees shall not be required from a renewal applicant whose fingerprints are on file, unless the Village determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(G) The Vendor shall submit a signed statement that the Vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, 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 a certificate of insurance showing that it maintains such public liability,

MTV-Rev

food products liability, and property damage insurance as will protect Vendor, property owners, and the Village from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit 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 a thirty (30) day written notice served upon the Village Attorney. The Vendor, applicant(s), and any employee(s) or agent(s) that will be operating the mobile food vehicle shall also submit proof of automobile liability insurance. A permit 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 Village Attorney.

(H) The Vendor shall be required to submit a copy of the required DuPage County Health Department Permit to the Village with the application. The failure to obtain or revocation of the DuPage County Health Department permit shall constitute an automatic revocation or denial of the Downers Grove mobile food vehicle permit.

(I) Failure to fully comply with the application and disclosure requirements of this Section shall constitute grounds for the Village to deny issuance of a permit. The Vendor shall notify the Village within thirty (30) days of any changes to application information.

(J) Issuance or Denial of License. The Village shall, within sixty (60) days after submittal of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny issuance of a permit pursuant to this Article.

Section 2. That Section 8.16.3. is hereby amended to read as follows:

8.16.3. Investigation.

The Village shall investigate the Vendor, including each officer, general partner, sole proprietor and all persons having an ownership interest of five percent (5%) or more of any such applicant ~~and any employee(s) or agent(s) who will be operating the mobile food vehicle~~. If this investigation of the application materials reveals information showing any of the following, the application shall not be approved and no permit shall be issued to the Vendor:

(1) Any convictions of a felony within the past ten (10) years.

(2) Any convictions of misdemeanor, which misdemeanor involves any of the following offenses:

(a) Unlawful possession with the intent to deliver: any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), as amended from time to time; or cannabis, as defined in the Cannabis Control Act (720 ILCS 550/1 et seq.), as amended from time to time; or an intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 et seq.), as amended from time to time, within the past five (5) years.

(b) Unlawful possession of any controlled substance, cannabis or intoxicating compound within the past five (5) years.

(c) Any offense involving moral turpitude, including, but not limited to any offense involving the misapplication, misappropriation or misuse of funds of another person within the past five (5) years.

(d) Driver's license suspended or revoked in any state within the past three (3) years as consequence of violations of law concerning the operation of a motor vehicle.

(3) Any requirements to register as a sex offender as required by the Sex Offender Registration Act, 730 ILCS 150 or has been convicted of criminal sexual assault and/or criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code (720 ILCS 5/1-1 et seq.), or any like offense of another state or country.

(4) Any misrepresented or omitted material fact in the application for a permit.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

MTV-Rev

Section 4. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest:

Village Clerk