

CHAPTER 22. ICE CREAM TRUCKS

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5-22-1. Definitions.

(1) "Ice cream truck" means every motor vehicle in which ice cream, popsicles, ice sherbets or frozen desserts of any kind are carried for purposes of retail sale on the city streets.

(2) "Vend" or "vending" means offering ice cream, popsicles, ice sherbets or frozen desserts for sale from a motor vehicle on the city streets.

(3) "Operator" includes every person, firm or corporation who operates, or who owns, leases, contracts or in any other fashion permits a person to operate, any ice cream truck for the purpose of vending. (Ord. 1988-22, 10-05-1988)

5-22-2. Duty of approaching vehicles.

A driver of a vehicle meeting or overtaking from either direction an ice cream truck stopped on the street may proceed past such truck at a reasonable and prudent speed, not exceeding fifteen miles per hour, and shall yield the right-of-way to any pedestrian who crosses the roadway to or from the ice cream truck. (Ord. 1988-22, 10-05-1988)

5-22-3. License and insurance.

(1) It shall be unlawful to vend from an ice cream truck without having a business license therefor.

(2) No business license shall be issued to a vendor selling from an ice cream truck unless a certificate is furnished to the City showing that the vendor is carrying the following minimum amounts of insurance: public liability insurance in an amount of not less than \$1 million for injuries, including those resulting in death, resulting from any one occurrence and on account of any one accident; property damage insurance in an amount of not less than \$100,000 for damages on account of any one accident or occurrence.

(3) Certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation, or termination of the subject policy,

written notice shall be sent to the Department by the insurance company.

(Ord. 2019-26, 11-20-2019) (Ord. 2016-11, 07-06-16) (Ord. 2012-37, 12-05-2012) (Ord. 1988-22, 10-05-1988)

5-22-3.1. Application for license.

All applications for a license under this Chapter shall be made to and upon forms provided by the Department. Each application form shall require disclosure and reporting by the applicant of the following information:

(1) contact information, including the applicant's true, correct, and legal name; the applicant's telephone number, home address, and mailing address; and, the address to which all notices are to be sent;

(2) proof of identity by a valid driver license issued by any state;

(3) proof of permitting, as applicable, by the Department of Health of the state of Utah and Tooele County;

(4) responses to the following questions regarding disqualifying conditions as follows:

(a) has the applicant been criminally convicted of felony homicide, physically abusing, sexually abusing, or exploiting a minor, sale or distribution of controlled substances, or sexual assault of any kind?

(b) are any criminal charges currently pending against the applicant for felony homicide, physically abusing, sexually abusing, or exploiting a minor, sale or distribution of controlled substances, or sexual assault of any kind?

(c) has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of moral turpitude, or violent or aggravated conduct involving persons or property?

(d) is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction?

(5) execution and affirmation under oath and on penalty of perjury that based on the applicant's present information and belief the information provided is complete, truthful, and accurate; and,

(6) a copy of the applicant's current criminal history on file at the Utah Department of Public Safety Bureau of Criminal Identification. The criminal history is classified as a private and protected record. (Ord. 2019-26, 11-20-2019) (Ord. 2012-37, 12-05-2012)

5-22-3.2. License Fee.

The license fee shall be that established in Section 5-1-10 (License fees). (Ord. 2012-37, 12-05-2012)

5-22-3.3. Review of application and issuance of license.

(1) Within five business days of receipt of the completed application and applicable documentation, the Department shall review the application for completeness and shall take such other reasonable action to verify the information appearing on the application.

(2) The Department shall issue a business license to the applicant if the information is complete and verified and the license fee has been paid, and if no disqualifying condition exists.

(3) The license shall show the name of the licensee and the business permitted to be carried on thereunder and the date of expiration of such license.

(4) Licenses issued pursuant to this Chapter shall expire on December 31 of each year. (Ord. 2019-26, 11-20-2019) (Ord. 2012-37, 12-05-2012)

5-22-3.4. Denial of license and right of appeal.

(1) The Department shall refuse to issue a license to an applicant for any of the following disqualifying conditions:

- (a) the information submitted by the applicant is incomplete, incorrect, or misrepresented;
- (b) the applicant has answered affirmatively to any of the questions set forth in Section 5-22-3.1(4); or,
- (c) the applicant fails to pay the requisite license and identify badge fees.

(2) (a) Any applicant whose application has been denied can file a written appeal with the Director within ten days after the denial. The appeal need not be on a particular form, but must state the specific basis of the appeal. The Director shall promptly issue a written decision.

(b) An applicant whose appeal has been denied by the Director may appeal to the Administrative Hearing Officer, pursuant to Chapter 1-28, by filing with the City Recorder a written appeal within ten days after the Director’s denial. (Ord. 2019-26, 11-20-2019) (Ord. 2012-37, 12-05-2012)

5-22-3.5. Photographs and identity badges.

Before commencing work, each ice cream truck driver shall:

- (1) furnish to the Department two recent photographs, one of which shall be affixed to the identity badge issued to the licensee and the other of which shall be retained in the records of the Department;
- (2) obtain an identity badge from the Department at a cost of \$10.00 in addition to the license fee, and wear the identity badge at all times while vending from an ice cream truck; and,
- (3) obtain a new identity badge each year that the

ice cream truck business is licensed. (Ord. 2019-26, 11-20-2019) (Ord. 2016-11, 07-06-16) (Ord. 2012-37, 12-05-2012)

5-22-4. Required equipment.

In addition to other equipment required by law, every ice cream truck shall be equipped with:

(1) Signal lamps mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be five to seven inches in diameter and shall display two alternately flashing amber lights visible from the front and rear of the vehicle, both lights visible at 500 feet in normal sunlight upon a straight and level street.

(2) A convex mirror mounted on the front so the driver in a normal seating position can see the area in front of the truck obscured by the hood. (Ord. 2012-37, 12-05-2012) (Ord. 1988-22, 10-05-1988)

5-22-5. Inspection.

Every ice cream truck shall be subject to City inspection once each year prior to its use in the City for the purpose of determining whether it complies with this Chapter and other applicable state and local laws. (Ord. 2012-37, 12-05-2012) (Ord. 1988-22, 10-05-1988)

5-22-6. Restrictions.

(1) A person shall vend only when the ice cream truck is lawfully stopped.

(2) A person shall vend only from the side of the truck away from moving traffic and as near as possible to the curb or side of the street.

(3) A person shall not vend to a person standing in the roadway.

(4) A person shall not stop on the left side of a one-way street to vend. (Ord. 1988-22, 10-05-1988)

5-22-7. Backing restricted.

The driver of an ice cream truck shall not back the truck in order to make or attempt to make a sale. (Ord. 2016-11, 07-06-16) (Ord. 2012-37, 12-05-2012) (Ord. 1988-22, 10-05-1988)

5-22-8. Penalty.

Any person, firm, or corporation violating any provision of this Chapter shall be guilty of a class C misdemeanor punishable as provided in Section 1-4-3 (Penalties). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2012-37, 12-05-2012) (Ord. 1988-22, 10-05-1988)