

## M E M O R A N D U M

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**DATE:** June 28, 2002  
**TO:** City Council Members  
**FROM:** Russell Weeks  
**RE:** Proposed Ordinance Regulating Mobile Ice Cream Vendors  
**CC:** Cindy Gust-Jenson, Rocky Fluhart, David Nimkin, Steven Allred, Margaret Hunt, David Dobbins, Roger Evans, Edna Drake, Gary Mumford, Nazar Mohamed

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This memorandum is intended to address a proposed ordinance to enact regulations for mobile ice cream trucks. The Administration is scheduled to brief the City Council on the proposed ordinance at the Council's work session July 2.

### **MATTERS AT ISSUE/QUESTIONS FOR CONSIDERATION**

- Is there a way to determine exactly how many businesses the proposed ordinance would affect?
- Have owners or operators of mobile ice cream vending vehicles seen copies of the proposed ordinance?
- Has the Business Advisory Board reviewed the proposed ordinance? If so, did the Board make any recommendations?
- Does the proposed ordinance regulate the conduct of mobile ice cream vendors in City parks?
- Does the City Council wish to hold a public hearing on the proposed ordinance?

### **BACKGROUND/DISCUSSION**

The proposed ordinance would add mobile ice cream vending truck companies to businesses regulated by Salt Lake City. According to one estimate, there are somewhere between 20 to 30 mobile ice cream vendors operating within Salt Lake City. It is City Council staff's understanding that various community councils and residents have sought for some time to have ice cream vending trucks regulated in at least some manner. Of particular concern are potential safety hazards created by children's attraction to the ice cream vending trucks and the level of music coming from ice cream trucks as they travel through residential neighborhoods. There also apparently have been complaints about mobile ice cream vendors in City parks. The complaints largely appear to have involved the length of time vendors stay in one location in City parks while playing music from amplified systems.

It should be noted that the Administration is attempting to contact mobile ice cream vending companies and send them copies of the proposed ordinance.

According to statistics compiled by the Salt Lake City Police Department, the department's dispatch center has received calls on 87 incidents involving mobile ice cream vendors in the last five years – an average of 17.4 incidents per year. Here is a breakdown of calls to the dispatch center:

- Suspicious behavior – 32.
- Ice cream vendor as victim – 19.
- Loudness – 16.
- Traffic accident – 10.
- Miscellaneous offenses – 7.
- Officer traffic stop – 3.

Notes accompanying the figures indicate that many of the suspicious behavior incidents involved calls reporting ice cream vendors selling controlled substances. However, as of June 27, the research indicates that no criminal cases resulted from the calls. There may be more information available in that category by the City Council briefing on July 2.

The incidents involving mobile ice cream vendors as victims involve reports of assaults and robberies of mobile ice cream vendors, vandalism of ice cream vending vehicles and people following ice cream vending vehicles.

The incidents involving loudness centered on mobile ice cream vending vehicles playing loud music to attract potential customers. In some cases vendors were reported to have stayed at one location for extended periods of time as the music played and to have refused to turn down the music when residents have asked them to do so.

Traffic accident incidents involved vehicles colliding with other vehicles or vehicles colliding with fixed objects. The research notes indicate that there do not appear to be any incidents involving auto-pedestrian accidents directly related to mobile ice cream vendors. Miscellaneous offenses involved incidents such as trespassing, theft of ice cream money and disputes between ice cream vendors over territory. Three ice cream vending vehicles have been stopped by police officers enforcing traffic laws. There do not appear to be any incidents involving sexual assaults on children by operators of mobile ice cream vending vehicles.

### **PROPOSED ORDINANCE**

Under current ordinances, ice cream truck vendors located in Salt Lake City are required to obtain a City business license. According to the City Attorney's Office, the City acknowledges other cities' business licenses under City Code 5.04.040-C titled *Reciprocal Agreements*. However, the proposed ordinance would require mobile ice cream vending companies located in other cities to obtain ice cream truck operators' licenses for drivers and have ice cream trucks inspected by Salt Lake City.

Besides the \$70 business license fee for mobile ice cream vending companies located in Salt Lake City, the proposed ordinance would require that each person who would drive a vending vehicle to obtain an ice cream truck operator's license. The license requires an administrative fee determined by the Mayor or his designee "but not to exceed \$80." The ordinance would require each ice cream truck to be inspected "by an authorized representative of

the City” every six months. There would be a \$25 fee for each inspection. The ordinance also would require a business license applicant to obtain a health permit from the Utah Department of Agriculture. According to the Administration, the Salt Lake Valley Health Department stopped inspecting mobile ice cream vending vehicles two years ago. The Utah Department of Agriculture continues to inspect the refrigerated compartments in the vehicles but nothing else, according to the Administration.

Perhaps the most prominent feature of the proposed ordinance is the information required in the operator application form (Section 5.64.600). Information required in the application would include:

- An employment history dating back three years from the time the application is filed.
- A history dating back five years from the time of the application to indicate whether the applicant has ever had any professional or vocational license or business license or permit “denied, revoked or suspended.” The applicant also would have to say why any of those licenses were denied, revoked or suspended and provide a copy of the order from the agency or government that took the action.
- A history dating back five years from the time of the application of all criminal convictions or no-contest pleas to criminal complaints.
- The names and addresses of three residents of Salt Lake City “who have known the prospective applicant for a period of thirty days and who “will vouch for the sobriety, honesty and general good character of the applicant.”
- A photograph and two sets of fingerprints taken at the Police Department headquarters.

The proposed ordinance would prohibit the following from operating a mobile ice cream vending vehicle:

- People under age 21.
- Anyone required to register as a sex offender.
- Anyone convicted of a crime involving moral turpitude, narcotic or dangerous drugs, and a felony conviction for an offense against a person or property within a five-year period of the time of the permit application.
- Anyone convicted of reckless driving or driving a vehicle while under the influence of alcohol or a controlled substance or convicted of being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving the vehicle within a five-year period of the time of the permit application.
- Anyone convicted of three or more felonies.

The application requirements and driver’s qualifications in the proposed ordinance are almost identical to application requirements and driver’s qualifications in the section of the City Code regulating taxicabs. However, Section 5.72.74 titled *Application Fee Required* sets the cost of the application fee for a taxi driver’s license at “no more than \$30.” (Please see Attachment No. 1.) There is some indication that the Administration is contemplating raising the application fee for taxi drivers’ licenses in the future.

The proposed ordinance also would enact several requirements (Section 5.64.730) for a mobile ice cream vending vehicle and its operation. Requirements include:

- A clearly audible back-up warning device that will activate whenever the vehicle is shifted into reverse.
- At least two flashing yellow beacons on the vehicle's roof that will activate "whenever merchandise is being sold, offered for sale or displayed for sale."
- An operable swing-arm attached to its left side of "a type, size, and description approved by the City." The arm would be activated whenever the vehicle stops to sell, offer to sell or display merchandise.
- A prohibition of selling items on streets where the speed limit is more than 25 miles per hour. Salt Lake City generally has three categories of streets – local, collector, and arterial. The limit generally would confine selling ice cream to local streets. Collector and arterial streets generally have speed limits higher than 25 miles per hour.
- A requirement that the vehicle be completely stopped and parked before selling or displaying wares.
- A prohibition against moving the vehicle backwards to sell or display merchandise.

It should be noted that the insurance requirements in the proposed ordinance (Paragraph 9) are the same general liability requirements as those of sidewalk vendors.

Section 5.64.740 of the proposed ordinance requires ice cream vending vehicles to be inspected every six months for compliance with the regulations for back-up warning device, flashing lights, swing-arm and other items. According to the Administration, the Business Licensing Division would conduct the inspections. The proposed fee for the inspections would be \$25 per truck "for each inspection." It should be noted that, at this time, the office at the Department of Airports which inspects ground transportation vehicles and taxicabs for inspections required by City ordinances does not charge for the inspections. However, taxicabs and other ground transportation vehicles that routinely operate at the airport pay fees for entering the airport. The fees help defray the cost of inspecting the vehicles.

Section 5.64.720 titled *Noise Restrictions* would limit the use of amplified music or other noises. Limitations include:

- No music while an ice cream vehicle is stopped.
- No playing of music earlier than 10 a.m. or later than 7 p.m. or a half-hour after sunset, "whichever occurs first."
- No playing of music in a way that the sound can be heard more than 330 feet away.
- No playing of music along the same block face traveling in either direction on a street more than once every two consecutive hours.

