



Legislation Text

File #: 050505, **Version:** 4

050505
SUBSTITUTE 4

ALD. MURPHY

A substitute ordinance relating to license requirements for ice cream peddlers.

60-48 cr

74-2 cr

This ordinance defines ice cream peddler as any person who physically operates an ice cream vending vehicle or any person who physically conducts ice cream vending from such a vehicle or from a carried container and requires a license to be applied for with the commissioner of health. The ice cream peddler license required by this section shall be in addition to the food peddler permit provided in s. 74-1.

This ordinance also prohibits the issuance of an ice cream peddler license to a person who is a sex offender as defined in s. 301.45, Wis. Stats.; or has been convicted of violating any of a number of statutory provisions relating to sexual assault of a minor; or convicted of operating a vehicle under the influence of an intoxicant or other drug as defined in s. 346.63 Wis. Stats., in the last 3 years. An application received by the commissioner of health shall be forwarded to the chief of police who shall determine whether the applicant complies with the requirements of this section. An applicant whose application is denied may appeal the denial to the administrative review appeals board.

The fee for each ice cream peddler license shall be \$50. Each license shall be valid for the license period beginning July 1 and ending on June 30.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 60-48 of the code is created to read:

60-48. Ice Cream Peddler License.

1. The fee for each ice cream peddler license shall be \$50.
2. Each license shall be issued for the license period beginning July 1 and ending on June 30.
3. The fee for a duplicate license is \$6.

(See s. 74-2.)

Part 2. Section 74-2 of the code is created to read:

74-2. Ice Cream Peddler License.

1. FINDINGS. The common council finds that individuals involved in the business of ice cream peddling are placed in substantial contact with children. Additionally individuals peddling ice cream from an ice cream vending vehicle are also responsible for driving safely when operating a motor vehicle making frequent stops and dealing with customers congregating near the path of the vehicle. Therefore on that basis, the common council finds it necessary for the safety and welfare of the public to license individuals peddling ice cream.

2. DEFINITIONS. For the purposes of this section: a. "Ice cream peddler" means any person who physically operates an ice cream vending vehicle or any person who physically conducts ice cream vending from such a vehicle or from a carried container.

b. "Ice cream vending vehicle" means a vehicle from which the retail sale of ice cream or similar frozen confections for human consumption is conducted. An ice cream vending vehicle may be pushed, peddled, pulled or motorized.

3. LICENSE REQUIRED. No person shall operate or act as an ice cream peddler within the city without first having obtained an ice cream peddler license. The ice cream peddler license required by this section shall be in addition to the food peddler permit required in s. 74-1.

4. APPLICATION. Application for a new or renewal license shall be filed with the commissioner of health on a form provided therefore. The application shall state:

a. The applicant's name, date of birth, permanent address and telephone number.

b. A driver's license or some other proof of identity as may be reasonably required.

c. Submit with the application form a separate document bearing all 10 fingerprints of each applicant, or if the applicant has less than 10 fingers, the record shall so indicate.

d. Such other reasonable or pertinent information the commissioner of health or the chief of police may from time to time require.

5. DEPOSIT OF FEE. At the time of application, each applicant shall deposit with the health department the full amount of the fee required in s. 60-48. It shall be the duty of the health department to accept the deposit, issue a receipt therefore, and cause a record to be kept thereof.

6. INVESTIGATION. a. An application received by the commissioner of health shall be forwarded to the chief of police for review and criminal check.

b. Upon review and report of the chief of police and subject to the requirements of s. 111.335, Wis. Stats., the license shall be granted to an applicant who has not been required to register as a sex offender pursuant to s. 301.45, Wis. Stats.; or who has not been convicted of violating s. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31, Wis. Stats., if the victim was a minor; or who has not been convicted of operating a vehicle under the influence of an intoxicant or other drug pursuant to s. 346.63, Wis. Stats., in the past 3 years. These provisions shall also apply to the granting of this license to any applicant who has been convicted

pursuant to similar statutes in foreign jurisdictions.

c. In the event an application for a new or renewal license is denied, the applicant may appeal the denial to the administrative review appeals board.

7. REVOCATION. a. Any license issued under this section may be revoked by the health department upon conviction of a licensee for violation of any provision specified in sub. 6-b.

b. Any license revoked by the health department under this section may be appealed to the administrative review appeals board. If the commissioner of health has cause to seek revocation of a license under this section he or she shall give notice to the licensee of the intent to revoke with an opportunity to appeal the revocation to the administrative review appeals board.

8. PENALTY. a. Any person who violates sub. 3 shall be liable upon conviction to a Class I penalty under s. 61-15.

b. Any person licensed under s. 74-1, who employs a person required to obtain a license under sub. 3 and who is not licensed, shall be liable upon conviction to a Class I penalty under s. 61-15.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB05314-5

AEH

9/21/2005