

1 Introduced by the Council President at the request of the Mayor:
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4 **ORDINANCE 2023-437**

5 AN ORDINANCE AMENDING SECTION 250.1103 (ICE
6 CREAM TRUCK OPERATOR PERMITS), PART 11 (ICE
7 CREAM TRUCK REGULATION), CHAPTER 250
8 (MISCELLANEOUS BUSINESS REGULATIONS), *ORDINANCE*
9 *CODE*, TO REQUIRE APPLICANTS FOR ICE CREAM TRUCK
10 OPERATOR PERMITS AND PERMIT RENEWALS TO BE
11 FINGERPRINTED FOR THE PURPOSE OF CONDUCTING A
12 STATE AND NATIONAL CRIMINAL HISTORY RECORD
13 CHECK; PROVIDING CODIFICATION INSTRUCTIONS;
14 PROVIDING AN EFFECTIVE DATE.
15

16 **WHEREAS**, ice cream truck operators travel along public roads
17 selling ice cream, ice milk, frozen dairy products, ice flavored with
18 syrup, or other confections to individual members of the public; and

19 **WHEREAS**, the City finds that an important interest exists in
20 preventing unsuitable persons, including registered sexual offenders,
21 registered sexual predators, and others convicted of the crimes
22 enumerated under Section 220.201(d), *Ordinance Code*, from having
23 direct contact with individual members of the public, including
24 children; and

25 **WHEREAS**, the City finds that an important interest exists in
26 ensuring that ice cream truck operators have not been convicted of
27 certain driving offenses, including reckless driving, driving under
28 the influence, or other such similar offenses; and

29 **WHEREAS**, the City therefore desires to amend its *Ordinance Code*
30 to require ice cream truck operator permit applicants to be
31 fingerprinted for the purpose of conducting a state and national

1 criminal history screening; now, therefore

2 **BE IT ORDAINED** by the Council of the City of Jacksonville:

3 **Section 1. Amending Section 250.1103 (Ice cream truck**
4 **operator permits), Part 11 (Ice Cream Truck Regulation), Chapter 250**
5 **(Miscellaneous Business Regulations), Ordinance Code.** Section
6 250.1103 (Ice cream truck operator permits), Part 11 (Ice Cream Truck
7 Regulation), Chapter 250 (Miscellaneous Business Regulations),
8 *Ordinance Code*, is hereby amended to read as follows:

9 **CHAPTER 250. - MISCELLANEOUS BUSINESS REGULATIONS**

10 * * *

11 **PART 11. - ICE CREAM TRUCK REGULATION**

12 * * *

13 **Sec. 250.1103. - Ice cream truck operator permits.**

14 Beginning April 1, 2013, no ice cream truck operator shall
15 undertake activities unless and until such ice cream truck operator
16 has obtained an operator permit pursuant to this ~~Section~~section. Each
17 person working on an ice cream truck, either driving or selling
18 products, must possess an operator permit.

19 * * *

20 (b) Criminal History Records Check. Pursuant to Section 166.0442,
21 Florida Statutes, the City may require state and national
22 criminal history screening for persons subject to licensing or
23 regulation by the City. As part of the operator permit
24 application or permit renewal, the applicant shall be
25 fingerprinted and complete a state and national criminal history
26 screening as set forth in Section 116.908, Ordinance Code, with
27 the City of Jacksonville Employee Services Department. Upon
28 completion, the applicant shall request a copy of the state and
29 national criminal history screening results from the Employee
30 Services Department and submit a copy of the screening results
31 along with the permit application or renewal. The results of

1 the state and national criminal history record check shall be
2 utilized by the Office of the Director, Neighborhoods
3 Department, or his or her designee, to either approve or deny
4 the ice cream truck operator permit application or permit
5 renewal, as set forth in this Section.

6 ~~(c)~~ (b) *Fee.* Any fee for applying for a permit pursuant to this
7 subsection shall correspond to the administrative costs of
8 review and issuance as found in www.coj.net/fees.

9 ~~(d)~~ (e) *Processing.* Within 30 days following receipt of the complete
10 application, the Office of the Director, Neighborhoods
11 Department, or his or her designee, shall either deny or approve
12 the operator permit application in writing. If an application
13 is denied, the Office of the Director, Neighborhoods Department,
14 or his or her designee, shall state the reasons for denial. If
15 denial is conditional, the applicant shall be given an
16 opportunity to provide further information or take other action
17 which will result in the approval of the application by the
18 Office of the Director, Neighborhoods Department, or his or her
19 designee. If denial is final, no further action shall be taken
20 or permitted under the application.

21 ~~(e)~~ (d) *Standards for approval.* An operator permit shall be approved
22 only upon verification that:

23 (1) The applicant possesses a valid driver's license and is
24 not a habitual traffic offender under the definition of
25 F.S. § 322.264; and

26 (2) The applicant:

27 i. Is not required by any governmental jurisdiction to
28 register as a sexual offender, sexual predator, or
29 such other similar classification as may exist in the
30 state or territory of conviction;

31 ii. Has not been convicted of those crimes enumerated

1 under Section 220.201(d), ~~220.302(b)~~ of the Ordinance
2 Code;

3 iii. Has no convictions within the preceding three years
4 in any governmental jurisdiction for reckless
5 driving, driving under the influence, or such similar
6 offenses as may exist in the jurisdiction of
7 conviction; and

8 iv. Has no more than three total convictions during his
9 or her lifetime in any governmental jurisdiction for
10 reckless driving, driving under the influence, or
11 such similar offenses as may exist in the jurisdiction
12 of conviction.

13 A review of the applicant's permanent driving record and
14 criminal background check for Florida and all other
15 jurisdictions where the applicant holds or has held a
16 driver's license shall be completed to verify this. The
17 Office of the Director, Neighborhoods Department, or his
18 or her designee, may upon request of the applicant, waive
19 the disability of conviction of any crimes listed in this
20 subsection if he or she is reasonably satisfied that the
21 applicant has been rehabilitated and is not likely to be
22 convicted of any of the crimes listed in this subsection.
23 If the Office of the Director, Neighborhoods Department,
24 or his or her designee, declines to waive a conviction,
25 the applicant may appeal this decision to the Chief
26 Administrative Officer.

27 (f) ~~(e)~~ *Disapproval of application.* If the Office of the Director,
28 Neighborhoods Department, or his or her designee, disproves the
29 application, he or she shall inform the applicant in writing,
30 giving the reasons for the disapproval. The applicant may
31 request a rehearing to the Chief Administrative Officer, by a

1 written request filed within seven days after the applicant is
2 notified of the disapproval. The Chief Administrative Officer
3 shall review the application, other information considered by
4 the Office of the Director, Neighborhoods Department, or his or
5 her designee, and the reasons given by the Office of the
6 Director, Neighborhoods Department, or his or her designee, for
7 the disapproval; and the applicant shall have the right to be
8 present at the hearing, be represented by counsel, to examine
9 the information and material in the possession of the Office of
10 the Director, Neighborhoods Department, or his or her designee,
11 and to present evidence on his behalf. The decision by the Chief
12 Administrative Officer shall be final.

13 (g)~~(f)~~ *Expiration and Renewals.* An operator permit issued pursuant
14 to this subsection shall expire two years from the date of
15 issuance. At the time of renewal, the Office of the Director,
16 Neighborhoods Department, or his or her designee, shall conduct
17 a state and national criminal history screening, as set forth
18 in subsection 250.1103(b), driving record and criminal background
19 ~~check~~ and may approve or disapprove the renewal application
20 pursuant to Section 250.1103 (f)~~(e)~~ hereof.

21 (h)~~(g)~~ *Permit automatically voided.* An operator permit issued in
22 error shall automatically be rendered void if the city finds
23 that the application for that permit contained any false or
24 misleading information or failed to disclose any material
25 information requested by the application. An operator permit
26 shall be automatically void should the permit holder fail to
27 maintain the standards for approval pursuant to the part at any
28 time prior to the permit's expiration.

29 (i)~~(h)~~ *Reporting requirement; interim review.* An operator permit
30 holder shall be responsible for notifying the Office of the
31 Director, Neighborhoods Department, or his or her designee, of

1 any changes to the information required to be provided on an
2 application while the permit application is under review and/or
3 before the expiration of an issued permit. Upon such
4 notification, or at any other time prior to expiration of a
5 permit, the Office of the Director, Neighborhoods Department,
6 or his or her designee, may review a permit holder's criminal
7 and/or driving records to ensure the standards for approval
8 continue to be met. Should the Office of the Director,
9 Neighborhoods Department, or his or her designee, find upon
10 review that a permit holder's status has changed such that he
11 or she is no longer eligible to obtain or hold a permit, the
12 Office of the Director, Neighborhoods Department, or his or her
13 designee, shall immediately notify the permit holder at his or
14 her address of record that the permit is void pursuant to this
15 section, and that vending activities in the City of Jacksonville
16 must have ceased as of the date on which the permit was
17 automatically voided.

18 (j)~~(i)~~ *General terms applicable to all operator permits.*

- 19 (1) Issuance of an operator permit shall not relieve any person
20 of the annual inspection requirement for any ice cream
21 truck he or she may operate.
- 22 (2) An operator permit shall be nontransferable.
- 23 (3) An operator's original permit shall be issued as a badge
24 containing the photo identification of the ice cream truck
25 operator. The operator's original permit shall be affixed
26 on the person of an ice cream operator by clip or lanyard
27 at all times that they are operating or working on an ice
28 cream truck so as to be clearly visible to the public, and
29 upon demand, shall produce the permit to a sheriff or other
30 law enforcement officer, city code compliance officer, or
31 the Office of the Director, Neighborhoods Department, or

1 his or her designee, when requested to do so. Every
2 operator, upon being requested to do so, shall provide his
3 or her permit number and name.

4 (4) A copy of each issued operator permit shall be retained by
5 the Office of the Director, Neighborhoods Department, or
6 his or her designee, and a copy forwarded to the sheriff's
7 office.

8 (5) The requirements of this subsection are in addition to any
9 and all legal requirements imposed by the federal, state,
10 and/or local government for motor vehicles, and
11 particularly for ice cream trucks.

12 **Section 2. Codification Instructions.** The Codifier and the
13 Office of General Counsel are authorized to make all chapter and
14 division "table of contents" consistent with the changes set forth
15 herein. Such editorial changes and any other necessary changes to
16 make the *Ordinance Code* consistent with the intent of this legislation
17 are approved and directed herein, and the changes to the *Ordinance*
18 *Code* shall be made forthwith and when inconsistencies are discovered.

19 **Section 3. Effective Date.** This Ordinance shall become
20 effective upon signature by the Mayor or upon becoming effective
21 without the Mayor's signature.

22
23 Form Approved:

24
25 /s/ Helen Peacock Roberson

26 Office of General Counsel

27 Legislation prepared by: Helen Peacock Roberson

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