

★ **Roll Call Number**

Agenda Item Number

56

Date April 10, 2006

Communication from Lawrence Williams, 2513 Lexington Avenue, Kansas City, Missouri to speak regarding ice cream trucks.

Moved by \_\_\_\_\_ to receive and file comments.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

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**Rauh, Diane I.**

**From:** services@mycityhall.net  
**Sent:** Tuesday, April 04, 2006 10:24 AM  
**To:** Rauh, Diane I.  
**Cc:** laray1104@yahoo.com  
**Subject:** Registration Form to Speak at City Council Meeting

### **Registration Form to Speak at City Council Meeting.**

**To:** The Honorable Mayor and Members of the City Council  
 City of Des Moines, IA  
 C/O City Clerk

**I/We** Lawrence E. Williams ,  
**hereby request permission to speak at the Des Moines City Council meeting of**  
 April 10th , **regarding**

Type information regarding your topic. A band ordinance on ice cream trucks. It's been a long enough time without ice cream trucks, there are at least three to four generations of kids that don't know or haven't even seen a ice cream truck unless they see it on tv or in another state. I would like to bring apart of being a child back to our youths so that they may have an experience that so many of our now troubled kids have too much time to entertain thier minds on growing up too fast! Please consider this request and help me reach our kids with a positive experience. Thank You For Your Consideration. Yours  
 Truly Lawrence E Williams

**Name:** Lawrence Williams

**Address:** 2513 lexington ave, *Kansas City, MO*

**Daytime Phone:** 816 - 241 - 9288

**Your Email:** laray1104@yahoo.com

### **Procedural Rules of Des Moines City Council:**

#### Part III. Agenda

##### Rule 16. Citizen Agenda Requests.

Any citizen may request the right to have an item placed on the Agenda (including a request to speak) by filing such request in writing with the City Clerk prior to noon on the Wednesday preceding the Council meetin.

#### Part V. Citizen Participation

##### Rule 27. Citizen's Right to Address Council.

Persons other than Council Members shall be permitted to address the Council only upon specific Agenda Items.

##### Rule 28. Manner of Addressing Council.

A person desiring to address the Council shall step to the podium, state his or her name, address, and group affiliation (if any) and speak clearly into the microphone.

##### Rule 29. Time Limit on Citizen's Remarks.

Citizens shall be limited to five minutes soeaking time per item, unless additional time is granted by the presiding officer. Total citizen input on any subject under Council consideration can be limited to a fixed period by the presiding officer. A

section 46-2 of this Code, for the display of any goods, wares or merchandise, except as otherwise provided in this article.

(C42, § 88-1; O.5092, 5442; C54, C62, § 54-16; C75, C79, C85, § 23-16; O.11,251, 11,583; C91, § 23-16)

**Sec. 102-457. Depositing goods on sidewalks.**

No person shall use any part of the sidewalks of the city for the deposit of any goods, wares or merchandise, in bulk or otherwise, except the necessary time consumed in transit or as otherwise provided in this article.

(C42, § 88-2; C54, C62, § 54-17; C75, C79, C85, § 23-17; O.11,251; C91, § 23-17)



**Sec. 102-458. Refreshment stands.**

No person shall erect or maintain, for purpose of sale, any lemonade, popcorn or other refreshment stand within the limits of any street or alley except as otherwise provided in this article.

(C42, § 88-3; C54, C62, § 54-18; C75, C79, C85, § 23-18; O.11,251; C91, § 23-18)

**Sec. 102-459. Lunchwagons, fruit stands, shoe shining parlors.**

No person shall keep, maintain, stand or operate any lunchwagon or stand for the sale of fruit or edibles or any other substances, commodities or articles of merchandise or any shoe shining parlors on any street, sidewalk or alley within that section of the city, bounded on the east by the east line of East Ninth Street, on the west by the west line of West Twelfth Street, on the south by the south line of Cherry Street and the south line of Court Avenue and on the north by the north line of Des Moines Street and the north line of West Grand Avenue, except as otherwise provided in this article.

(C42, § 88-4; C54, C62, § 54-19; C75, C79, C85, § 23-19; O.11,251; C91, § 23-19)

**Secs. 102-460—102-485. Reserved.**

**DIVISION 2. ENTERTAINMENT DISTRICT LICENSE**

**Sec. 102-486. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Entertainment district* means a specifically identified area or zone of the city, other than residential, which is composed of a group or organization of businesses such as restaurants and bars and shall allow the district to offer food, nonalcoholic beverages, merchandise or entertainment on a portion of the public sidewalk. The district may allow associated signage, planters, flowerpots, artwork, or historic markers or plaques on a portion of the public sidewalk within the entertainment district except the public sidewalk may not be obstructed beyond the portion needed for two directional pedestrian traffic.

(C91, § 23-19.01; O.13,042, 13,735)

Cross reference—Definitions generally, § 1-2.

**Sec. 102-487. Required.**

No person, group, or organization shall use a portion of the public sidewalk, except where otherwise authorized by ordinance or council resolution, for the sale of food, beverage, merchandise, or any other wares or for the purpose of entertainment without an entertainment district license as provided in this division.

(C91, § 23-19.02; O.13,042, 13,735)

**Sec. 102-488. Application.**

Any organization or group applying for an entertainment district license shall make written application to the city clerk. No license shall be issued unless an application containing the following information is first completed:

- (1) The name, address and phone number of the sponsoring organization or group.
- (2) The name, address and phone number of a person who will be responsible for the operation and conduct of the activities in the district.

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# Des Moines cool to idea of mobile ice cream vendors

By JULIE COMINE

Register Staff Writer

8-19-85

In many Iowa neighborhoods, it's a typical summer scene: An ice cream vendor drives along a residential street and rings a bell. Children dash after the vehicle as if it were some mechanical piper, screaming for Bomb Pops, fudge bars and other ice cream treats.

But nobody screams for ice cream on the streets of Des Moines.

Mobile ice cream vendors have been banned from the city since the summer of 1967, when a 9-year-old girl was killed and two other children were injured as they ran into traffic after buying ice cream.

Concerned parents asked the City Council to require that ice cream vendors install flashing safety lights and mechanical stop signs like those on school buses, but the council voted to ban the vendors altogether.

Two of the 10 ice cream vending companies then operating in Des Moines challenged the legality of the ban — insisting they put safety first, sales second. But a Polk County district judge upheld the council's decision and forced more than 50 ice cream trucks, vans and bicycles to hit the road.

"I don't think any council member here today wants the blood of his children on his hands," former councilman Jens Grothe said at a meeting in 1968, after the council had refused to reconsider its ban.

Although the ban created an emotional and legal furor in 1967, later revisions to the city's law books have deleted all specific references to ice cream vendors.

## Prohibits Vendors

Carol Moser, assistant city attorney, said such vendors still are prohibited under a section of the code dealing with the use of streets and sidewalks for business purposes. The code reads: "No person shall use any part of the sidewalk of the city, for deposit of any goods, wares or merchandise, in bulk or otherwise, except the necessary time consumed in transit."

What if a vendor sold ice cream in driveways or on other private properties?

"Technically, they probably could operate on private property, but then trespassing laws would go into effect," Moser said. "Somehow, they would have to prove that they had the owner's consent to operate there."

Moser said the city occasionally gets letters and phone inquiries from ice cream vendors, but most vending companies are aware they can't do business in Des Moines.

John Hampton, manager of Delight Wholesale in Omaha, Neb., says he would like to expand the fleet of 22 vans he now operates in Omaha, Council Bluffs and Sioux City to include Des Moines. He estimates that he could run six vehicles in Des Moines, which he said would bring in more than \$100,000 a year between March 1 and Oct. 31. During those months, he said, each van averages about \$17,000 in sales — ranging from Bomb Pops and drumsticks to "Froze Toes," a flavored-ice novelty in the shape of a foot, with a piece of bubble gum stuck in the big toe.

## Understands Concerns

Hampton says he understands the concerns of local citizens, and admits that no matter how careful ice cream vendors are, they cannot prevent children from darting into traffic. "That bell starts the first panic, and the kids come running," he said. "If something does happen, it's going to happen. That's an unfortunate part of this business."

Drivers for Delight Wholesale must be 18 years old with good driving records, Hampton said. They take a safety training course before beginning their routes, then watch defensive driving films every two weeks.

"Our main concern is to protect the children around the truck," Hampton said. "We tell the drivers that when they start down a residential street, to ring the bell and stop — to let these kids know we're not going to barrel down the road."

Stan's Ice Cream of Moline, Ill., which runs nine routes in the Quad-Cities area, last week applied for a peddler's license to operate in Des Moines, said Ron Lofgren, the company's assistant manager. Lofgren doubts he will get a license, saying Des Moines officials "made me very aware that there was an ordinance against it."

Lofgren asked city officials about the pushcart vendors that operate during the lunch hour in Nollen Plaza, but said he was told that they are stationary units doing business on private property.

## Collecting Information

He also asked about expanding to nearby communities, such as Ankeny and Ames, that allow mobile vending.

"I'm opting to move into the area, but so far I'm just collecting information," Lofgren said. "We've operated in the Quad Cities for 15 years, and from what I understand, there hasn't been one serious accident. Nobody hassles us. Everyone just loves it."

Except in Bettendorf, the only other Iowa city that specifically bans ice cream vendors.

Iowa City has a broadly drafted ordinance that prohibits "commercial use" of the public streets. Several other cities — including Cedar Rapids, Council Bluffs, Davenport, Dubuque, Sioux City and Storm Lake — require vendors to comply with stiff regulations.

Vendors in Council Bluffs, for example, may not sell their goods between 11 p.m. and 9 a.m. or within a block of a school between 8 a.m. and 4 p.m. They may not equip their vehicles with loudspeakers but are allowed to ring bells. They may sell their goods only to customers on the curb side of the street, where their vehicle must be legally parked.

Such regulations aren't easy to enforce, law enforcement officials say, and most violations aren't noticed until someone complains. Even in Bettendorf, where mobile ice cream vendors have been banned since 1982, vendors doing business elsewhere in the Quad Cities occasionally stray into the city limits, Bettendorf Police Chief Keith Chandler said.

## Preserves Quiet

"During the last three years, we've come across them two or three times," Chandler said, but he added that no vendors had been cited for violating the ordinance. Bettendorf's ban is primarily a noise control ordinance, and Chandler said residents supported the ban because it preserved the quiet and safety of their streets.

The Des Moines suburbs of West Des Moines, Windsor Heights and Urbandale don't specifically ban ice cream vendors, but city attorneys said they probably would be able to reject any applications on the grounds the vendors are traffic and safety hazards.

Added Frank Davis, Windsor Heights city attorney: "I don't think it would be to their economic advantage" to operate in smaller suburban communities.

Des Moines City Councilman George Nahas, who served on the 1967 council, doesn't think the city overacted when it banned mobile ice cream vendors.

"I think we did the right thing at the time," Nahas said. "We can't support anything that represents a danger to our children, and it's the children that would be in danger — not the adults. When they run out into the street, they're very excited, and they too often don't pay any attention to the traffic."

A proposal to repeal the ban wouldn't get much support, Nahas said. "If it's ever reconsidered, it will have to have heavy, heavy restrictions," he said. "And even then, I'm not convinced that it would be a good idea."