

**CITY OF BRIGANTINE
ORDINANCE 4 of 2024**

**AN ORDINANCE TO AMEND CHAPTER 105 OF THE CODE OF THE CITY OF
BRIGANTINE, ENTITLED "BEACHES AND RECREATION AREAS" TO
UPDATE REGULATIONS ICE CREAM PERMITS**

WHEREAS, Chapter 105 of the Code of the City of Brigantine (the "City"), entitled "Beaches and Recreational Area," governs, among other things, the licensing of ice cream vendors; and

WHEREAS, the City Manager, in consultation with City staff, has reviewed this process and recommends changes; and

WHEREAS, the City Council of the City of Brigantine believes it is in the best interests of the City residents accept and implement the recommended changes;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brigantine in the County of Atlantic, State of New Jersey, that Chapter 105, Section 105-4, Paragraph E of the Code of the City of Brigantine is repealed and replaced as detailed in this ordinance.

ARTICLE I. REPEAL AND REPLACE SECTION 105-4(E) OF THE MUNICIPAL CODE

The City Code at Section 105-4(E) entitled "Municipal beaches and recreational area permits" is repealed and replaced to read as follows:

105-4(E) Municipal beaches and recreational area permits

...

" E. Sale of Ice Cream on the Beaches.

- (1) Notwithstanding any other Code section to the contrary, there shall hereby be authorized the sale of ice cream, packaged ice cream, water ice, popsicles, fudgesicles, ice cream cones, Dixie cups, ice cream sandwiches, frozen yogurt, water, and similar frozen ice cream products on the beach in the City of Brigantine pursuant to the terms and conditions as contained herein. All of the above products hereinafter shall be referred to as "ice cream."
- (2) The City of Brigantine shall provide for ten (10) mercantile licenses to sell ice cream on the beach. Any veteran who held a license in the previous year shall have a first right of refusal to a current year license, provided that they submit their application by March 30th of the calendar year. All remaining mercantile licenses shall be offered on a first come, first serve basis, starting April 1st of the calendar year for the Summer season. Only valid mercantile license holders shall be authorized to sell ice cream on

the beaches in the City of Brigantine.

- (3) Only United States veterans who have been issued and hold a current and valid certificate pursuant to N.J.S.A. 45:24-9 may apply for a mercantile license to sell ice cream on the beach. The veteran must present the proper state or county vending identification to qualify. The mercantile licensee is the only person authorized to sell ice cream on the beach. The mercantile license to sell ice cream on the beach is not assignable or transferrable.
 - (a) In the event that there are an insufficient number of veterans applying for a permit, the City of Brigantine shall have the right to outsource to a vendor.
- (4) The mercantile licensee shall be prohibited from having any flag, banner, advertising, pinwheel, or other similar device or display on any box, container or equipment used to carry or transport the ice cream product to be sold. Notwithstanding this section, the display of a small American flag is permissible.
- (5) The carrying and transporting of ice cream products pursuant to this chapter is only permissible by:
 - (a) An insulated metal box with shoulder straps that is uniform in color; or
 - (b) A push cart that is uniform in color, has four wheels, is made of PVC pipe and has at least one trash receptacle attached thereto which is capable of holding a sufficient amount of trash and debris so that no litter results from the sale of ice cream on the beach.
- (6) Sale of ice cream on the beach shall only be permitted between the hours of 10:30 a.m. and 5:30 p.m. Sales shall be permitted from one week prior to Memorial Day until one week after Labor Day. Sale on the beach is also permitted for a special event on the beach outside of that time period if approval is received in advance from the City of Brigantine.
- (7) The sale of ice cream on the beach shall be authorized in a single zone. The established zone shall be on the beach starting at the northern promenade and proceeding in a southerly direction to the jetty and then in a westerly direction to the cove. It is the intention of this section to create a single zone extending from the northern promenade to the jetty and then to the Cove Recreational Area. Every mercantile licensee may traverse any section of the zone to sell ice cream.
- (8) Mercantile licenses to sell ice cream on the beach shall be subject to the following terms and conditions:
 - (a) Any person selling ice cream shall be at least 18 years of age or older.
 - (b) The photo mercantile license issued by the City of Brigantine must be visible at all times while selling ice cream on the beach.
 - (c) The applicant shall submit their fingerprints to the City of Brigantine Police

Department. The State of New Jersey has contracted with a vendor, Sagem Morpho, Inc., which performs this service. If the State changes such system, the City will utilize the existing State system without amendment to this chapter. The charge for the same shall be the sole responsibility of the applicant.

- (d) By submitting said fingerprints, any person authorizes the City of Brigantine and its police department and Sagem Morpho, Inc., to run a criminal background history and otherwise investigate each and every applicant to ensure they have not been convicted of a crime. No individual shall be authorized or permitted to sell ice cream on the beach in the City of Brigantine who has a criminal record.
- (9) The mercantile licensee shall be in violation of this chapter if any of the following occurs:
- (a) Any person selling ice cream on the beach acts in an unprofessional, discourteous, intimidating, or offensive manner to a member of the general public.
 - (b) Any person selling ice cream on the beach pursuant to this chapter disregards or fails to obey any order or direction given to them by a member of the Brigantine Police Department or the Brigantine Beach Patrol.
 - (c) Any person selling ice cream on the beach pursuant to this chapter commits, conducts, or demonstrates a state of moral turpitude.
 - (d) Any person selling ice cream on the beach pursuant to this chapter makes a false or misleading statement or otherwise gives incomplete or incorrect information during the application process.
 - (e) Any person selling ice cream on the beach pursuant to this chapter violates any of the conditions or requirements of this chapter.
 - (f) Any person selling ice cream on the beach pursuant to this chapter sells any product which is not authorized or sells authorized products.
 - (g) Any person selling ice cream on the beach pursuant to this chapter improperly disposes of debris, boxes, or otherwise causes trash or litter to be disbursed or accumulate on the beaches of the City of Brigantine.
- (10) All individuals selling ice cream along the beach in the City of Brigantine are required to appear in a neat and clean manner. Must wear a shirt with sleeves and always represent a professional image.
- (11) No individual selling ice cream on the beach in the City of Brigantine may use any bell, whistle, horn, loud speaker, cymbal, siren, or other such means of drawing attention or promoting sales to said individual. Hawking in a reasonable

tone is permissible.

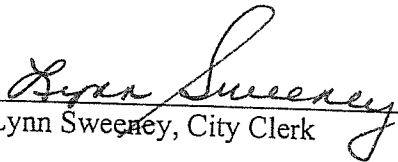
- (12) All individuals selling ice cream on the beach must comply with all federal, state, and local laws, rules, regulations, and ordinances, including any requirements of the Atlantic County Department of Health or other health department with jurisdiction, and are subject, without notice, to inspection of its product and equipment at any time by any state, county, or municipal official.
- (13) All equipment used by any individual to sell ice cream on the beach in the City of Brigantine shall be maintained in a clean, neat, and sanitary manner.
- (14) Every person selling ice cream on the beach pursuant to this chapter must wear the photo identification badge issued by the City of Brigantine. Additionally, there must be a prominent display of a price list setting forth the price of the items being sold by any individual selling ice cream on the beach pursuant to this chapter.
- (15) No restocking of ice cream product may occur on the beach in the City of Brigantine. To restock any product, the individual must leave the beach. No restocking may occur which would require a truck or other vehicle to be parked illegally in any street or parking lot located within the City of Brigantine. Any building, freezer, or other structure used to store ice cream products which are to be sold pursuant to this chapter, if located within the boundaries of the City of Brigantine, must be in conformity with the requirements of the Municipal Land Use ordinance of the City of Brigantine and with all national building codes and subcodes adopted and in use within the City of Brigantine.
- (16) All individuals selling ice cream on the beach shall sign an Indemnification and hold harmless agreement with the City of Brigantine indemnifying and holding harmless the City of Brigantine and any officials, employees or agents acting on its behalf from and against any and all losses, suits, cost, damages, claims, expenses, actions, liabilities or judgements whatsoever, including damage, personal injury or other damage or loss sustained or alleged to have been sustained in conjunction with the selling of ice cream on the beach, such indemnification and hold harmless agreement shall include, but not be limited to, indemnification for any and all claims by any party for royalties, patent infringements, food poisoning, or any other injury, loss or damage which are in any way related to the sale of ice cream on the beach by the Mercantile licensee.
- (17) Any person violating any provision of this Ordinance shall, upon conviction of the same, be punished for each offense by a fine not to exceed \$1,250.00, by imprisonment for a term not exceeding 90 days in the County jail or by being ordered to perform community service not in excess of 90 days, or any combination thereof as determined by the Municipal Court Judge. In addition, if any person is convicted of violating this Ordinance, the City of Brigantine reserves the right to terminate the license issued and/or reserves the right to exclude said person from applying in any subsequent year."

ARTICLE II. The remainder of Chapter 105-4 remains unchanged and unedited and in full force and effect.

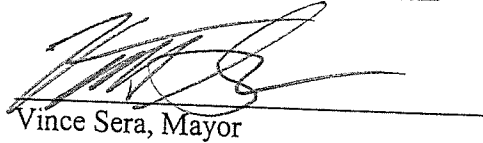
ARTICLE III. Repealer, Severability, and Effective Date.

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

ATTEST:


Lynn Sweeney, City Clerk

BRIGANTINE CITY COUNCIL


Vince Sera, Mayor

4888-6230-0075, v. 1

RECORD VOTE OF COUNCIL ON FINAL PASSAGE				
COUNCIL MEMBERS	Y	N	NV	AB
SERA				
RIORDAN				
KANE				
BEW				
LETTIERI				
HANEY				
DeLUCRY				

X-INDIGATES VOTE NV=NOT VOTING AB=ABSENT

INTRODUCTION: MARCH 6, 2024

ADOPTION: MARCH 20, 2024