

**BOROUGH OF LONGPORT**  
**R2017-132**

**A RESOLUTION ADOPTING RULES AND REGULATIONS FOR BEACH  
VENDING, ADOPTING TERMS AND CONDITIONS OF LICENSURE AND  
GIVING NOTICE FOR THE AUCTION SALE OF A BEACH VENDING  
LICENSE**

WHEREAS, the Board of Commissioners (the “Commission”) of the Borough of Longport (the “Borough”) have determined that it is in the interest of the Borough to adopt rules and regulations for beach vending in conjunction with Ordinance #2004-28;

WHEREAS, the Commission previously determined that it was in the interest of the Borough to expose for sealed bid auction one (1) exclusive beach vending license (the “License”) in 2017; and which pursuant to the terms of that bid can be extended by the Borough through the 2018 summer season at its sole and exclusive option; and

WHEREAS, the Commission has determined it is in the interest of the Borough to exercise their sole and exclusive right to extend the option for the License.

**NOW, THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Borough of Longport, County of Atlantic and State of New Jersey as follows:

1. The forgoing recitals are incorporated herein as if set forth herein at length.
2. The Borough Commission exercises its right, at its sole and exclusive option, to extend the term of the License granted hereunder inclusive of the 5% increase in the licensing fee through the 2018 summer season.
3. Upon payment of the licensing fee defined hereafter, the Borough Clerk shall issue an extension of the License which will permit the holder thereof (“Licensee”) to sell water and ice cream type products as more particularly described on the attached schedule of products and prices (“Schedule of Products and Prices” attached hereto) on the Borough’s beaches between 36<sup>th</sup> Avenue and 11<sup>th</sup> Avenue for the 2018 summer season commencing May 01, 2018 and terminating October 12, 2018 (“2018 Vending Season”). The Borough Commission continues to reserve the right, at its sole and exclusive option, to extend the term of the License granted hereunder to the Licensee to cover (i) the 2019 summer season under the same terms and conditions as the License is issued for the 2017 & 2018 Vending Season subject to an increase in the yearly License Fee, as hereinafter defined, of five (5%) percent for each extension. If the License term is so extended, the Licensee shall post the entire License Fee for that year within ten (10) days of the adoption of the resolution authorizing the extension of the License term. Nothing herein shall require the extension of the License term for any year or preclude the Borough Commission from amending the terms and conditions of the License provided that the Licensee may decline to

accept the extension within five (5) days of the adoption of each resolution authorizing each extension of the License term.

3. The "License Fee" for 2018 shall be \$38,115.

4. The Licensee may designate up to two (2) additional individuals ("Additional Licensees") to be approved as Licensees through the application process provided that any such Additional Licensees must be designated in writing simultaneously with the delivery of the Deposit. All references in this resolution to Licensee shall include Additional Licensees, if any. The Commission reserves the right at its sole discretion to accept and issue a license, or reject and issue or not issue a license accordingly.

6. The Licensee, and Additional Licensees if applicable, must submit to a background investigation conducted by the Borough Police Department, the results of which shall be used in determining whether or not to approve the license application. The winning bidder shall pay the cost of submission of fingerprints to the State Police for the any background investigation required hereunder.

7. The Licensee shall be subject to the following additional terms, conditions, rules and regulations:

(a) The Licensee may have helpers/employees assist with the sale of approved products on the Borough's Beaches. No more than five (5) helpers/employees, plus one (1) Licensee, if more than one (1) Licensee is approved, may vend on the beach at any one time. Every effort shall be made to employ residents of the Borough as helpers/employees.

(b) The Licensee and the helpers/employees shall wear clean, neat and white clothing at all times while vending on the Borough's beaches, free of commercial advertising, except for promoting products being sold.

(c) The Licensee's helpers/employees are also required to submit to a background investigation by the Borough's Police Department. No helper/employee of the Licensee may begin working on the Borough's beaches until the Borough's Police Chief, in his reasonable discretion, has issued a no negative finding report for such helper/employee.

(d) THE SCHEDULE OF PRODUCTS AND PRICES IS ANNEXED HERETO AND MADE A PART HEREOF. LICENSEE EXPRESSLY AGREES THAT (i) LICENSEE MAY NOT SELL ANY OTHER PRODUCTS THAN THOSE LISTED ON THE SCHEDULE OF PRODUCTS AND PRICES AND (ii) THE MAXIMUM PRICES FOR PRODUCTS TO BE SOLD SHALL NOT EXCEED THE PRICES FOR THE PRODUCTS AS SHOWN ON THE ATTACHED SCHEDULE. THE BOROUGH RESERVES THE RIGHT TO AMEND THE SCHEDULE OF PRODUCTS AND PRICES AT ANY TIME BY RESOLUTION OF THE COMMISSION.

(e) The provisions of Borough ordinances relating to vending on Borough beaches are incorporated herein as if set forth at length herein. To the extent that any of the terms of this resolution expressly conflict with the provisions of said ordinances, the provisions of the ordinances shall prevail, and the remaining terms of this resolution and the rules and regulations shall remain in full force and effect.

(f) Licensee shall comply with all Federal, State, County and Local laws, rules and regulations. Licensee shall register with the Atlantic County Board of Health and provide proof of registration to the Borough by May 1, 2017. Licensee shall allow inspection of its products and equipment by Federal, State, County and Local Officials at any time to insure compliance with the terms of the License.

(g) Licensee shall complete the (i) Disclosure Statement (Public Law 1977, Chapter 33) and (ii) Non-Collusion Affidavit available from the Borough Clerk and deliver same simultaneously with the Deposit.

(h) Containers (“Containers”) used by Licensee to transport on the Borough’s beaches the approved products to be sold on the Borough’s beaches shall be carried or moved on non-motorized wheeled carts substantially similar to those used by past Licensees. Any container to be used is subject to inspection by the Commissioner responsible for Public Works who in his/her reasonable discretion may reject and prohibit the use of such container. Licensee shall not establish any stationary stand or other structure for the sale of products pursuant to the License but shall at all times maintain sales from mobile containers stopping only to consummate individual sales.

(i) Licensee shall cause a copy of the License to be displayed on each Container while such Container is in use on the Borough’s beaches. Licensee shall, and shall ensure that its helpers/employees conduct themselves in a manner that is not offensive, annoying or intimidating. Licensee and its employees are prohibited from using loud bells, whistles or horns to sell their products. Licensee and/or its helpers/employees may employ verbal means to sell their products.

(j) The Licensee shall indemnify and save the Borough harmless from and against any and all losses, suits, cost damages, claim expense actions, liabilities or judgments whatsoever (including attorney’s fees) because of accident or injury sustained or alleged to have sustained by any party or parties, person or persons, property or properties occurring in conjunction with the operations under the license or by reason of the use of defective items/services furnished or delivered under the beach vending by or on account of any act of omission or commission of any Licensee, her, his, its, or their agents or employees. In the case of any action being brought against the Borough, the licensee shall immediately take charge of and defend same at her, his, its, or their own cost and expense. The Borough may, if it so desires, defend such action and charge the expense thereof

to the licensee. The Licensee is required to carry liability insurance in the minimum amount of \$1,000,000 or other amount approved by the Borough covering and insuring the Borough as aforesaid. The Licensee shall deliver to the Borough a certificate of insurance naming the Borough as an additional insured, with a 30-day cancellation clause prior to the beginning of each vending season but no later than April 15<sup>th</sup> of each year. A true copy of the insurance policy shall also be delivered to the Borough.

(k) Licensee's license may be terminated or suspended at any time. Reasons for termination or suspension of the License shall include, but not be limited to, the following conduct by Licensee or its helpers/employees: (a) disorderly conduct; (b) conduct demonstrating a state of moral turpitude; (c) making material false statements in the application or background check for the License; (d) violation of the terms and conditions of this resolution; (e) sales of products at an other than approved location or from an unapproved Container; (f) sales of unapproved products; (g) sales in excess of maximum permitted prices; or (h) disposing of debris or boxes in an unapproved manner. Adequate notice and a hearing before a hearing officer appointed by the Borough Mayor shall be given prior to permanent revocation of the License. A License may be temporarily suspended for good cause prior to a hearing for permanent revocation.

(l) Licensee shall not assign, pledge, lease, rent, sub-lease or sell his/her right, title or interest in the License or any portion thereof during the term of the license, without the prior written approval of the Borough which may be withheld for any reason.

(m) The price of all products for sale shall be prominently posted on the box or container used for the sale of products.

(n) Site Plan approval is required for a storage/distribution location in the Borough of Longport. Licensee shall comply with the Borough of Longport Zoning Ordinance, all Motor Vehicle Laws and regulations and Longport Parking Ordinances with regard to receiving, storing or delivering water and ice cream products. No water or ice cream products shall be received, stored or delivered in a Longport residential zone unless specifically permitted by the Longport Zoning Ordinance.

DATE: December 20, 2017

1-18-17 RECORD OF GOVERNING BODY VOTE ON FINAL PASSAGE						
COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO	X					
LEEDS	X					X
LAWLER	X				X	
X-Indicates Vote    NV-Not Voting    AB-Absent    MOT-Motion    SEC-Second						

**I, Matthew Conlon**, Municipal Clerk for the Borough of Longport, Atlantic County, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Governing Body of the Borough of Longport at a meeting of said Commission held on December 20, 2017 and said resolution was adopted by not less than a two-thirds vote of the members of the Commission.

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Matthew Conlon, Acting Municipal Clerk

SCHEDULE OF PRODUCTS AND MAXIMUM PRICES  
FOR VENDING ON LONGPORT BEACHES

<u>Product</u>	<u>Maximum Price</u>
1. Water – small	\$1.50
2. Water – large sport top	\$3.00
3. Single Bar Popsicle	\$2.00
4. Flavored Ice, Double Bar Popsicle, Fudgesicle	\$2.25
5. Italian Water Ice	\$2.25
6. Ice Cream Sandwich	\$1.75
7. Frozen Fruit Bar	\$2.50
7. Specialty premium items such as chipwich, space bar, etc.	\$3.50

THE BOROUGH OF LONGPORT RESERVES THE RIGHT TO AMEND THE  
SCHEDULE OF PRODUCTS AND PRICES AT ANY TIME.