

BOROUGH OF EATONTOWN – NOTICE OF ORDINANCE ADOPTION

NOTICE is hereby given that **Ordinance 07-2025** - Ordinance of the Borough of Eatontown Entitled **“ORDINANCE AMENDING THE DEFINITIONS OF CHAPTER 240 OF THE BOROUGH CODE ENTITLED “PEDDLERS, SOLICITORS AND CANVASSERS” TO DELETE THE SALE OF ICE CREAM AND CONFECTIONARY PRODUCTS FROM A VEHICLE AND AMENDING CHAPTER 258 ENTITLED “RETAIL FOOD ESTABLISHMENTS AND VENDING MACHINES” TO INCLUDE THE SALE OF ICE CREAM AND CONFECTIONARY PRODUCTS FROM A VEHICLE”** was passed after a public hearing at the regular meeting of **May 28, 2025** by the Governing Body of the Borough of Eatontown, at 47 Broad Street, Eatontown, NJ 07724. Borough of Eatontown - Julie Martin, RMC, Borough Clerk

ORDINANCE 07-2025

BOROUGH OF EATONTOWN

COUNTY OF MONMOUTH, STATE OF NEW JERSEY

ORDINANCE AMENDING THE DEFINITIONS OF CHAPTER 240 OF THE BOROUGH CODE ENTITLED “PEDDLERS, SOLICITORS AND CANVASSERS” TO DELETE THE SALE OF ICE CREAM AND CONFECTIONARY PRODUCTS FROM A VEHICLE AND AMENDING CHAPTER 258 ENTITLED “RETAIL FOOD ESTABLISHMENTS AND VENDING MACHINES” TO INCLUDE THE SALE OF ICE CREAM AND CONFECTIONARY PRODUCTS FROM A VEHICLE

WHEREAS, on October 22, 2024, the Eatontown Borough Council adopted Ordinance 17-2024 amending Chapter 240 of the Borough Code entitled “Peddlers, Solicitors and Canvassers” to clarify the definition of a Peddler under the Borough Code to cover the sale of ice cream products, water ices or frozen confectionary products of any kind from vehicles in order to protect Borough residents from unwanted peddling activity; and

WHEREAS, since amending the Borough Code in this manner, it has become apparent that the regulation of the sale of ice cream products, water ices or frozen confectionary products of any kind from vehicles is more appropriately addressed within Chapter 258 of the Borough Code entitled “Retail food establishments and vending machines” rather than in Chapter 240 of the Borough Code entitled “Peddlers, Solicitors and Canvassers”; and

WHEREAS, the Borough Council wishes to revise the definition of “peddler” within Chapter 240 of the Borough Code in order to delete the sale of ice cream products, water ices or frozen confectionary products of any kind from vehicles from that definition, and to revise Chapter 258 of the Borough Code entitled “Retail food establishments and vending machines” to include provisions governing the sale of ice cream products, water ices or frozen confectionary products of any kind from vehicles.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that it hereby amends Chapter 240 of the Borough Code entitled “Peddlers, Solicitors and Canvassers”, Section 240-2 “Definitions” as follows:

[additions are underlined, and deletions are noted as strike-out]

§240-2 Definitions

PEDDLER

Any person commonly referred to as a "peddler" or "hawker," who goes from house to house by foot or by traveling by vehicle on the public streets and carries with him goods, wares and merchandise, ~~including but not limited, ice cream, ice cream products, water ices or frozen confectionary products of any kind or character for the purpose of selling or offering to sell them to customers from such vehicle for the purpose of selling and delivering them to a consumer or consumers,~~ but shall not include the distribution of religious material without charge.

IT IS FURTHER ORDAINED that Chapter 258 of the Borough Code entitled "Retail food establishments and vending machines" is hereby amended as follows:

[additions are underlined, and deletions are noted as strike-out] [any numbered sections of this Chapter 258 which are not explicitly amended herein shall remain in full force and effect]

§258-5 License for food or beverage vending machine or for ice cream truck

- (a) The Borough of Eatontown hereby declares that it shall be unlawful for any person, firm or corporation to conduct or engage in the operation of a food or beverage vending machine without having obtained a health license. All food and beverage vending machine licenses shall commence as of January 1 and expire on December 31 of each year. All food and beverage vending machines shall be operated and maintained in compliance with the provisions of Chapter 24 - Sanitation in Retail Food Establishments and Food and Beverage Vending Machines in compliance with the provisions of this chapter and compliance with Title 24, Revised Statutes of New Jersey.
- (b) The Borough of Eatontown hereby declares that it shall be unlawful for any person, firm or corporation to engage in the sale of ice cream products, water ices or frozen confectionary products of any kind within the Borough from a vehicle without having obtained a health license from the Borough and paying the license fee for mobile vehicles set forth within §258-6. For purposes of this Chapter, any vehicle engaged in the sale of these products shall be collectively referred to herein as an "ice cream truck". Prior to obtaining a license to operate an ice cream truck within the Borough, the person, firm or corporation seeking such license must identify the names and addresses of all employees who will be engaged in the sale of these products from an ice cream truck so that the Borough may run a criminal background check on those employees. Any employees who fail the criminal background check shall be prohibited from engaging in the sale of these products from an ice cream truck operating within the Borough. If the licensee subsequently hires new employees, it must submit their names and addresses to the Borough so that the Borough may run a criminal background check on those new employees, and only those new employees who pass the criminal background check shall be permitted to engage in the sale of these products from an ice cream truck. The licensee's failure to follow these procedures may result in the suspension or revocation of its license and/or the fines and penalties set forth within §258-10.

§258-7 Application for license for retail food and beverage sales or vending machines or ice cream trucks
Applications for licenses shall be made to the Borough Clerk in accordance with the provisions of N.J.S.A. 26:3-69.1 to 69.6, 26:3-92 and 26:3-93 and Chapter 24 - Sanitation in Retail Food Establishments and Food and Beverage Vending Machines. Applicants shall submit an application on the form provided by the Borough along with the appropriate fees set forth above. Any person, firm or corporation intending to conduct or engage in the operation of retail food and beverage sales or in food and beverage vending machines or in the operation of an ice cream truck within the Borough must submit the license application and the proper fee prior to the beginning of operation.

§258-15 License not transferable

The license of any retail food establishment or food and beverage vending machine or ice cream truck vendor covered under this chapter is not transferable upon the sale of such retail food establishment or vending machine or ice cream truck company, and the new owner of any such retail food establishment or vending machine or ice cream truck company must apply for a new license and pay the appropriate fee provided for in §§ 258-6A, 258-6C et seq. of this chapter.

IT IS FURTHER ORDAINED, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

IT IS FURTHER ORDAINED that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

IT IS FURTHER ORDAINED that this Ordinance shall take effect upon passage and publication in accordance with applicable law.