

Chapter 206. Mobile Food Establishments

§ 206-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DEPARTMENT: The Rhode Island Department of Business Regulation.

EVENT ORGANIZER: An individual or entity that organizes a “Mobile Food Establishment Event” or a “Temporary Mass Gathering”.

EVENT PERMIT: A permit issued by the Town to the organizer of a Mobile Food Establishment Event or Temporary Mass Gathering located on or in roadways, private property, or public property within the Town.

FIRE SAFETY CODE: The fire safety code applicable within the State including any regulations promulgated thereunder.

MOBILE FOOD ESTABLISHMENT (MFE): A food service operation operated from a movable motor-driven or propelled vehicle, portable structure, or watercraft that can change location, including, but not limited to, food trucks, food carts, ice cream trucks/carts, and lemonade trucks/carts.

For the purposes of this chapter, and as allowed by Title 230, Rhode Island Department of Business Regulations, Sub. 35 - Mobile Food Establishment, Part 1.8, Permits, A.4.a., the following types of MFEs shall apply:

Type A: An MFE where food is prepared or reheated and sold from the unit.

Type A MFEs shall not operate in Residential Districts (A-4, A-3, and R-2), except when providing catering service for a private event on private property with the property owner’s written permission. Type A operations remain subject to the permit cap in § 206-3(D).

Type B: An MFE that sells prepackaged ice cream, ice cream products, and frozen lemonade.

Type B MFEs may travel through Residential Districts (A-4, A-3, and R-2) and may stop only for the time reasonably necessary to complete a sale, but in no event longer than ten (10) minutes per stop. Type B operations remain subject to the permit cap in § 206-3(D).

MOBILE FOOD ESTABLISHMENT EVENT: An event at a private or public gathering at which one or more MFEs are ordered, commissioned, or otherwise arranged to operate.

MOBILE FOOD ESTABLISHMENT OPERATOR or OPERATOR: A person, entity, or corporation that owns, manages, or controls, or has the duty to manage or control, the operation of an MFE.

MOBILE FOOD ESTABLISHMENT VENDOR or VENDOR: A person who prepares, sells, cooks, or serves food or beverages from an MFE.

MUNICIPAL MOBILE FOOD ESTABLISHMENT PERMIT or PERMIT: A permit issued by the Town to an MFE Operator that possesses a current state Mobile Food Establishment registration. The following municipal permits shall apply:

A. MFE Annual Permit: Permit issued to MFEs on an annual basis. The number of available MFE Annual Permits are set from time to time by Town Council resolution.

B. MFE Event Permit: Permit issued to MFEs that do not hold a current MFE Annual Permit and have been ordered, commissioned, or otherwise arranged to operate at a Mobile Food Establishment Event or a Temporary Mass Gathering within the Town.

PERMIT HOLDER: The holder of a Municipal Mobile Food Establishment Permit.

REGISTRANT: The holder of a state Mobile Food Establishment registration.

RIDOH: The Rhode Island Department of Health.

STATE MOBILE FOOD ESTABLISHMENT REGISTRATION or REGISTRATION: A registration issued by the Department authorizing an MFE to operate within the State.

TEMPORARY MASS GATHERING: An actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day, or for an event requiring more extensive review to protect public health or safety due to the event's nature or conditions that have the potential to generate environmental or health risks. The term includes special events, festivals, and concerts, and does not include an assembly at a location with permanent facilities designed for that specific assembly unless the event is open to the public.

TOWN: The Town of Gloucester.

TOWN CLERK: The Town Clerk of the Town of Gloucester.

TOWN COUNCIL: The Town Council of the Town of Gloucester.

§ 206-2. Scope; applicability; exemptions.

A. Applicability. This chapter applies to MFEs engaged in cooking, preparing, or distributing food or beverage, with or without charge, on or in road ways, public property, and private property, within the Town .

B. Exemptions. This chapter does not apply to hawkers or peddlers regulated under Chapter 198 Itinerant or Temporary Vendors. MFEs are not regulated as hawkers or peddlers.

C. Private property. Operation on private property is permitted only with authorization from the property owner.

§ 206-3. Permit Required; Application; Renewals; Limitations

A. Permit required.

1. No person, business, or other entity may operate a Mobile Food Establishment (MFE) within the Town unless the operator holds, at all times while operating, both: (a) a current and valid state Registration, and (b) a current and valid Municipal Mobile Food Establishment Permit issued by the Town Council.
2. Operation of an MFE without the required state Registration and Municipal Mobile Food Establishment Permit is prohibited and constitutes a violation of this chapter.

B. Permit types.

1. MFE Annual Permits.

- a. Permits issued to MFEs on an annual basis.
- b. The number of available MFE Annual Permits shall be set from time to time by Town Council resolution.
- c. The holder of a current MFE Annual Permit does not require any additional Town permit to participate in a Mobile Food Establishment Event or a Temporary Mass Gathering, provided the holder is in full compliance with this chapter and any event-specific conditions imposed by the Town or the Event Organizer.
- d. The fee for an MFE Annual Permit shall be as set forth in § 206-13.

2. MFE Event Permits.

- a. Permits issued to MFEs that do not hold a current MFE Annual Permit.
- b. An MFE Event Permit is required for any MFE that does not hold a current MFE Annual Permit and has been ordered, commissioned, or otherwise arranged to operate at a Mobile Food Establishment Event or a Temporary Mass Gathering within the Town.
- c. The fee for an MFE Event Permit shall be as set forth in § 368 Fee Schedule and may be assessed on a daily or weekly basis corresponding to the event period, as determined by the Town.

3. Event Organizer – Event Permits (Non–Temporary Mass Gathering).

- a. An Event Organizer must obtain an Event Organizer – Event Permit for any Mobile Food Establishment Event that does not qualify as a Temporary Mass Gathering.

- b. The fee for an Event Organizer – Event Permit shall be as set forth in § 368 Fee Schedule and may be assessed on a daily or weekly basis corresponding to the event period, as determined by the Town.

4. Event Organizer – Temporary Mass Gathering Permits.

- a. An Event Organizer must obtain an Event Organizer – Temporary Mass Gathering Permit for any Mobile Food Establishment Event that qualifies as a Temporary Mass Gathering.
- b. The fee for an Event Organizer – Temporary Mass Gathering Permit shall be as set forth in § 368 Fee Schedule and may be assessed on a daily or weekly basis corresponding to the event period, as determined by the Town.

C. Application. An Operator seeking a Permit or renewal shall submit a complete written application to the Town Clerk on the form prescribed by the Town, which shall include:

1. Applicant identity and contact: legal name, signature, telephone number, email, and business address.
2. Vehicle/Unit information: year, make, model, registration plate, VIN or unique identifier, exterior service window locations, and overall dimensions. No MFE may exceed 36 feet in length or 9 feet in width.
3. Copy of required current state Mobile Food Establishment Registration.
4. Hold Harmless and indemnification: Applicant shall execute a hold harmless and indemnification agreement in favor of the Town.
5. Fee: payment of the Permit fee established in § 206-13.

D. Permit cap; renewals; availability. The maximum number of annual MFE Permits may be established and amended by Town Council resolution. Permit holders in good standing may renew annually notwithstanding subsequent reductions in the permit cap, provided all requirements are met and timely renewal is made. A Permit not timely renewed shall lapse and may only be reissued if a Permit is available under the cap.

E. Waiting list. The Town Clerk shall maintain a chronological waiting list of persons who express interest in obtaining an annual Permit. Upon a vacancy, the Town Clerk shall notify the first person on the list. If that person fails to submit a complete application within ten (10) days after notification, the Town Clerk shall remove that person from the list and proceed to the next person. A denial by the Town Clerk may be appealed to the Town Council within thirty (30) days by written submission delivered to the Town Clerk by the close of business on the Monday immediately preceding the next Town Council meeting.

F. Non-transferability; change in information. Permits are non-transferable. Permit holders shall notify the Town Clerk in writing within ten (10) days of any material change in application information.

G. Town-sponsored events. Town-sponsored events are exempt from the requirement to obtain an Event Permit under § 206-8; participating MFEs must otherwise hold a current state Registration and a Town Permit unless expressly waived by the Town Council for the event.

§ 206-4. Permit terms; fees; parity with state registration.

A. Parity. Qualifications for a municipal Permit shall not exceed the qualifications for state Registration. The Town Permit fee shall not exceed applicable maximums.

B. Term; expiration. Annual Town Permits shall have an expiration date to coincide with the expiration date on the applicants current Annual State MFE permit, and therefore, shall expire on the same date as the associated state Registration, unless earlier suspended or revoked.

C. Single Permit sufficiency. A single Annual Town Permit authorizes operation within the Town during the permit year without additional daily or location-specific permits, subject to compliance with this chapter and any conditions of approval.

§ 206-5. Denial; suspension; revocation; appeals; due process.

A. Grounds. The Town may deny, suspend, or revoke a Permit if the operation of the applicant or Permit Holder violates or would violate this chapter or any other Town ordinance relating to land development, noise, zoning, traffic and parking, public health, or public safety.

B. Procedure. Except in exigent circumstances presenting an immediate threat to public health or safety, the Town shall provide written notice of intent to deny, suspend, or revoke, stating the grounds, and provide the applicant or Permit Holder an opportunity to be heard before the Town Council. For immediate threats, the Police Chief or designee may order an immediate temporary suspension pending prompt notice and hearing.

C. Appeals. An adverse decision of the Town Clerk is appealable to the Town Council. A final adverse decision of the Town Council may be reviewed in accordance with applicable law. Filing an appeal does not stay an emergency suspension.

D. Notice to state authorities. A Permit Holder subject to suspension or revocation shall provide written notice to the appropriate state authorities within three (3) business days of initiation of such action, with documentation of the Town's action.

§ 206-6. Hours and locations of operation.

A. Hours. Except as otherwise approved under § 206-7(F) or by the Town Council:

- Residential Districts (A-4, A-3, R-2): 9:00 a.m. to 8:00 p.m.

- • Business Districts (B-1, B-2): 9:00 a.m. to 9:00 p.m.
- • Industrial District (I): 7:00 a.m. to 9:00 p.m.
- • Village District (VD), Commercial District (CD): 9:00 a.m. to 9:00 p.m.

B. Exceptions. The Recreation Director may approve extended hours for Town parks and recreation facilities. The Town Council may approve extended hours for specific locations or events.

§ 206-7. Operating standards; prohibitions; public safety.

A. General siting. No MFE may operate on public or private property except as permitted under this chapter and any conditions imposed by the Town Council.

B. Prohibited locations. MFEs are prohibited from selling or displaying goods at the following intersections due to traffic and public safety concerns:

- Route 44 and Route 102;
- Route 44 and Route 100;
- Route 100 and Route 102;
- Route 44 and Douglas Hook Road;
- Route 44 and Farnum Road;
- Route 44 and Saw Mill Road;
- Route 44 and Pine Orchard Road.

C. Time -at-location limitaiton.

Except as part of an approved Event Permit or Temporary Mass Gathering Permit, no MFE may operate at a single location for more than four (4) hours within any twenty-four (24) hour period.

In Residential Districts (A-4, A-3, R-2), only Type B MFEs may make brief stops, and such stops shall not exceed ten (10) minutes per stop.

D. Additional restrictions by resolution. The Police Chief may recommend additional locations that present public safety concerns. The Town Council may adopt, amend, or rescind location restrictions by resolution after consideration of the Police Chief's recommendations.

E. Traffic flow; temporary suspensions. MFEs shall not impede the free flow of pedestrian or vehicular traffic. The Police Chief or designee may order temporary suspension of operations when, in their reasonable judgment, conditions warrant such action for public safety.

F. Town property; parks. No MFE shall operate on Town-owned parks, recreation areas, or other public property without prior written approval of the Recreation Director (for parks/recreation

areas) or the Town Council (for other public property). Any permission granted may be conditioned, rescheduled, or rescinded by the Town.

G. Proximity to similar businesses. No MFE shall stop or set up to serve customers within one hundred (100) feet of the primary public entrance of any establishment offering substantially similar goods or services, unless the establishment provides written consent.

H. Dress and conduct. Vendors and/or Operators shall maintain attire and conduct consistent with community standards of decency and professionalism. Attire that a reasonable person would consider indecent or patently offensive is prohibited.

I. Noise; solicitation. MFEs shall not use loudspeakers, amplified sound, or electronic noisemaking devices for the purpose of attracting attention, and shall avoid creating nuisance conditions, including excessive noise, smoke, odor, glare, or litter.

J. Signage; seating; fixtures. No signs, tents, tables, chairs, booths, benches, counters, or dining areas may be set up, installed or provided unless expressly approved as part of the Permit or an Event Permit. All fixtures must maintain required clearances for accessibility and egress.

K. Sanitation; waste; environmental controls.

- Single-service articles shall be provided with an on-site, covered waste receptacle available to customers. Vendors/Operators shall remove and properly dispose of all solid waste at their own expense.
- The MFE shall keep the operating area and an adjacent radius of at least twenty-five (25) feet free of litter and debris during and after operations.
- Wastewater, gray water, and grease shall be contained and disposed of properly. Discharge to storm drains, public ways, or on-site is prohibited.

L. Vehicle security; unattended vehicles. No MFE shall be parked overnight on a public street or left unattended and unsecured at any time on a public street. An unattended MFE on a public street may be cited and towed/impounded in accordance with standard police procedures. The owner/operator shall be responsible for all related fees and charges.

§ 206-8. Event Permit

A. Requirement. The organizer of any Mobile Food Establishment Event shall obtain an Event Permit prior to the event.

B. Application timing. Complete applications shall be filed at least thirty (30) days prior to the proposed event. If the organizer has reason to believe the event may meet the criteria of § 206-9, the organizer shall file sufficiently in advance to allow compliance with § 206-9.

C. Review and approval. The Town Clerk shall review applications for completeness and coordinate review with relevant departments. The Town Council shall be the permitting authority for Event Permits and may impose reasonable conditions.

D. Fees. Fees shall be charged in accordance with Chapter 368, Fee Schedule.

E. Compliance. All events shall comply with this chapter and all other applicable land use, zoning, public safety, and health requirements.

F. Documentation. Prior to issuance, the organizer shall submit a list of participating MFEs, and each participating MFE shall provide proof of current state Registration and Town Permit.

§ 206-9. Temporary Mass Gathering Permit.

A. Requirement. In addition to an Event Permit, a Temporary Mass Gathering Permit is required for an event with an anticipated assembly of five hundred (500) or more people for two (2) or more hours per day, or for an event that, due to its nature or conditions, warrants more extensive review to protect public health or safety.

B. Application timing. Complete applications shall be filed at least thirty (30) days prior to the proposed event.

C. Review and approval. The Town Council shall be the permitting authority and may impose reasonable conditions to address crowd management, sanitation, traffic, fire safety, and public health.

D. Fees. Fees shall be charged in accordance with Chapter 368, Fee Schedule.

E. Documentation. Prior to issuance, the organizer shall provide a site plan, crowd management plan, sanitation and waste plan, and list of participating MFEs with proof of state Registration and Town Permit.

§ 206-10. Display of permits and documents.

A. Display. The Town Permit shall be conspicuously displayed on the MFE at all times during operation. The state Registration shall be available for inspection.

B. Production on demand. Upon request by any Town official or law enforcement officer, the Operator shall produce all permits, registrations, and approvals required under this chapter.

§ 206-11. Compliance with other laws; fire and health standards.

A. Compliance. MFEs shall comply with all applicable statutes, rules, regulations, ordinances, and policies relating to food safety, public health, and fire safety.

B. Fire safety. MFEs using cooking or heating equipment shall maintain compliant fire suppression systems, fuel systems, and portable extinguishers, and shall comply with inspection and tagging requirements as required by State requirements for the issuance of the State permit.

§ 206-12. Application format; electronic submissions.

Applications for Town Permits, Event Permits, and Temporary Mass Gathering Permits may be submitted by email or other electronic means approved by the Town Clerk, together with required attachments and fees.

§ 206-13. Fees.

A. Annual Permit fee. The annual fee for a Town Permit shall be seventy-five dollars (\$75.00), or such other amount as may be set by the Town Council, not to exceed applicable maximums.

B. Event and Temporary Mass Gathering fees. Fees shall be as provided in Chapter 368, Fee Schedule.

§ 206-14. Permitting authority; procedures; hearings.

A. Authority. The Town Council is the permitting authority for Event Permits and Temporary Mass Gathering Permits, and for appeals from Town Clerk decisions on MFE Permits.

B. Hearings. The Town Council shall hold public hearings on applications for Event Permits and Temporary Mass Gathering Permits and on appeals or enforcement actions under this chapter. Notice and an opportunity to be heard shall be provided to affected applicants or Permit Holders.

§ 206-15. Violations; penalties; enforcement; impound; surrender.

A. Penalties. Any person violating this chapter shall be subject to a fine not exceeding five hundred dollars (\$500.00) for each offense. Each sale or offer for sale in violation constitutes a separate offense. In addition, a Permit may be suspended or revoked for cause.

B. Progressive sanctions. The Town Council may impose progressive sanctions, including warning, probationary conditions, suspension, and revocation. A first revocation bars reapplication for the next permit year; a second revocation bars reapplication for the next two permit years; a third revocation results in permanent ineligibility.

C. Operating without a Permit. Any person operating without the required Permit is subject to a minimum fine of two hundred fifty dollars (\$250.00) per offense. Associated vehicles may be cited and towed/impounded pursuant to standard police procedures. The owner/operator is responsible for all towing and storage charges.

D. Surrender of Permit. Upon cancellation, suspension, or revocation, the Permit Holder shall immediately surrender the Permit to the Town Clerk or designee.

E. Enforcement and forum. The Gloucester Police Department is authorized to enforce this chapter. Matters may be brought in the appropriate court of competent jurisdiction.

§ 206-16. Severability; conflicts; effective date.

A. Severability. If any clause, sentence, paragraph, section, or part of this chapter is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder, but shall be confined to the portion directly involved in the controversy.

B. Conflicts. In the event of a conflict between this chapter and any other Town ordinance, the more specific provisions governing MFEs shall control, unless otherwise provided by law.

C. Effective date. This Chapter shall take effect upon passage.