

ORD-19-33-A
TOWN OF CUMBERLAND

**AN ORDINANCE: ESTABLISHING MUNICIPAL MOBILE FOOD
ESTABLISHMENT PERMITS**

The Town of Cumberland ordains:

Section 1. The Town of Cumberland Code of Ordinances is hereby amended to add the following Article in Chapter 8 entitled "Businesses":

Article IX Mobile Food Establishment Permit.

§ 8-200 Authority.

This ordinance is enacted pursuant to the authority granted in R.I. General Laws § 5-11.1-1, et seq. Any inconsistencies of the Article with the State Mobile Food Establishment Registration Act (the "MFER Act") shall be interpreted to comply with the MFER Act.

§ 8-201 Definitions.

"Mobile food establishment" means a food service operation that is operated from a movable motor-driven or propelled vehicle, portable structure, or watercraft that can change location. Mobile food establishments specifically includes, but is not limited to, food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts ("MMFE").

"Mobile food establishment operator" or "operator" means a person or corporate entity who or that owns, manages, or controls, or who or that has the duty to manage or control the operation of a mobile food establishment.

"Mobile food establishment vendor" or "vendor" means a person who prepares, sells, cooks, or serves food or beverages from a mobile food establishment.

"Municipal mobile food establishment permit" means a permit issued by the Town of Cumberland to a mobile food establishment operator that possesses a current state mobile food establishment registration ("MMFE permit").

"State mobile food establishment registration" means a registration issued by the department of business regulation which authorizes a mobile food establishment vendor to operate in this state.

"State Registrant" means the holder of a "state mobile food establishment registration."

§ 8-202 Municipal mobile food establishment permit; application.

The Town Clerk shall be the designated contact for municipal mobile food establishment permits (MMFE permits). The Town Clerk shall comply with the requirements of Title 230, RI Dept. of Business Regs., Sub 35- Mobile Food Establishments, Part 1.8(A)(1).

43 The Town Clerk shall accept applications for MMFE permits by email.

44 No person or business entity, including religious or charitable organizations, shall operate a MMFE in
45 any public, private, restricted space or state-owned property within the Town, or participate in any event
46 or mass gathering without a permit issued by the Town Council, which is the permitting authority under
47 this Article. MMFEs shall not be regulated as hawkers or peddlers.

48 The following must be submitted with an application for an MMFE permit:

49 Application form;
50 Copy of state mobile food establishment registration;
51 Permit fee of \$35.00;

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53 **§ 8-203 Grounds for denial, suspension, or revocation of MMFE.**

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55 The Town may deny, suspend or revoke a MMFE permit if the operation of the registrant within the
56 Town violates or would violate the Town's land use regulations, including the Zoning Ordinance, or
57 other Town ordinances in relation to the operation of a MMFE.

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59 **§ 8-204 Disciplinary action against holder of MMFE; reporting requirement.**

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61 The holder of a MMFE permit against whom disciplinary action is taken shall notify the Department of
62 Business Regulation in writing and provide documentation of such discipline within three business
63 days of the initiation of such disciplinary action.

64
65 **§ 8-205 Operation of MMFEs.**

- 66 (a) MMFEs that sell prepackaged ice cream, ice cream products and frozen lemonade are permitted
67 to travel through residential and agricultural zoning districts and must stop only long enough to
68 complete the sale of their product.
- 69 (b) MMFEs that sell foods and beverages is prohibited from operating and parking in residential and
70 agricultural zoning districts unless catering a private event and not selling at retail to the general
71 public.
- 72 (c) MMFEs may park in any legal parking space on a public street for up to four (4) consecutive
73 hours in one day, but not within fifty feet (50') of an entrance to a restaurant.
- 74 (d) MMFEs may not park or operate on school grounds until 1 hour after classes are dismissed for
75 the day. Tucker Field shall not be considered school grounds.
- 76 (e) No MMFE shall operate or park in any location which would restrict or interfere with the ingress
77 or egress of abutting property owners, create a public nuisance, increase traffic congestion or
78 delay, or constitute a hazard to life and/or property, or obstruct adequate access to fire, police or
79 safety vehicles.
- 80 (f) MMFEs shall provide service articles, including appropriate servingware, and a waste container
81 that the MMFE will empty at its own expense.
- 82 (g) No temporary tables or seating areas are permitted on public property, unless approved by the
83 Town Council.

84 **§ 8-206 Permit to be displayed.**

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86 When operating in the Town of Cumberland, MMFE must be prominently displayed where it can be
87 seen by the consumer, in close proximity to the point of service.

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89

90 § 8-207 Expiration.

91 A MMFE shall expire on the same day that the state mobile food establishment registration expires.

92 § 8-208 Bid required for use of Town-owned property.

93 Beginning May 1, 2020, no MMFE shall operate on Town property without the approval of the Town
94 Council in the following manner.

95 Between January 1 and March 15 of each year, the Parks and Recreation Director shall issue request for
96 bids for specifically designated areas on Town-owned properties that are desirable for mobile food
97 establishments to locate, as established by the Town Council by resolution. The Director shall establish
98 a minimum bid for each designated area. The successful bidder shall be entitled to use the property at
99 the times designated in the request for bids during an annual term beginning May 1 and ending April 30,
100 with a reservation of the Town's right to move the mobile food establishment to a nearby secondary
101 location when the Town requires the area for an event. New areas may be designated from time-to-time
102 with approval from the Town Council by resolution, and requests for bids may be issued thereafter for
103 any remaining annual term.

104 Section 2. This ordinance shall take effect immediately upon passage and shall repeal any prior
105 ordinances or parts of ordinances inconsistent herewith.

106 LEGISLATIVE EXPLANATION

107
108 This Ordinance establishes requirements to operate a mobile food establishment in the Town of
109 Cumberland, consistent with state law and the regulations promulgated by the Department of Business
110 Regulation.

111
112 Solicitor/Clerk
113 2/19/2020

ON A MOTION BY COUNCILOR SCHMITT, SECONDED BY COUNCILOR GEMSKI IT IS VOTED TO APPROVE
AS AMENDED. VOTE 6/1.

NAY: Councilor Bradley

Date Adopted: March 4, 2020


Jeffrey J. Mutter, Mayor

A True Copy, ATTEST:


E. Craig Dwyer, President


Sandra M. Giovanelli, Town Clerk