

ORDINANCE NO. 2024-3411

TOWNSHIP OF MIDDLETOWN  
COUNTY OF MONMOUTH

AN ORDINANCE AMENDING PERMITTING AND LICENSING  
STANDARDS FOR ITINERANT RETAIL FOOD HANDLING  
ESTABLISHMENTS

**WHEREAS**, the Township of Middletown (the “Township”) has authority to regulate land uses within its municipal boundaries under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. and police powers under N.J.S.A. 40:48-1, et seq.; and

**WHEREAS**, the Township has the authority to regulate retail food-handling establishments, providing for the inspection of such establishments and fixing penalties for violations is hereby established pursuant to N.J.A.C. 8:24, Sanitation in Retail Food Establishments and Food and Beverage Vending Machines; and

**WHEREAS**, the Bureau of Fire Prevention has the authority to enforce the Uniform Fire Safety Act and the NJ Uniform Fire Code to all buildings, structures and premises covered under said provisions within the Township pursuant to N.J.A.C. 5:70; and

**WHEREAS**, The Department of Health and Bureau of Fire Prevention have set forth inspection requirements with associated fees and permitting of Itinerant Retail Food Handling Establishment; and

**WHEREAS**, on July 17, 2023, the Township adopted Ordinance No. 2023-3378 governing Itinerant Retail Food Handling Establishments that has been codified, in part, under §§ 265-15, 265-17, 240-16, and 240-8 of the Township Code, which it would like to amend.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, that the Code of the Township be and is hereby amended and supplemented, as follows:

**SECTION 1. Amending § 265-15 Application and license/permit required.**

No person or entity shall maintain or operate an itinerant retail food handling establishment without obtaining the following:

- A. Zoning permits are required for mobile Class A vendors, and may be required for other types. Development permit applications are available at the Township Building Department. **No application fee shall be charged for a zoning permit being applied for under this Chapter.**
- B. A Mobile/TFE license. Applications are available at the Township Health Department.
- C. A special fire permit. Applications are available at the Township Fire Prevention Bureau.

**SECTION 2. Amending § 265-17 Governing Prohibitions**

- A. All foods served by itinerant retail food handling establishments must be prepared onsite and/or at a base of operations. No home prepared foods may be served or given away unless otherwise specifically permitted by law.

- B. Mobile Class A vendors may not operate on any property that fronts along the following roadways:
  - i. State Hwy #36
  - ii. State Hwy #35
  - iii. Middletown-Lincroft Road
  - iv. Route 520/Newman Springs Road.
- C. Mobile Class A vendors may not operate within 1,000 feet from any property line containing an establishment with a Retail Food Handlers License.
- D. Mobile Class B vendors must maintain mobility. The vehicle may only stand while serving customers and must continue their route immediately after serving the last customer. At no time will the stoppage be more than 15 minutes.
- E. No Itinerant Retail Food Establishment may operate in any fire zone or fire lane as established in § 254-9 of the Township code, or interfere with traffic flows, parking spaces or in any way cause a traffic hazard.
- F. No Itinerant Retail Food Establishment may operate on any vacant lot.
- G. Itinerant Retail Food Handling Establishments at private parties shall not operate without first obtaining a permit from the Middletown Township Police.
- H. No Itinerant Retail Food Establishment may operate on any Township property without the prior written approval, permitting, and inspection procedure from the Township.
- I. **Mobile Class vendors whose primary place of business is located within the Township shall be exempt from the fees imposed under § 240-36 of the Township Code.**

### **SECTION 3. Amending § 240-36 Governing Fees for Itinerant Retail Food Handling Establishments**

- A. General licensing fee for Itinerant Retail Food Handling Establishments
  - 1. Health Department Fees
    - a. Mobile Food Class A ~~\$200~~ **\$500** per calendar year
    - b. Mobile Food Class B \$125 (old term "mobile food handler") per calendar year
    - c. Temporary Food Handlers see § 240-24G(4)(5) of the Township Code
    - d. Reinspection fee for conditional or unsatisfactory rating
      - i. First occurrence within two-year period: \$100
      - ii. Second occurrence within two-year period: \$200
      - iii. Third occurrence within two-year period: \$500
  - 2. Fire Prevention Bureau Fees
    - a. \$54 Type 1 special permit fee as per N.J.A.C. 5:70 for weekday inspections during the hours of 8:00AM - 4:00PM
    - b. \$50 additional inspection fee ~~\$100~~ on weekdays during beyond the hours of 8:00AM – 4:00PM inspections fee
    - c. \$75 additional inspection fee ~~\$175~~ for weekends and holidays inspections fee, or after hours
    - d. \$50 reinspection fee

### **SECTION 4. Amending § 240-8 Governing Fire Prevention Fees**

Pursuant to Chapter 254, Fire Prevention, of the Code of the Township, the following fees are hereby established:

- (1) Type 1 permit: ~~\$54~~ **\$35**.
- (2) Type 2 permit: ~~\$214~~ **\$138**.
- (3) Type 3 permit: ~~\$427~~ **\$276**.
- (4) Type 4 permit: ~~\$641~~ **\$414**.
- (5) Type 5 permit: ~~\$2,185~~ **\$1,380**.

**[SECTION 5. Severability.**

If any section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

**SECTION 6. Repealer.**

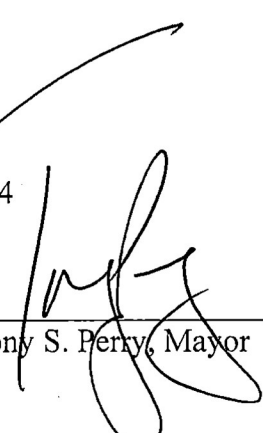
All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

**SECTION 7. Effective Date.**

This ordinance shall take effect immediately after final adoption and approval pursuant to law.

PASSED ON FIRST READING: April 8, 2024

PASSED AND APPROVED: April 22, 2024

  
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Anthony S. Perry, Mayor

ATTEST:

  
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Heidi R. Pieluc, Township Clerk