

GENERAL CODE PUBLISHERS CORP.
72 HINCHEY ROAD
ROCHESTER, NY 14624
TELEPHONE: 716-328-1810

LEGISLATION INFORMATION AND HISTORY

TOWN OF CHARLESTOWN

Type of enactment (ordinance, resolution, bylaw, local law):

Ordinance No. 387

AMENDS CHAPTER 128 – HAWKERS, PEDDLERS AND SOLICITORS

Action	Date
Introduction	January 13, 2020
Publication	February 3, 2020
Adoption	February 10, 2020
Publish Notice of Adoption	February 17, 2020

Date copy sent to General Code Publishers for codification: February 12, 2020

The legislative history will be compiled as the ordinance passes through the required procedures. A copy of the form should be sent with the ordinance to General Code for them to keep with the code files, the original being retained as a record in the Town Clerk's files.

**PUBLIC NOTICE
TOWN OF CHARLESTOWN**

Notice is hereby given that the following ordinance was adopted by the Town Council of the Town of Charlestown after a public hearing, duly advertised and posted, held on February 10, 2020 at the Charlestown Town Hall, 4540 South County Trail, Charlestown RI.

**ORDINANCE NO. 387
AN ORDINANCE AMENDING CHAPTER 128 – HAWKERS, PEDDLERS AND
SOLICITORS**

Note: Words set as ~~strikeover~~ are to be deleted from the ordinance; words set in underline are proposed to be added to the ordinance.

Section 1. Be it ordained by the Town Council of the Town of Charlestown that Chapter 128 of the Code of Ordinance, Town of Charlestown entitled Zoning is amended as follows:

See Exhibit A attached hereto and incorporated herein by reference as if set forth in its entirety.

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to Chapter 128 of the Town of Charlestown’s Code of Ordinance.

Section 3. This ordinance shall take effect immediately upon passage.

Attested to by:

Passed by the Town Council on:

Amy Rose Weinreich, CMC Town Clerk

February 10, 2020

Article I Hawkers and Peddlers

§ 128-2 Definitions.

C. "Peddler" shall mean any person selling or offering for sale any goods, wares or merchandise, ~~including any food or beverage,~~ from a vehicle, cart or any other conveyance which is not stationary.

Article III Mobile Food Establishments

§ 128-14 Purpose.

The purpose of this article is to protect the health, safety and general welfare of the general public through the regulation and licensing of mobile food establishments and mobile food establishment operators, pursuant to the relevant provisions of Chapter 11.1 of Title 5 of the General Laws, as amended.

§ 128-15 Definitions.

The following words shall have the following meaning when used in this article.

- (1) "Department" means the department of business regulation.
- (2) "Director" means the director of the department of business regulation.
- (3) "Event permit" means a permit that a city or town issues to the organizer of a public mobile food establishment event located on public property.
- (4) "Fire safety code" shall have the meaning set forth in chapter 28.1 of title 23 and shall include any regulations promulgated thereunder.
- (5) "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.
- (6) "Mobile food establishment event" means an event where an individual has ordered or commissioned the operation of one or more mobile food establishments at a private or public gathering.
- (7) "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.
- (8) "Mobile food establishment vendor" or "vendor" means a person who prepares, sells, cooks, or serves food or beverages from a mobile food establishment.
- (9) "Municipal mobile food establishment permit" means a permit issued by a city or town to a mobile food establishment operator that possesses a current state mobile food establishment registration.
- (10) "Registrant" means the holder of a "state mobile food establishment registration."

(11) "RIDOH" means the Rhode Island department of health.

(12) "State mobile food establishment registration" or "registration" means a registration issued by the department which authorizes a mobile food establishment to operate in the state.

(13) "Temporary mass gathering":

(i) Means an actual or reasonably anticipated assembly of five hundred (500) or more people that continues, or reasonably can be expected to continue, for two (2) or more hours per day; or an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(ii) Includes, but is not limited to, "special events" as defined in the food code regulations promulgated by RIDOH, and festivals and concerts.

(iii) Shall not include an assembly of people at a location with permanent facilities designed for that specific assembly.

§ 128-16 License required.

No person shall operate a mobile food establishment in the Town of Charlestown without first having obtained a mobile food establishment license from the Town Council, unless specifically exempted pursuant to Chapter 11.1 of Title 5 of the General Laws, as amended.

§ 128-17 Application for license to be made; license issuance.

A. A mobile food establishment license application shall be made in writing to the Town Council. Application shall be made upon a form to be supplied by the Town Clerk. Such application must include the following information:

(1) Proof that the applicant has been issued a permit to make sales at retail by the State Division of Taxation and approval from the State Health Department, if applicable and has been issued a current and valid state mobile food establishment registration.

(2) Written approvals of the Police Department, Building Official's Office and any other applicable Town Department.

(3) The exact days, hours of operation and proposed route of operations, if any or specific location if proposed to be operating stationary, for the proposed license.

(4) A detailed description of the nature of goods and/or articles to be sold.

(5) The exact location of the proposed business, to include the plat and lot number where the business is to be located on property owned by other than the applicant, a sworn statement must be obtained by the owner consenting to the application.

(6) The current zoning designation of the property.

B. It is further required that any person applying for a mobile food establishment license under the provisions of this article shall sign a hold harmless agreement indemnifying the Town of Charlestown, its officers, agents and employees from any liability arising out of or in the course of his or her business or the granting of a license for same.

C. Upon receipt of a complete application for a mobile food establishment license, the Town Council

shall place the application down for consideration at their next regular Town Council meeting agenda for action. The Town Council may issue a license only if in their sole discretion that they find that the requested license will not disrupt the general health, safety, or general welfare of the Town and pursuant to the requirements of Chapter 11.1 of Title 5 of the General Laws, as amended, and as otherwise set forth in Section 128-4, herein.

D. Persons licensed under this Chapter shall remove all paper, food, cardboard, wood or plastic containers, wrappers or any similar type of litter deposited by the licensee or his/her customers. The licensee shall provide and use a waste container, of not less than ten-gallon capacity and not more than thirty-gallon capacity for the placement of such litter. The licensee shall remove all waste and litter generated by the licensee and his or her customers on a daily basis.

E. The Town Clerk, upon a decision of the Town Council to grant a mobile food establishment license shall issue the license, the term of which shall expire on December 31 in the year when issued.

§ 128-18 Investigation of applicant; grounds for denial or revocation of license.

A. Upon receipt of the application by the Town Clerk's Office, the Chief of Police or his or her designee shall undertake and complete within 30 days an investigation of the applicant's proposed operation route or stationary location.

B. The Town Council, may, after a hearing thereon, either approve, reject or revoke such license or any application therefor if the operation of the mobile food establishment within the town violates the town's land use regulations, zoning, or other ordinances in relation to the operation of a mobile food establishment. In reviewing any application for the issuance, renewal or revocation for a mobile food establishment license, the Town Council may consider any or all of the following factors:

- (1) The potential for traffic congestion.
- (2) The need in the community for the proposed license.
- (3) The zoning of the parcel in question and its compatibility with the proposed application.
- (4) The unsatisfactory moral character or business responsibility of the applicant.
- (5) Any other conditions which may prove to be inimical to the public health, safety and welfare of the Town.

C. A license issued under this article may be revoked by the Town Council after notice and hearing for, but not limited to, any of the following causes:

- (1) Fraud, misrepresentation, omission or false statement contained in the license application.
- (2) Fraud, misrepresentation or false statement made by the person in the course of carrying on his or her business as a peddler or hawker.
- (3) Any violation of this Chapter.
- (4) Conviction of any crime or misdemeanor involving moral turpitude.
- (5) Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

D. Persons whose license has been revoked under this section may not reapply for a license within one year of the date of revocation.

§ 128-19 License fees.

The fee for a license issued pursuant to this Chapter shall be fifty dollars (\$50.00).

§ 128-20 Exemptions and limitations.

A. No license is required from persons selling farm or garden produce, including flowers, and persons selling works of art or crafts of their own making at an art or craft show or exhibit, are not a mobile food establishment or mobile food establishment operator and are not subject to the licensing requirements of this article.

§ 128-21 Mobile food establishments prohibited in certain areas.

A. No person shall operate a mobile food establishment within the Town except between the hours of 9:00 a.m. and 8:00 p.m. or unless authorized to operate additional or different hours as part of a separately licensed special event at a town-owned facility.

B. The Chief of Police or his or her designee is hereby authorized to submit to the Council a list of streets and public ways throughout the Town which, in his opinion, because of excess traffic and congestion, are unsafe for the public welfare and safety for the selling or offering for sale or merchandise by mobile food establishments. The Town Council will give final approval. Upon approval, such list will be on file in the Town Clerk's Office.

C. At no time shall a mobile food establishment impede the free flow of traffic. The Chief of Police or his or her designee is hereby authorized to suspend operation of mobile food establishment at any time and for such periods of time on streets and ways where conditions exist that require him, in his opinion, in the interest of public safety, to do so without a prior request to the Town Council.

D. No mobile food establishment shall operate within 500 feet (five hundred feet) of any business establishment in the Town which sells the same product.

§ 128-22 Transferability of license.

No license issued pursuant to the provisions of this article shall be transferable, nor shall it authorize a person other than the one to whom it was issued and named therein to act there under.

§ 128-23 Display of license.

A person holding a license issued pursuant to the provisions of this article shall carry it with him at all times while engaged in such business and shall produce it when required by any policeman or member of the Town Council, and failure to do so shall be grounds to revoke his license.

§ 128-24 Penalties for offenses.

Any person who shall violate any provision of this article shall be subject to revocation of license and/or the issue of a fine not to exceed two hundred dollars (\$200.00).