

# Concise Explanatory Statement

## Rhode Island Government Register

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In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

**AGENCY:** Rhode Island Department of Business Regulation (“Department”)

**DIVISION:** Commercial Licensing

**RULE IDENTIFIER:** 230-RICR-30-35-1

**REGULATION TITLE:** State Registration of Mobile Food Establishments

**RULEMAKING ACTION:** Adoption, Full Rulemaking

### A. Statement of Purpose of the Amendments.

This regulatory action was taken in order to implement the state registration of Mobile Food Establishments (MFE) in 2019 as required by R.I. Gen. Laws Chapter 5-11.1 (the “Act”). In order to complete the implementation process, the Department is proposing this regulation, which:

- Outlines the application requirements for MFE registration in Rhode Island;
- Establishes procedures for the issuance and renewal of registrations;
- Clarifies requirements for foreign MFEs’ local registration and operation;
- Requires municipalities to accept municipal permit applications electronically, via e-mail or other designated system;
- Clarifies and centralizes fire safety requirements with the Office of the State Fire Marshal;
- Sets fees for late renewals, maximums for municipal permits and maximums for multiple MFE ownership;
- Establishes municipal reporting requirements; and
- Establishes enforcement procedures and penalties for violations of the Act or regulation.

### B. Summary of the Regulatory Analysis.

The standardization of MFE registration will simplify the process for MFEs, which are mostly small businesses, to operate in this state. The purpose of this program is to reduce the amount of time that MFE operators spend waiting at state and local government offices for permits and inspections. Through the review of registration requirements, the Department will vet each MFE, and by issuing a registration it will affirm to all municipalities that the MFE is qualified to operate in this state. The Act and proposed regulation will simplify registration by:

- Centralizing fire inspections with the Office of the State Fire Marshal, which is part of the Department. This will save time for MFEs that currently have to get inspected in each municipality where they apply for a permit.

- MFEs registered in multiple municipalities will save money on an annual basis due to the Department setting maximum municipal fees and event fees.
- Municipalities are prohibited by the Act from requiring additional application requirements for MFE municipal permits beyond proof of state registration with the Department and payment of applicable fee.
- The proposed regulation requires municipalities to accept applications in an electronic format, email or other system, in addition to the traditional paper application. Instead of waiting in line at City Hall, a MFE operator who possesses state registration can complete the municipal application process electronically and (after review and approval) should receive a municipal permit.
- R.I. Gen. Laws § 5-11.1-5 sets the state registration fee at \$50 per MFE. The Department is authorized by R.I. Gen. Laws §§ 5-11.1-5, 5-11.1-6, 5-11.1-7, and 5-11.1-1 to set fees through regulation for late renewal, maximum fees for municipal permits, event permits and temporary mass gatherings, and a maximum amount for a civil penalty. The regulation will set a maximum municipal fee of \$75 a year per municipality. The regulation also sets a maximum fee of \$300 for a municipal event or a temporary mass gathering to be paid by the event organizer. These maximums will limit the overall cost for small businesses who heretofore have had to pay up to \$500 a year for some municipal licenses.
- MFEs will only be subject to additional state fees if they fail to renew their registration prior to expiration or are ordered to pay a civil penalty as the result of an enforcement action.
- An owner of multiple MFEs is required to register each MFE with the state but will only pay the \$50 registration fee per MFE for the first 5 MFEs registered in the same calendar year. The registration fee is waived for each MFE beyond 5 MFEs by one owner in the same calendar year.
- Statewide MFE standards for fire code compliance ensure better protection of public safety. Currently, all local fire departments are inconsistently applying the fire code. MFEs maintain flammable materials incident to their business model, and thus the need for consistent fire safety regulation.
- MFEs, unlike brick and mortar restaurants, can be difficult to locate if there is a report of a foodborne illness or other safety violation. The information required in the MFE registration application will enable the Department to locate where the MFE is stored when not in operation and/or search Social Media/Website information for the current location of MFE.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

### C. Summary of Post-Comment Changes:

The following differences exist between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-2.7 and the rule as adopted. These changes are all consistent with, and a logical outgrowth of, the proposed regulation in the notice of proposed rulemaking in accordance with R.I. Gen. Laws § 42-35-6.1. In addition to this summary of changes, a redlined document showing the exact changes is attached.

1. *Clarification of Grace Period procedures and enforcement in § 1.4.* Commentary was received that both MFEs and municipalities were confused about how the grace period would be implemented.

In consideration of this commentary, the Department has expanded upon the proposed language in § 1.4, putting the grace period in paragraph B by adding specific instructions for both MFEs and municipalities in the subparagraphs. In accordance with R.I. Gen. Laws § 5-11.1-8, municipalities are required to comply with Act by July 1, 2019. To ease the burden of compliance on municipalities and given the fact that July is in the middle of the MFE operational season, the only required municipal changes by July 1, 2019, will be compliance with the maximum fees set forth in § 1.11 of the regulation and the acceptance of Fire Safety Permits from the Office of the State Fire Marshal. However, the Department requests that all municipalities make every effort to implement any necessary fee changes as soon as possible and immediately start accepting Fire Safety Permits from State Fire Marshal.

2. *Issues relating to alcoholic beverages and MFEs.* Commentary was received that the Department should clarify that this MFE registration does not authorize the service of alcoholic beverages.

In consideration of this commentary, the Department added a paragraph C to § 1.4 which states: “This Registration does not authorize the sale and/or service of alcoholic beverages.”

3. *State registration renewals on anniversary date.* Commentary was received that there are different licensing cycles amongst the 39 municipalities for MFE permits. There were requests that the Department set a fixed date for MFE registration and renewals at some time in the winter.

In consideration of this commentary, the Department has added new language to § 1.6(A), which outlines a preferred licensing cycle. Taking into account that the MFEs’ busy season is approximately from April to October in the warm weather, the Department is suggesting a state registration cycle to occur annually, starting in 2020, from January 1 to March 31. The Department is also requesting that municipalities synchronize their licensing cycles with the Department starting in 2020. This will ensure that the effective dates of municipal permits will closely match the state registration period.

4. *Procedures for registration of out-of-state MFEs.* Commentary was received that it may be difficult for out-of-state MFEs to come to Rhode Island to get their RIDOH and Fire Safety inspections in advance of a particular event, especially for food trucks that only participate in one or two events a year.

In consideration of this commentary, the Department will consider issuing provisional registrations on a case-by-case basis to out-of-state MFEs ahead of their first event in the state if the MFE provides proof that it has scheduled a RIDOH Food Safety Inspection and State Fire Marshal Fire Safety inspection prior to the start of operation in Rhode Island. Additional language has been added to § 1.7 to explain this change.

5. *MFE events within a municipality.* Commentary was received related to clarifying municipal permit requirements for events which is distinguishable from parking on the street to sell food. Commentary was also received about the ability to issue short-term permits for events.

In consideration of this commentary, the Department edited and added language in § 1.8(A)(6) to clarify that specific municipal approval may be required in addition to the municipal MFE permit for events held within a municipality. The Department also added a provision under § 1.8(A)(4) to clarify that municipalities may issue short-term permits for events.

6. *Ice cream/Lemonade carts and trucks.* Commentary was received regarding whether municipalities can regulate different types of MFEs in categories that reflect various types of business models, as they had previously done when MFEs fell under R.I. Gen. Laws Chapter 5-11 regarding Hawkers and Peddlers. Most commentary related to having different rules for ice cream and lemonade trucks/carts as compared to food trucks, given that ice cream and lemonade trucks are permitted in some locations to drive around residential neighborhoods and temporarily stop to make a sale.

In consideration of this commentary, the Department added new provisions under municipal permits in § 1.8(A)(4)(a) & (b), which clarifies municipal authority to regulate different types of MFEs according to length of time stopped at a given location. We also clarified that municipal permits may include restrictions to enable differentiation between ice cream/lemonade carts/trucks and other types of MFEs.

7. *Appeal Process/Enforcement.* Commentary was received regarding concerns related to the enforcement process where, similar to liquor, there are requirements from both state and local government.

In consideration of this commentary, the Department added paragraph D under to § 1.12 to clarify that any action on municipal permits will not be appealable to the Department and the jurisdiction will remain with the municipality.

#### D. Summary of Comments Not Resulting in Regulatory Language Changes.

Below is a summary of other public comments received (public hearing testimony, in addition to oral and written public comments) that did not result in changes to the text of the Regulation and a brief description of the Department's reasons for not making any such changes after due consideration.

1. *Will municipal permits issued prior to July 1, 2019, remain in effect?* Commentary was received regarding whether municipal permits issued prior to the implementation of the State MFE Registration remain in effect.

Any municipal permit issued prior to July 1, 2019, will continue to remain in effect according to the terms it was granted on for the remainder of calendar year 2019. Provided however, that beginning on January 1, 2020, all MFEs must first obtain a state MFE Registration prior to operating in this state and applying for or renewing any municipal MFE permits.

2. *Online application procedures with municipalities, Viewpoint.* Commentary was received about how the online registration system will work and what type of access the municipalities will have.

The Department is working with the State Division of Enterprise Technology Strategy and Services ("ETSS") to design an MFE registration system within the Viewpoint e-Permitting platform. ETSS intends for this process to be ready for online State registrations by July 1, 2019. MFEs will complete the online State Registration in this system. The results of State Fire Marshal Fire Safety Inspections will be documented in this system. MFEs will be able to apply for municipal permits through this same system if the municipality to which they are applying for a permit is a current participant in the Viewpoint e-Permitting platform. More information will follow, including dates and times for municipal access training on the state registration system as we get closer to July 1, 2019.

3. *Display of registrations and municipal permits.* Commentary was received that MFEs should be required to display their municipal license when operating in that municipality.

The proposed regulation already includes such a requirement. § 1.8(A)(5) provides: "When operating in each municipal jurisdiction, the applicable business permit issued by each municipality must be prominently displayed where it can be seen by the consumer, in close proximity to the point of service."

4. *Questions related to RIDOH food safety requirements.* Commentary was received that the requirements for Food Safety Permits are not made clear in the regulation.

The Department requires a Mobile Food Service License from the Rhode Island Department of Health (“RIDOH”) as a prerequisite for a state MFE. RIDOH determines the requirements for the issuance of a Mobile Food Service License and has promulgated regulations setting forth food safety requirements. Any questions regarding food safety and the Mobile Food Service License (issuance, renewal, inspections, etc.) should be directed to RIDOH, Center for Food Protection.

5. *Questions related to State Fire Marshal fire safety requirements.* Commentary was received that the requirements necessary to obtain a Fire Safety Permit are not made clear in the regulation.

The Department requires a Fire Safety Permit from the State Fire Marshal as a prerequisite for the issuance of a state MFE registration. The State Fire Marshal enforces the Fire Code which is derived from national codes and promulgated by the state Fire Safety Code Board of Appeal and Review. Any questions regarding fire safety requirements should be directed to the Office of the State Fire Marshal.

6. *New Shoreham State Fire Marshal Inspections.* Commentary was received regarding whether the State Fire Marshal will conduct fire safety inspections on New Shoreham.

The Office of the State Fire Marshal, which is part of the Department, will coordinate with the Town of New Shoreham to inspect all MFEs on the Island.

7. *Prior instances of inconsistent Fire Code enforcement by Municipal Fire Officials.* Commentary was received that there has been some inconsistent enforcement of the Fire Code by various municipalities.

The Office of the State Fire Marshal enforces the state Fire Code and oversees the enforcement by all municipalities. There have been no substantive changes to fire code requirements as they relate to MFEs. However, the existing requirements were previously inconsistently enforced by municipalities. Now that the inspection of MFEs is centralized with the Office of the State Fire Marshal, trainings have been conducted for both local fire departments and for MFE operators. This should lead to more consistent enforcement of existing fire safety requirements. Moreover, any inspections fees imposed by the Office of the State Fire Marshal, as noted in § 1.9(C), are pursuant to existing laws that pre-dated the adoption of the MFE Registration Act.

8. *Requirement for out-of-state MFEs to receive RIDOH Mobile Food Service License and Fire Safety Permit from RI State Fire Marshal.* Commentary was received which requested that the Department recognize out-of-state issued food safety licenses.

While drafting this regulation, the Department consulted with RIDOH and the State Fire Marshal regarding requirements and procedures for obtaining the relevant

permits/licenses to operate a MFE in this state. Neither RIDOH nor the State Fire Marshal will accept a license/permit from another state. Any questions regarding RIDOH requirements should be directed to the RIDOH, Center for Food Protection. Any questions regarding fire safety requirements should be directed to the Office of the State Fire Marshal.

9. *Do caterer van/trucks fall under this regulation?* Commentary was received regarding whether Caterer Vans are required to register as an MFE.

Caterer vans/trucks may have to obtain a state MFE registration if they are selling and serving food directly out of their vehicle. If the vehicle is only used for transporting food from the commissary to the location of an event, then a state MFE registration may not be required. Any questions regarding registration should be directed to the Department. Any Mobile Food Service questions should be directed to RIDOH, Center for Food Protection.

10. *Requirement for information on Internet presence.* Commentary was received regarding the application requirement for information on internet presence.

As noted in the notice of proposed rulemaking, MFEs, unlike brick and mortar restaurants, can be difficult to locate if there is a report of a foodborne illness or other safety violation. The information required in the MFE registration application will enable the Department to locate where the MFE is stored when not in operation and/or search Social Media/Website information for the current location of MFE.

11. *Reinstatement fee for late renewal.* Commentary was received regarding why there is a fee for a late renewal if there was no evidence of unregistered activity.

There is a fee for late renewal as an incentive to renew on time, which would avoid problems with unlicensed activity. This applies equally to all late renewals.

12. *Municipal approval procedures for municipal permits.* Commentary was received regarding the concern for delays of the issuance of municipal permits due to waiting for city/town council approval, especially in the summer when the councils do not meet as frequently.

R.I. Gen. Laws Chapter 5-11.1 and this regulation establish requirements that the municipalities must follow. Accordingly, the municipalities depending on existing procedures must modify their applications and ordinances to comply with the Act and this regulation by December 31, 2019. The Department encourages all municipalities to consider streamlining the approval process as they make changes to comply with the Act and this regulation.

## **230-RICR-30-35-1**

# **TITLE 230 – DEPARTMENT OF BUSINESS REGULATION**

## **CHAPTER 30 – COMMERCIAL LICENSING**

### **SUBCHAPTER 35 – MOBILE FOOD ESTABLISHMENTS**

#### **PART 1 – State Registration of Mobile Food Establishments**

### **1.1 Authority**

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws §§ 5-11.1-5, 5-11.1-6, 5-11.1-7, 5-11.1-11, 5-11.1-14.

### **1.2 Purpose**

The purpose of this Part is to establish standards and procedures for the registration of Mobile Food Establishments, and to generally assist the Department in carrying out the administration and enforcement of State Mobile Food Establishment Registration Act, R.I. Gen. Laws Chapter 5-11.1, so that the public interest may be effectively served.

### **1.3 Definitions**

A. In addition to the terms defined in R.I. Gen. Laws § 5-11.1-3, for this Part, the following terms shall have the following meanings:

1. “Act” means the State Mobile Food Establishment Registration Act, R.I. Gen. Laws § 5-11.1-1 *et seq.*
2. “Department” means the Department of Business Regulation.
3. “Director” means the Director of the Department of Business Regulation or his or her designee.
4. “DMV” means the Rhode Island Division of Motor Vehicles.
5. “Fire Marshal” means the Rhode Island Office of the State Fire Marshal.
6. “MFE” means a Mobile Food Establishment, as defined in R.I. Gen. Laws § 5-11.1-3(5).
7. “Municipal permit” means a Mobile Food Establishment Permit as defined in R.I. Gen. Laws § 5-11.1-3.



8. “Registrant” means the holder of a State Mobile Food Establishment Registration.
9. “RIDOH” means the Rhode Island Department of Health.
10. “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.

## **1.4 Registration Requirement**

- A. In accordance with R.I. Gen. Laws § 5-11.1-4, MFEs are required to register with the Department.
- B. However, ~~t~~There will be an initial grace period ~~for MFEs~~ to register with the Department and for municipalities to comply with the requirements of R.I. Gen. Laws Chapter 5-11.1 and this Part. During this time, state registration by MFEs will be optional. This grace period will end on December 31, 2019.
  1. MFEs: ~~for those MFEs that have already renewed their municipal permits~~ In 2019, MFEs may renew their municipal permits under the old requirements and operate under those municipal permits until December 31, 2019, even after the state registration system is operational with the Department. ~~with the applicable municipalities in 2019. This grace period will end on December 31, 2019. Starting on January 1, 2020, Thereafter,~~ all MFE's must first obtain Registration from the Department before ~~a municipality can issue a municipal permit to the MFE.~~ ~~being eligible for municipal permits.~~
  2. Municipalities: Starting on July 1, 2019, municipalities must comply with the maximum fees set forth in § 1.11 of this Part and must accept a Fire Safety Permit from the State Fire Marshal. Municipalities may continue to accept applications under their old requirements during 2019. Starting on January 1, 2020, all municipalities must comply with all requirements of R.I. Gen. Laws Chapter 5-11.1 and this Part, and have updated all necessary procedures, applications and ordinances.
- C. This registration does not authorize the sale and/or service of alcoholic beverages.

## **1.5 Applications for Registration**

- A. Prior to submitting a MFE application to the Department, Applicants must first obtain the following, copies of which must be submitted to the Department with the application for registration.
  1. Mobile Food Service License from RIDOH:

- a. All Applicants must obtain a Mobile Food Service License from the Rhode Island Department of Health, Center for Food Protection, keep it current and renew it each year.
  - b. This requirement applies to out-of-state MFEs as well, even if they possess a similar permit/license from another state.
2. Compliant Fire Safety Inspection Report from the Fire Marshal:
  - a. All Applicants planning to conduct mobile and temporary cooking operations in the State of Rhode Island must be inspected annually by the Fire Marshal, obtain a compliant Fire Safety inspection report, keep it current and renew it each year.
3. Motor Vehicle Registration:
  - a. All MFE vehicles, including but not limited to trucks, trailers and any other vehicle that by state law needs to be registered with the DMV must annually submit a copy of their current motor vehicle registration.
  - b. Out-of-state applicants must submit a copy of their current motor vehicle registration from the state in which their vehicles are registered.
  - c. Any applicant planning to operate a MFE from a watercraft must submit a copy of their current vessel registration issued by the Rhode Island Department of Environmental Management, Office of Boating Registration & Licenses. Vessels with out-of-state registration must annually submit a copy of their current vessel registration from the state in which their vessel is registered.
4. Motor Vehicle Insurance
  - a. All applicants required to register their vehicle under state law with the DMV must provide proof of motor vehicle insurance.
5. Permit to Make Sales at Retail
  - a. All operators must obtain and keep current a Permit to Make Sales at Retail from the Rhode Island Division of Taxation.
- B. Every applicant for MFE registration shall submit a complete application to the Department along with all required documentation set forth in R.I. Gen. Laws § 5-11.1-5 and § 1.5 of this Part and the applicable fee, which is nonrefundable.
- C. Registrations will be issued to each individual MFE. If an Applicant owns multiple MFEs, each MFE must be separately registered with the Department.

1. Applicants who own multiple MFEs will only be charged for the first five (5) registrations, up to a total of \$250. Once meeting that threshold, subsequent registrations in the same calendar year by that same applicant will be free.
- D. In addition to the information required by R.I. Gen. Laws § 5-11.1-5, the application must also include:
1. If the applicant is a business entity, all trade names and fictitious names used by the MFE;
  2. The current email address and phone number of the operator of the MFE;
  3. A completed taxpayer status affidavit;
  4. Address where MFE is located when not operating; and
  5. Any identifiable information regarding presence on the internet, including but not limited to website address and social media identifiers for Facebook, Twitter, and/or Instagram.
- E. All application requirements must be maintained and kept current for the duration of the Registration.

## **1.6 Registrations**

- A. Registration cycles beginning in calendar year 2020.
1. In order to synchronize registration cycles:
    - a. MFEs are encouraged to apply for state MFE registrations from January 1 to March 31, and to renew in subsequent years during the same time period.
    - b. All municipalities are encouraged to set their licensing cycles from January 1 to March 31, consistent with state MFE registration.
  2. Notwithstanding, the above, initial applications for new state registrations or municipal permits may be accepted at any time of the year.
- B. Issuance of Registration
1. Upon review and finding of the application to be satisfactory, the Department shall issue a Registration.
- ~~B~~C. Incomplete or Deficient Applications
1. If the application is not approved as submitted, the Department shall provide the Applicant with a deficiency notice.

2. If the missing materials are not submitted to the Department within thirty (30) days of the date of the deficiency notice, the application shall be considered withdrawn.

#### ~~E~~D. Term of Registration

1. The term of Registration shall be one (1) year from the date on which it was issued.
2. The expiration date of the Registration shall appear on the Registration. It is the obligation of the Registrant to timely renew its Registration.

#### ~~D~~E. Renewal of Registrations

1. Renewal applications must be received by the Department prior to the expiration of the MFE Registration.
2. Every MFE registered pursuant to R.I. Gen. Laws Chapter 5-11.1 which desires to renew its Registration shall apply for the renewal of the Registration upon a form to be furnished by the Department. Any renewal of a Registration shall be subject to the same provisions and requirements covering issuance, suspension, and revocation of any Registration as originally issued.

#### ~~E~~F. Display of Registrations

1. The Registration must be prominently displayed where it can be seen by the consumer, in close proximity to the point of service.

#### ~~F~~G. Expired Registrations

1. Applications for the restoration of an expired Registration may be renewed upon submission of a complete renewal application and payment of a reinstatement fee of seventy-five dollars (\$75), in addition to the required renewal fee.
2. Any MFE seeking to reinstate a Registration after expiration must affirm by affidavit that the MFE has not engaged in any unregistered activity since the expiration of the Registration.
3. If an MFE has engaged in unregistered activity pursuant to R.I. Gen. Laws § 5-11.1-11, it may be subject to discipline and denial of its request for reinstatement.

#### ~~G~~H. Change of Address

1. Written notice shall be given to the Department within fourteen (14) days of any change in a Registrant's mailing address, location of MFE when not

operating, email address, phone number, controlling person, or any other change in contact information reported on the most recent application.

#### H.I. Transfer of Registration Prohibited

1. A Registration shall be granted only to the applicant.
2. A Registration is not subject to transfer, sale, assignment or leasing to another person, MFE or entity without prior application to, and approval from the Department.
3. A change in ownership requires approval from the Department in order to maintain the Registration.
  - a. The current owner must notify the Department at least fourteen (14) days prior to the sale of the business.
  - b. The proposed new owner must complete a Registration application and meet all the requirements of R.I. Gen. Laws Chapter 5-11.1 and this Part.

#### I.J. Dissolution of MFE

1. When a Registrant dissolves a firm or otherwise ceases operation, the Registrant must notify the Department within three (3) business days of ceasing operations.

### **1.7 Out of State MFEs**

A. Out of state MFEs must register with the Department prior to operating in Rhode Island and must submit ~~may qualify for Registration in Rhode Island by~~ submitting an ~~complete~~ application and fee to the Department along with all of the required documentation set forth in R.I. Gen. Laws § 5-11.1-5 and § 1.5 of this Part.

1. Each MFE operating in Rhode Island must receive approval to operate from RIDOH. RIDOH will not recognize out-of-state food safety permits.
2. Each MFE operating in Rhode Island must receive approval to operate from the Fire Marshal. The Fire Marshal will not accept out-of-state fire safety permits or compliant inspection reports.
3. Provisional approval may be granted at the discretion of the Department on a case by case basis if proof is provided that a RIDOH Food Safety inspection and Fire Marshal inspections are scheduled to occur in RI prior to operation by the MFE.

## **1.8 Permits**

### **A. Municipal Permits**

1. Each municipality must designate a contact person for MFE permits. That person's name, position, phone number and email address must be provided to the Department within thirty (30) days of the effective date of this Part. Any change in this designation must be reported to the Department within five (5) business days.
2. Each municipality must accept applications for Municipal Permits by email or other electronic means.
3. After receiving a Registration from the Department, each MFE must then apply for a business permit to operate in each individual municipality they wish to conduct business in and, if required by the municipality, pay a permit fee, as set by the municipality, of not more than the maximum fee set forth in § 1.11(B) of this Part.
4. Municipalities must comply with R.I. Gen. Laws § 5-11.1-7 when issuing permits to MFEs. [However, municipalities may:](#)
  - a. [Regulate different types of MFEs according to the length of time they stop at any given location;](#)
  - b. [Include limitations in permits related to location, hours of operation and noise; and](#)
  - c. [Issue short-term permits for events.](#)
5. When operating in each municipal jurisdiction, the applicable business permit issued by each municipality must be prominently displayed where it can be seen by the consumer, in close proximity to the point of service.
6. Any person or entity desiring to hold a MFE event [within a municipality](#) ~~on municipal property~~ must obtain an Event Permit/Temporary Mass Gathering Permit from the municipality prior to holding the event and pay a fee of not more than the maximum fee set forth in § 1.11(B) of this Part. [Any use of municipal property other than a street may also require specific approval from the municipality.](#)

### **B. Special Use Permits for Use of State-Owned Property**

1. This Registration does not grant permission for any person or entity to hold an event on state property. Any person or entity desiring to hold a MFE Event on state owned property must first obtain permission from the state agency or authority possessing jurisdiction over the property where the event would be located and pay all applicable fees.

C. Event and Temporary Mass Gathering Permits

1. The issuer of any Event or Temporary Mass Gatherings Permits must require the organizer/sponsor of the event to leave space large enough to allow access for fire trucks and/or rescues to quickly reach all food trucks in the case of an emergency or accident in compliance with the Rhode Island Fire Safety Code, [450-RICR-00-00-1 through 10](#).

**1.9 Fire Safety Requirements**

- A. MFEs are required to have a compliant fire safety inspection report from the Fire Marshal to operate in this state and qualify for a Registration.
- B. Fire Safety inspections will be performed by the Fire Marshal.
1. Annual renewal inspections will only be conducted by appointment.
  2. Request for an inspection must be made at least seven (7) business days in advance.
- C. If a fire safety violation is found at the time of the inspection, a fee of one hundred dollars (\$100) will be charged by the Fire Marshal. If no violations are found, no fee will be charged in accordance with R.I. Gen. Laws § 23-28.2-27.
- D. A Fire Safety Permit is required if the MFE is equipped with any of the following:
1. A gasoline, diesel or electric generator,
  2. Propane or compressed natural gas,
  3. Commercial cooking equipment, and/or
  4. A fire suppression system.
- E. First-time applicants for Fire Safety Permit under R.I. Gen. Laws Chapter 5-11.1 must submit structural and operating plans to the Office of the Fire Marshal for review and approval. Upon approval, an inspection will be scheduled.

**1.10 Reporting Foodborne Illness to RIDOH**

An MFE shall immediately discontinue operations and notify RIDOH if an imminent health hazard exists in accordance with § 8-404.11 of the FDA Food Code (2013).

**1.11 Fees and Charges**

- A. MFE Registration fees are payable to the “General Treasurer, State of Rhode Island” and are non-refundable.

**B. Fees:**

<u>Initial Registration Fee</u>	<u>\$ 50</u>
<u>Renewal Registration Fee</u>	<u>\$ 50</u>
<u>Maximum fee for single owner of multiple MFEs in any calendar year</u>	<u>\$250</u>
<u>Reinstatement Fee for Late Renewal</u>	<u>\$ 75</u>
<u>Maximum Annual Municipal Permit Fee</u>	<u>\$ 75</u>
<u>Maximum Municipal Event/Temporary Mass Gather Permit Fee paid by Organizer of Event</u>	<u>\$ 300</u>
<u>Certificate of Good Standing Fee</u>	<u>\$ 25</u>

**1.12 Enforcement Actions**

- A. Complaints. The Department shall have authority to investigate all complaints against MFEs for violations of R.I. Gen. Laws Chapter 5-11.1 or this Part. In furtherance thereof, the Department shall notify the MFE in writing or by email of the Department's receipt of a complaint, enclosing a copy thereof. The MFE shall within twenty (20) days from the date of the Department's notice, file with the Department a written response to the complaint. The Department shall review the response and submit a copy thereof to the complainant for further response, if necessary. Upon receipt of all responses, the Department will then evaluate the complaint and responses thereto and the matter will be handled in compliance with the Department's applicable procedures and regulations for such matters. The Department may, upon its own motion, with or without a complaint, notice a hearing for the purposes of further investigating whether to sanction a Registrant or other person or entity
- B. All hearings and enforcement actions shall be conducted in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Department's Rules of Procedure for Administrative Hearings, Part [10-00-2](#) of this Title.
- C. It is sufficient cause for denial, suspension or revocation of an MFE Registration if an owner, controlling person, principal or employee of an MFE has been found



by the Department to be responsible for any act or omission that would be cause for denying, suspending, or revoking a Registration.

- D. The issuance, renewal, suspension, denial or any other disciplinary action taken against the holder of a municipal permit will be handled according to procedures set forth by each municipality and will not be subject to appeal to the Department.

### **1.13 Penalties for Violations**

Any MFE who fails to comply with the provisions of this Part or the provisions of R.I. Gen. Laws Chapter 5-11.1, may be subject to a civil penalty not to exceed two thousand dollars (\$2,000) for each offense.

### **1.14 Reporting of Disciplinary Actions/Permit Suspensions**

- A. Any Registrant whose mobile food service license or fire safety permit is denied, suspended or revoked must notify the Department in writing of such action within one (1) business day of the denial, suspension or revocation.
- B. Any Registrant whose municipal mobile food establishment permit is disciplined by any municipal authority in this state shall notify the Department in writing and provide documentation of such discipline within three (3) business days of the initiation of such disciplinary action.
- C. Any Registrant whose out-of-state municipal, county or state level permit/registration to operate is disciplined shall notify the Department in writing and provide documentation of such discipline within three (3) business days of the initiation of such disciplinary action.

### **1.15 Municipality Reporting Requirement**

- A. Each municipality issuing permits pursuant to R.I. Gen. Laws Chapter 5-11.1 and this Part shall annually, on or before the first day in December, and at any other times required by the Department, make a report to the Department that includes the following information:
1. The number of permits granted by them during the last calendar year;
  2. Information on all permit holders including names and addresses of the permit holders, a description of the type of MFE (food truck, food cart, ice cream/lemonade truck or cart, etc.), and the amount of money paid for permits;
  3. A list of all fees charged for any permits; and
  4. Any other information required by the Department.