



## Town of Middletown Planning Department

350 East Main Rd., Middletown RI 02842 (401) 849-4027

To: Paul A. Croce, Chairman  
Planning Board Members

From: Ron Wolanski, Town Planner

Date: June 1, 2021

Re: Request for review and recommendation to the Town Council on proposed amendments to the Middletown Zoning Ordinance, Town Code Chapter 152, Sections 400, 703, and 722 regarding farm promotion accessory uses and mobile food establishments.

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The Town Solicitor has provided the attached proposed zoning ordinance amendments referenced above, which would allow for a mobile food establishment (food truck/cart, ice cream truck/cart) to be located on a farm property as an accessory use. Specifically, the amendments would address the following:

- Add definitions for small and large farm, agricultural operation, and mobile food establishment to the zoning ordinance.
- Allow mobile food establishment as an accessory use on a large farm (10+ acres) by right, and by special use permit on a small farm (<10 acres).
- Only one mobile food establishment on a farm at a time.
- A portion of products sold must be grown or raised on the farm.
- Hours of operation limited to 9am – 7pm.

The Board should review the draft amendment and provide a recommendation to the Town Council. As part of its recommendation, the board must make the following required findings. The board should consider sending a positive recommendation on the draft to the Town Council, including these findings:

(1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and

(2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

Please contact me with any questions.

cc. Town Solicitor

**ORDINANCE OF THE  
TOWN OF MIDDLETOWN, RHODE ISLAND**

**AN ORDINANCE AMENDING THE TOWN CODE OF THE  
TOWN OF MIDDLETOWN**

**TITLE XV: LAND USAGE  
Chapter 152, Zoning Code**

**NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:**

FIRST: That Town Code Title XV, Chapter 152, Entitled “Zoning Code” is amended by: (1) amending the definition of “Farm-Promotion Accessory Use” in Section 400, entitled “Definitions” and adding definitions for “Agricultural Operations”, “Farm (small)”, “Farm (large)”, and “Mobile Food Establishment” thereto; (2) amending Subsection (F) of Section 703, entitled “Accessory Uses and Structures”; and, (3) amending Section 722, entitled “Farm Promotion Accessory Uses”, as follows (language to be deleted is stricken out within brackets; language to be added is underlined and presented in red ink):

**SECTION 400: DEFINITIONS**

**AGRICULTURAL OPERATIONS.** Any commercial enterprise which has as its primary purpose horticulture, viticulture, viniculture, floriculture, forestry, dairy farming, or aquaculture, or the raising of livestock, furbearing animals, poultry or bees, or as such definition may be amended from time to time in Section 2-23-4 of the Rhode Island General Laws entitled "The Rhode Island Right to Farm Act."

**FARM (SMALL).** Agricultural land consisting of one or more contiguous parcels totaling less than 10 acres in area, together with principal and accessory buildings, upon which agricultural operations are conducted.

**FARM (LARGE).** Agricultural land consisting of one or more contiguous parcels totaling 10 acres or more in area, together with principal and accessory buildings, upon which agricultural operations are conducted.

**FARM-PROMOTION ACCESSORY USE.** An accessory use which is not customarily incidental to a use permitted as an agricultural use under § 602 but which tends to preserve and/or promote the use of land for farming and is clearly incidental and subordinate to the primary agricultural use. Farm-promotion accessory uses include: equipment and trade fairs, farmers’ markets, mobile food establishments, farm guest houses, livestock sales and auctions, and, when conducted in a farm setting, arts and crafts shows, banquets, corporate functions, and weddings.

**MOBILE FOOD ESTABLISHMENT (“MFE”).** A food service operation that is operated from a movable from a movable motor-drive 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.

### **SECTION 703: ACCESSORY USES AND STRUCTURES.**

(F) Farm-promotion accessory uses are allowed by obtaining a special use permit from the Board of Review; provided however, that the operation of a mobile food establishment on a large farm, as set forth in Section 722 hereof, shall be permitted by right. Such uses are subject to applicable requirements and conditions of farm-promotion accessory use, as well as to any conditions imposed by the Board under conditions on variances and special use permits.

### **SECTION 722: FARM PROMOTION ACCESSORY USES**

The purpose of farm-promotion accessory uses is to preserve viable agriculture and the rural character of the town by allowing farmers to conduct supplemental income-producing activities at a scale or intensity that will not unduly change the character of the area. Where issuance of a special use permit is required under Section 703, All farm-promotion accessory uses, must comply with any conditions imposed by the Board of Review under § 904; in addition, the uses specified below must satisfy the following requirements:

- (A) Farm guest house.
  - (1) No kitchen facilities in guest rooms;
  - (2) Not more than one guest room per acre of land, to a maximum of nine rooms;
  - (3) No guest room shall have less than 70 square feet of floor area;
  - (4) Guestrooms shall not be equipped for or rented to more than two individual guests, except that children 12 or under may accompany their parents in a room;
  - (5) Parking shall be provided according to the following formula:
    - (a) One parking space per room;
    - (b) Two parking spaces for the principal residential use;
    - (c) No RV parking or facilities;
  - (6) Where public sewer is not provided, the adequacy of the existing/proposed ISDS and its location in relation to fresh water or coastal wetlands, rivers, streams and other waterways shall be reviewed by the Conservation Commission and an advisory opinion shall be forwarded to the Zoning Board of Review prior to its consideration.
- (B) Product stands. One product stand for the sale of agricultural products may be operated on each lot or parcel devoted to an agricultural use permitted under § 602.
  - (1) Substantially all of the products sold, or the ingredients in the products sold, must be grown or raised on the premises;

- (2) Nonagricultural products may not be sold without a permit from the Town Council;
- (3) Product stands must have a front wall area that is at least 50% open;
- (4) Product stands shall be set back at least ten feet from the nearest public way;

(5) Off-street parking shall be provided as follows: one parking space for each non-resident employee and four spaces for customer parking plus one additional space for each 50 square feet of building size above 150 square feet. Parking for product stands shall comply with the requirements of § 1301, except that the parking area need not be paved and may be located closer than ten feet to the street line.

(C) Farmers' markets. A farmer's market may be conducted on a lot or parcel of five or more acres devoted to an agricultural use permitted under § 602.

(1) The products sold must be grown, raised or processed in Newport County;

(2) Non-agricultural products, or agricultural products not grown, raised or processed in Newport County, may not be sold without a permit from the Town Council.

(3) A structure used for a farmers' market, if enclosed, must have a front wall area that is at least 50% open;

(4) A farmers' market shall operate only during daylight hours;

(5) Off-street parking shall be provided as follows: one parking space for each person selling products plus three spaces per seller for customer parking. Parking for a farmers' market shall comply with the requirements of § 1301, except that the parking area need not be paved and may be located closer than ten feet to the street line.

(D) Mobile Food Establishments.

(1) No more than one mobile food establishment may be operated as a farm-promotion accessory use on each farm;

(2) All mobile food establishments, whether on large or small farms, must comply with the provisions of Title XI, Chapter 13 of this Code;

(3) A portion of the products sold at a mobile food establishment operated on a farm must be grown or raised on the premises; and

(4) The hours of operation for mobile food establishments located on a farm shall be between 9:00 a.m. and 7:00 p.m.

*SECOND: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.*