



Eastport, Maine 04631

## Mobile Vending Unit Permit Ordinance

### **Definitions.**

**MOBILE VENDING UNIT:** a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and is capable of being moved from its serving site at any time. This type of establishment is a self-contained food service operation, located in a vehicle or a movable stand on wheels, used to store, prepare, display or serve food intended for individual portion service.

**VICTUALER:** A person who serves food or drink prepared for consumption on or off the premises, which includes but is not limited to a "restaurant" or a "mobile vending unit" as herein defined, but specifically shall not include the operation of a farm stand selling homegrown produce or sale of food or drink from a temporary sidewalk stand operated by minors immediately adjacent to their residence.

### **Application Process for Permit**

#### A. New Applications;

New applicants may apply at any time during the year. Applications for a permit shall be procured from the City Clerk, completed and signed by the applicant and filed with the City Clerk, and when submitted to the City Council shall bear the recommendation for approval or disapproval with reasons noted by the Code Enforcement Officer, and/or the Police Chief, and/or the Fire Chief and/or the Tax Collector.

A permit shall be granted if the mobile unit in question complies with all Federal, State and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner in accordance with the State of Maine Food Code (10-144 CMR 200) so as not to jeopardize the public health, safety, and welfare.

#### A. Requirements:

- Current Department of Motor Vehicle Registration and insurance;
- Current Health Inspection Program License by the State of Maine Department of Health and Human Services;
- Current Victualer's License issued by the City of Eastport.
- File a DBA Certificate with the City's Clerk
- A photo of the vehicle.
- Dimensions of the vehicle.
- A description of those items which the applicant proposes to sell and dispense or a copy of the menu.
- If operating in private land, overall Plot Plan showing the parcel, structure, and area where the mobile unit will operate together with a letter from the property owner authorizing the applicant has the right to park on that lot on the days specified by the property owner

#### B. Types of applications

- City Council's approved Special Event or Festival (No victualer license required)
- Up to 365 consecutive days

### C. Renewal Permits

The Eastport City Council shall annually review all renewal applications for the purpose of determining the status of the applicant's previous conformance to this ordinance and at such time make a decision as to (1) approve the renewal request, (2) table the renewal request, setting a date for the applicant to come before the Officers to answer questions affecting consideration of the renewal request, or (3) for reason(s) noted, disapprove the request. Applicants for renewal shall submit a completed application with fees annually to the City Clerk at least 30 days prior to the expiration date.

### Exceptions

- Any public or private school; any booster group raising funds for school activities or sports programs; any non-profit organization selling food or drink to raise funds for charitable causes, educational activities, or public agency programs; or any food sold only through vending machines shall be exempt from the provision of this ordinance.
- City Council's approved Special Event or Festival does not require a victualer license.

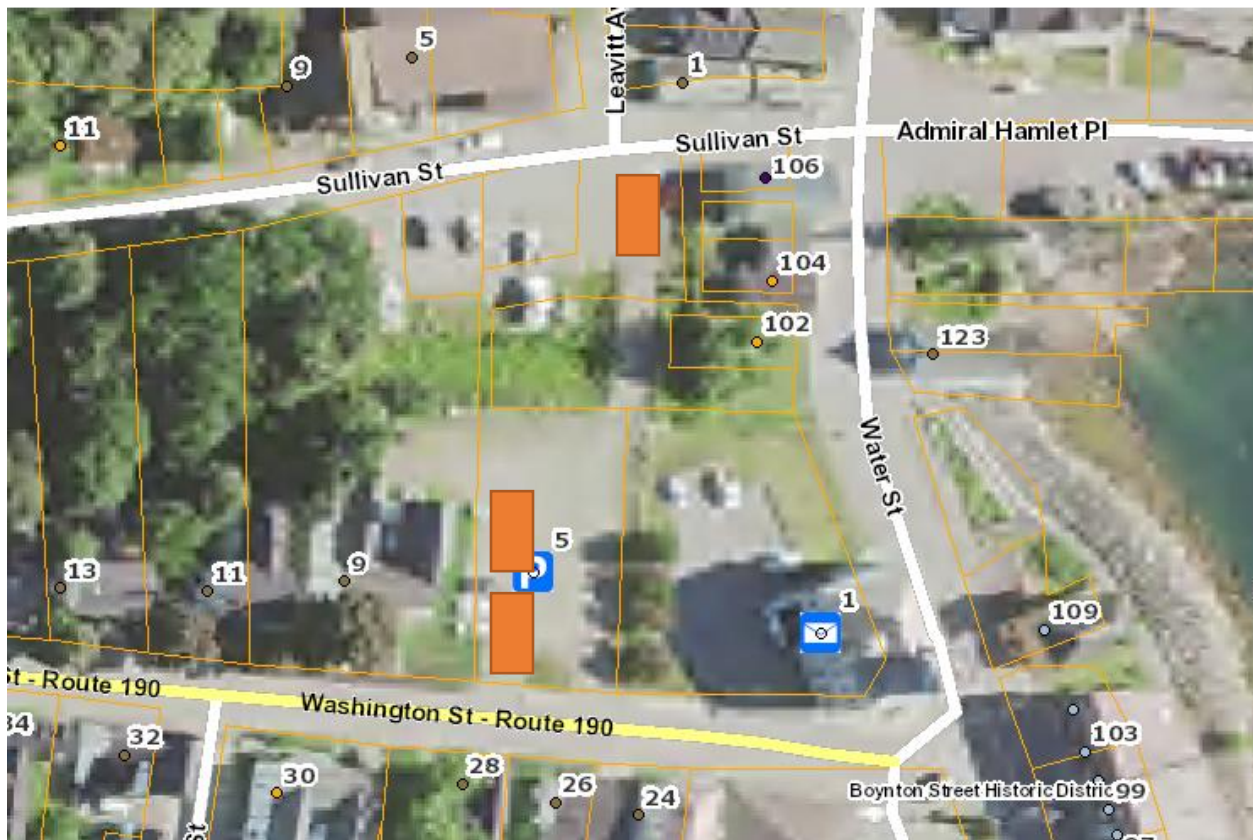
### Mobile vending units' rules:

Except as otherwise permitted, licensed, or sponsored by the City Council in connection with a festival or special event approved by the City Council:

- All mobile vending units must comply with all applicable local, state, and federal rules and statutes, including but not limited to those rules pertaining to the preparation and sale of food.
- Mobile vending units may only operate in locations approved and assigned by the City.
- Mobil Vending Units on private property are only allowed in B-1 Business District and B-2 Highway Business District.
- Mobile vending units and customer queuing may not be situated in a manner that will obstruct the free passage of pedestrians or vehicles, obstruct an entrance or exit, obstruct a fire lane, or obstruct access to a fire hydrant.
- Mobile vending units must be self-contained during operation and shall provide trash and recycling receptacles in contact with the mobile vending unit.
- Mobile vending units may not operate within 150 feet of the property boundary of any licensed restaurant premises serving the same cuisine.
- Mobile vending units may operate from 7:00 a.m. to 10:00 p.m.
- Mobile vending units must not park overnight in their spots unless they will be operating the next day.
- Mobile vending units may not be parked overnight on City streets.
- Amplified music or sounds from any food truck are prohibited.
- Open flame cooking either within or outside the food truck is prohibited, except where such activity is specifically permitted by the Fire Department or other applicable licensing authority.

- A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the mobile vendor to hold material discarded by its customers, and the permit holder shall empty as necessary.
- No Mobile vending units may operate within 500 feet of a public-school during school days.
- The permit holder shall keep sidewalks, roadways, and other public or private spaces adjoining and adjacent to his/her locations clean and free from paper and refuse of any kind which may be generated by the operation of the business.

**Mobile vending units' locations:**



**Violations and penalties.**

Any person who violates any provision of this chapter or the terms of the permit may be penalized in the following manner:

- Temporary suspension. The Code Enforcement Officer or Police Department, with prior approval of the City Manager, is authorized to immediately and temporarily suspend any permit. The City Manager shall determine if the permitted premises has not met the requirements of the permit.
- Revocation. The Code Enforcement Officer or Police Department, with prior approval of the City Manager, is authorized to immediately revoke any permit. The City Manager shall determine if the permitted premises has not met the requirements of the permit.

- Unlicensed victualer. Any person operating any restaurant or mobile vending unit failing to apply for a victualer license and pay the required fee shall be in violation of this chapter, and such violation is a civil penalty enforced by the Police Department and subject to a fine in the amount of \$100 in addition to any other fines for violating this chapter and the fee for licensing the victualer.
- Civil penalties. In addition to any other fines or penalties for violating any provisions of this chapter or the terms of the permit, violation of this chapter is a civil penalty enforced by the Police Department. In any such proceeding, the City may order that the permit holder or unlicensed victualer abate any violations, pay a penalty between \$100 and \$2,500 per violation, per day, and pay the court costs, attorneys, and expert witness fees incurred by the City.
- Mobile Unit Removal. The Code Enforcement Officer or Police Department, with prior approval of the City Manager, may remove a mobile vending unit that is in violation of this Ordinance at the expense of the owner. The unit may be held by the City until requirements of this ordinance are met and all fines are paid at the discretion of the City Manager.



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## Application for Mobile Vending Unit Permit

**Type of Permit:**

\_\_\_\_\_ Mobile vending unit for up to 365 consecutive days. Private: \_\_\_\_\_ City Property: \_\_\_\_\_  
\_\_\_\_\_ Mobile vending unit for City Council's approved Special Event or Festival

Food Truck Owner (applicant): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Property Owner (if applicable): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

**Please describe:**

- The product(s) to be sold from the food truck:  
\_\_\_\_\_
- Days and Hours of operation of the food truck:  
\_\_\_\_\_
- Special event: \_\_\_\_\_
- Dimensions of vehicle: Width: (including canopies or other projections) \_\_\_\_\_  
Length (if trailer, not including motor vehicle) \_\_\_\_\_
- Height (including all signage) \_\_\_\_\_

**Please attach copies of:**

- Current Department of Motor Vehicle Registration and insurance;
- Current Health Inspection Program License by the State of Maine Department of Health and Human Services;
- Current Victualer's License issued by the City of Eastport.
- Copy of DBA Certificate
- A photo of the vehicle.
- A copy of the menu.

- If operating in private land, overall Plot Plan showing the parcel, structure, and area where the mobile unit will operate together with a letter from the property owner authorizing the applicant has the right to park on that lot on the days specified by the property owner

**FOOD TRUCK PERMIT FEES**

Special Event: None

Up to 365 consecutive days in City Property \$400.00

Up to 365 consecutive days in Private Property \$100.00

Only one permit may be issued for each address or mobile unit and person named on the approved permit application. No transfer of a permit is allowed between the names or addresses or mobile units; any change of ownership or retail address or mobile unit requires a new permit.

I certify that:

1. I have never failed any part of a state inspection or local health inspection relating to the permit for which is being sought;
3. I have never had a license suspended or revoked by the City of Eastport or the State of Maine;
4. I have never been issued a notice of violation by the City of Eastport or the State of Maine; or, if I have been issued such a notice of violation, the violation has been fully resolved;
5. I have never been convicted of a Class D or more serious crime, whether or not arising out of the operation of the Establishment; and
6. All taxes, fines, and penalties assessed by the City of Eastport, including equipment and fixtures, are fully paid as of the date of this certification.

If you cannot certify all of the above statements, check this box:

I understand that if I provide misleading or false information in this permit application, any permit issued to me by the City of Eastport may be suspended or revoked. I do swear or affirm under penalty of perjury\* that all statements made and all information provided as part of this application are true and correct to the best of my knowledge.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

Personally, appeared the above-named \_\_\_\_\_ and made oath or affirmation that the foregoing statements are true.

Notary Public, State of Maine: \_\_\_\_\_

Print name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

\* Under Maine law, intentional falsehoods made under oath or affirmation before a person qualified to take oaths or affirmations may be punishable as false swearing, a Class D crime.


**Date Adopted:** April 13<sup>th</sup>, 2022 (by Eastport City Council)

**Effective Date:** April 28<sup>th</sup>, 2022 (as per City Charter, Section 2.12[c] – effective 15 days after adoption)

I, Ella C. Kowal, City Clerk for the City of Eastport, hereby attests that the City Council held a Public Hearing on a *proposed* "**Mobile Vending Unit Permit Ordinance**" a/r/a Food Truck Ordinance and after declaring the hearing closed, the Council rendered the following motion and vote was rendered at the Council meeting of 4/13/2022 after

**MOTION** LAWRENCE                      **SECOND** PEACOCK                      **(PASSED 4-0)**

To accept and approve the Mobile Vending Unit Permit Ordinance as proposed and presented.

**ATTEST:** 

Ella C. Kowal, City Clerk

Dated: 4/14/2022