

Part 1

TRANSIENT RETAIL

§ 101 Definitions. [Ord. 4, 1/31/1994]

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

CITY

The City of St. Marys.

COMMISSARY

The operating base location to which a mobile food facility or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food. A commissary may not be a residential personal use kitchen and must be separate from private residential use areas.

DESIGNATED VENDOR SPACE AT ELK CREEK PARK

Those areas of Elk Creek Park designated by the City of St. Marys as available for rent to mobile food vendors.

ENFORCEMENT OFFICER

A Code Enforcement Officer of the City of St. Marys or any member of the St. Marys Police Department.

MOBILE FOOD VENDOR

A person who sells, intends to sell or offers to sell food products in or about the streets of the City from a Mobile food vendor facility.

MOBILE FOOD VENDOR FACILITY

A movable stand, motor vehicle, trailer, cart, basket, box or similar structure, from which food is stored, prepared, processed, distributed or sold, either from a temporary fixed location or traversing the streets of the City.

2. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

Part 2 Mobile Food Vendor Facility

§ 201 Mobile Food Vendor Facility License Required; Conditions of Issuance; Fee. **[Ord. #, Date]**

No person shall operate a mobile food facility within the City of St. Marys without first having obtained from the City Manager a license, for which a fee, which shall be for the use of the City, shall be charged in an amount as established by resolution of the City Council.

§ 202 License Application.

[Ord. #, Date]

Every person desiring a license under this Part shall first make application to the City Manager for such license. They shall, when making such application, submit a valid license from any State or County officer, if such license is also required. The applicant shall state:

- A. Their criminal record, if any.
- B. Name and valid mailing address of the applicant.
- C. Description of food items and beverages, for purchase and cartons or utensils distributed.
- D. Length of time for which license is to be issued.
- E. Type and license number of the vehicle to be used, if any or description of mobile food vendor facility proposed to be used.
- F. Description of the temporary, fixed location the mobile food vendor facility shall operate from and/or the areas of the City the facility will be operating within.
- G. A working plan for the collection, removal and proper disposal of solid waste generated by the mobile food vendor facility.
- H. Proof the required license has been obtained for the facility and, if required by the State, its commissary from the Commonwealth of Pennsylvania Department of Agriculture. Mobile food vendor facilities not requiring license by the State must show proof of application and inspection by the Commonwealth of Pennsylvania Department of Agriculture as required by State law.

§ 203 General Rules Applicable to Mobile Food Vendors.

- A. No mobile food vendor facility is permitted to park or stop to serve customers within 150 foot radius of any principal customer entrance to any restaurant or food establishment serving food products within the City during that establishment's hours of operation without written permission from the restaurant or food establishment, and shall locate at the curb in such a way as to cause any line which forms to do so along the curb.
- B. On school days from 7 AM to 4 PM, no mobile food vendor facility may operate within five hundred (500) feet of the grounds of any building used as a public or private pre-school, kindergarten, elementary school or secondary school, unless written permission is obtained from the school within this area.
- C. A mobile food vendor facility may not operate within any City park, or on property owned by the City of St. Marys, unless express written permission is obtained by the City Recreation Director and the City Manager.
- D. No mobile food vendor facility may park in any parking areas in districts zoned Residential longer

than is necessary in order to sell therefrom to persons residing in the immediate vicinity. No mobile food vendor facility may park on public property in any residentially zoned district for the sole purpose of cleaning, start-up, food preparation, or other maintenance activities.

- E Mobile food vendor facilities are permitted to park and serve customers on private property within all Zoning Districts except those denoted as Residential, only if given express written consent of the property owner and such written consent is kept in the mobile food vendor facility at all times when the mobile food vendor facility is operating on the property, and a license is issued by the City.
- F No mobile food vendor facility shall hereafter sell or offer for sale any products or services within five hundred (500) feet of the designated boundaries of any City organized, City-sponsored or City-sanctioned event or activity to which vendor access is restricted or regulated, provided that this restriction shall not apply to a mobile food vendor facility who receives written permission from the director of the organization sponsoring the event to operate within the boundaries of any City-organized, City sponsored or City-sanctioned event or activity.
- G No mobile food vendor facility may park within fifteen (15) feet of a fire hydrant, or in any unloading zone or in any no parking zone.
- H For mobile food vendor facilities on public property; including the City's right-of-way, the City reserves the right to temporarily move a mobile food vendor facility if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit or if the location is required for a City-sponsored event.
- I No mobile food vendor facility shall sell or offer for sale any products in a manner that would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.
- J Mobile food vendor facilities parking in metered parking spaces shall be required to deposit coins to keep the meter in paid status and are required to abide by the maximum time limit as required in the metered parking area.
- K No operator of a mobile food vendor facility shall park, stand, or move a vehicle and conduct business within areas of the City where the mobile food vendor facility has not been authorized to operate.
- L All mobile food vendors must provide a waste bin and a recycle bin which shall be removed by the mobile food vendor at the close of the business day and shall pick up and remove all papers, wrappers, bottles or other refuse dropped by the customers thereof within fifty (50) feet of the vicinity of the mobile food vendor facility. City trash receptacles may not be directly used by mobile food vendor facilities. It is understood that customers of a mobile food vendor facility may deposit solid waste in City trash receptacles; however, this shall not be the only option for waste disposal. Under no circumstances shall a mobile food vendor use containers or receptacles for the use of the general public for deposition of solid waste produced as a result of business start-up, operation, or shut-down.
- M No liquid waste or grease is to be disposed of in tree pits, storm drains, waters of the Commonwealth

or onto the sidewalks, streets, or other public spaces of the City. Under no circumstances shall grease be released or disposed of in the City's sanitary sewer system; however, mobile food vendor facilities may be eligible to dispose of waste at the City's Wastewater Treatment Plant for the applicable fee with the permission of the Wastewater Treatment Plant Manager.

- N No mobile food vendor facility shall use electric, water or wastewater facilities of the City without the written consent of the City Manager.
- O All mobile food vendor facilities shall be attended by at least one (1) operator who is at least the age of eighteen (18) at all times.
- P Unattended vehicles prohibited. No mobile food vendor facility shall be left unattended and unsecured at any time food is kept in the mobile food vendor facility. Any mobile food vendor facility which is found to be unattended shall be considered a public safety hazard, shall be ticketed in accordance with existing City ordinances and may be impounded.
- Q Mobile food vendor facilities may not operate between the hours of 2:30am and 6:30am and mobile food vendor facilities must be removed from public streets and parking spaces by 2:45am each day.
- R No mobile food vendor facility shall make or cause to be made any unreasonable or excessive noise and shall comply with all other City Ordinances. No mobile food vendor facility shall use or maintain any outside amplified equipment, flashing/animated lights or noisemakers; nor shall they broadcast music or loud advertisements while stationary.
- S Freestanding signage shall be limited to one (1) sign, a maximum of twelve (12) square feet in area. Any signage shall only be displayed while the mobile food vendor facility is in operation, shall not substantially obstruct the movement of pedestrians or vehicles, or pose a safety hazard. Any signage shall be located within 40 feet of the mobile food vendor location, and shall only advertise the mobile food vendor business.
- T If a mobile food vendor facility provides outdoor dining furniture; it shall not be permanently affixed to any public property, shall not substantially impede the free movement of pedestrians or vehicles, and shall be removed from public property and stored inside the facility or off-site when not in use. Specifically, for furniture placed on a public sidewalk, there shall be a straight-line path of at least four (4) feet in width maintained on the public sidewalk at all times.

§ 204 Rules for Designated Vendor Space at Elk Creek Park.

- A A separate and distinct application shall be required to locate a mobile food vendor at the designated vendor spaces located at Elk Creek Park. The application requirements shall be the same as required by Section 202.
- B The required fee shall be in addition to any other mobile food vendor license issued by the City as set forth by St. Marys City Council via resolution.
- C The City reserves the right to deny an application or rescind an approved license if a City organized,

City-sponsored or City-sanctioned event or activity is scheduled at the Elk Creek Park during the same time period of the requested license duration, unless written permission is obtained from the event organizer or sponsor to operate at the location during the event. The City shall contact the licensee as soon as possible if a license is to be rescinded, and refund the required fee. No refund shall be issued if the mobile food vendor requests the license to be rescinded, and the City reserves the right to issue a license to a different mobile food vendor to occupy the area in their place.

§ 205 Issuance of License; Custody, and Exhibit.

Upon receipt of such application and the prescribed fee, the City Manager, if the application is in order, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon their person or within the mobile food vendor facility at all times. They shall exhibit such license, upon request, to all police officers, municipal officials, and customers.

§ 206 Prohibited Acts.

No mobile food vendor or facility shall:

- A Sell any product or type of product not mentioned in the license.
- B When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the City of St. Marys for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
- C No mobile food vendor facility shall obstruct the free passage of vehicles or pedestrians on public property.
- D Park any vehicle upon any of the streets or alleys in the City of St. Marys for the purpose of sorting, rearranging, or cleaning of any goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.
- E Conduct any such business while the license is suspended, revoked or expired.

§ 207 Enforcement.

- A The provisions of this part may be enforced by a City Code Enforcement Officer or by any member of the St. Marys Police Department.
- B When it appears to the Enforcement Officer that the operation of the mobile food vending facility poses an immediate and imminent threat to the public health and safety that will occur if the mobile food vending facility is not immediately closed, the Enforcement Officer shall have the power to order the immediate closure of mobile food vendor facility until such time that the violations

complained of have been corrected or the City Council or other appropriate board overrules the determination of the Enforcement Officer.

- C Nothing set forth in this section may limit the pursuit of other appropriate actions or proceedings at law or in equity available to the City.

§ 208 Denial of Application or Suspension of License.

A. An application for a license may be denied for any of the following reasons:

- 1 The mobile food vendor or any of its employees fail to satisfy any qualifications or requirements imposed by this Chapter, or other local, State, or Federal laws or regulations or;
- 2 The mobile food vendor or any of its principals has engaged in operating without a valid license; or
- 3 Failure to submit the required application fee.

B. Operation may be suspended by an Enforcement Officer for any of the following reasons:

- 1 The mobile food vendor or any of its employees fail to satisfy any qualifications or requirements imposed by this Chapter, or other local, State, or Federal laws or regulations or;
- 2 The mobile food vendor facility is operated in such a manner as to constitute a public nuisance or safety hazard; or
- 3 The Mobile Food Vendor, its principals or agents, repeatedly violates any of the provisions of this article, after being informed of the violation(s) by an Enforcement Officer.

C. Enforcement Procedures:

- 1 Notice of denial, revocation or suspension will be sent via First Class Mail to the name and address of the applicant for license with the Commonwealth of Pennsylvania Department of Agriculture. If no applicant for license with the Commonwealth of Pennsylvania Department of Agriculture is on record, the notice shall be sent via First Class Mail to the registrant of the vehicle license plate or hand-delivered to the vendor facility. Upon notice of denial, revocation, or suspension, an aggrieved party may appeal to the City Manager by submitting a written notice of appeal to the Code Enforcement Office within ten (10) days following the date of the notification.
- 2 The provisions of this Section are not exclusive. This Section shall not preclude the enforcement of any other provisions of this Ordinance or State or Federal laws and regulations. The City of St. Marys may impose additional requirements to protect against health hazards related to the operation of mobile food vendor facility.

§ 209 Exemptions.

A This Section and its requirements, rights and privileges shall not apply in any respect to mobile food vendors at any City organized, City-sponsored or City-sanctioned event or activity to which vendor access is restricted or regulated, who receives a written permission from the director of the organization sponsoring the event to operate within the boundaries of any City-organized, City sponsored or City-sanctioned event or activity.

*B. The City Council may temporarily suspend the rules, regulations or requirements of any section of this Ordinance with the exception of any State or Federal law for not more than 10 days by Resolution.

C This Section shall not apply to small retail establishments operated by minor children on the same property as they occupy such as lemonade stands, hot chocolate stand, etc..

§ 210 Penalties for Violations.

[Ord. #, Date]

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100, nor more than \$600 plus costs and, in default of payment of said fine and costs, to imprisonment for not more than 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

FEE RESOLUTION FOR MOBILE FOOD VENDOR FACILITIES:

Daily (1 consecutive 24 hour period) - \$20.

Weekly (7 consecutive calendar days) - \$30.

Monthly (30 consecutive calendar days) - \$60.

1st Period (January 1 – April 30) - \$100.

2nd Period (May 1 – August 31) - \$200.

3rd Period (September 1 – December 31) - \$150.

Designated Vendor Area at Elk Creek Park:

\$0.15 per square foot per day.

\$0.25 per square foot per week.