



**Land Use Permit Application for Local Program for the Temporary Occupation of Right -of-Way
by Mobile Food Vendors**

LUP-MFV

I, an official of the undersigned locality, hereby acknowledge that I am fully cognizant of all of the following requirements associated with the issuance of a Virginia Department of Transportation (VDOT) land use permit authorizing the locality to operate a program for the temporary occupation of non-limited access state-maintained highway right-of-way by mobile food vendors:

Type or Print Clearly

Locality Name: _____

Locality Federal Tax ID No.: _____

Locality Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Locality Representative's Name: _____

Locality Representative's Signature: _____

Locality Representative's Title: _____

Telephone Number: (_____) _____ - _____ **E-mail Address:** _____

VDOT Land Use Permit Required by Law

The General Rules and Regulations of the Commonwealth Transportation Board provide that no work, occupancy, or non-transportation uses of any nature may be allowed or performed on the system of state highways or any real property under the ownership, control, or jurisdiction of VDOT until written permission has been obtained from VDOT. Written permission is granted for a locality to operate a program for the temporary occupation of non-limited access state-maintained highway right-of-way by mobile food vendors through the issuance of a land use permit to the locality in which the activity is to occur.

By issuing a permit, VDOT is giving permission only for whatever rights it has in the right-of-way; the permittee is responsible for obtaining permission from others who may also have an interest in the property.

The permittee agrees to take legal action to recover expenses and damages incurred by VDOT as a result of the violation by a mobile food vendor of the Commonwealth Transportation Board's regulations, as provided for in [**§33.2-210**](#) of the Code of Virginia.

Application Requirements

Applications made for a land use permit authorizing localities to operate a program for the temporary occupation of state-maintained highway right-of-way by mobile food vendors shall be made through the local district permit office where the activity is to take place.

The district administrator's designee will coordinate review and approval of the request with the appropriate VDOT personnel prior to permit issuance.

Contact Information

A list of counties with their corresponding VDOT district offices and contact information may be obtained on the VDOT web site at: <https://www.vdot.virginia.gov/about/districts/>

Permit Term and Fees

Land use permits authorizing localities to operate programs for the temporary occupation of state-maintained highway right-of-way by mobile food vendors are valid for a period of one (1) year and may be renewed annually. The 1-year fee for a permit authorizing a locality to operate a program for the temporary occupation of right-of-way by mobile food vendors is \$100.

Surety Requirement

The locality shall provide, or have the mobile food vendors provide, a continuous surety in the amount of \$10,000 per vendor to guarantee the restoration of the highway right-of-way in the event of damage to state-maintained facilities, or litter pick-up and disposal, or both. Continuous sureties provided by mobile food vendors may be in the form of a [LUP-SB](#) surety bond or [LUP-LC](#) irrevocable letter of credit, or any other VDOT-approved method. The locality may use a Resolution in lieu of a permit surety bond or irrevocable letter of credit bank agreement.

The surety obligation will only be refunded or released upon:

- 1) Formal request from the locality indicating that it is discontinuing its mobile food vending program, or, in cases where the surety is provided by the vendor, upon notification by the vendor that it is discontinuing its participation in the program;
- 2) Completion of a final inspection by VDOT of all involved vending sites where vending operation has been conducted; and,
- 3) Satisfactory restoration of the right-of-way, including litter pick-up and disposal, which may be deemed necessary to return the right-of-way to pre-operation condition.

General Requirements

- 1) Locality acceptance and use of a VDOT land use permit is prima facie evidence that the locality is fully cognizant of all required permit provisions for the locality's operation of a program for temporary occupation of state-maintained highway right-of-way by mobile food vendors.
- 2) The locality's program shall, at a minimum, include the following requirements for mobile food vending on state-maintained highway right-of-way:
 - The occupation of state-maintained highway right-of-way by mobile food vendors shall be restricted to non-limited access highways having a speed limit of 35 miles per hour (MPH) or less.
 - All mobile food vending vehicles or trailers must be located in marked or signed parking spaces. Such spaces may be general use spaces or spaces reserved for mobile food vending operations, at the discretion of the locality.
 - Mobile food vending vehicles or trailers shall not be parked so as to obstruct sight lines at intersections or entrances to highways. Minimum intersection or stopping sight distance (whichever applies to the adjacent intersection) shall not be impacted.
 - All mobile food vending operations must be located adjacent to sidewalks with a width of five (5) feet or greater or, at locations with sidewalks that are less than five (5) feet wide, a level passable surface of at least six (6) feet (including the width of the sidewalk).
 - Mobile food vendors shall not be authorized to place, put, or affix advertisements upon the highway right-of-way.

- Vending directly to motor vehicle occupants or to pedestrians on the travel-way side of the vending unit shall be prohibited. Vending will be to pedestrians and only from the sidewalk side of the vending unit.
 - Mobile food vendors authorized to temporarily occupy state-maintained highway right-of-way shall secure and maintain comprehensive general liability insurance with limits of at least \$1,000,000 per occurrence and \$5,000,000 aggregate, or in amounts otherwise required by VDOT as stated in the permit. Said insurance must remain valid as long as the mobile food vendor occupies state-maintained highway right-of-way under authorization granted by the locality. Mobile food vendors must provide proof of insurance to the locality prior to the issuance of the locality permit authorizing mobile food vending on state-maintained right-of-way.
- 3) The locality assures VDOT that VDOT shall not be liable for any and all damages that may occur as a result of the activities authorized under a land use permit allowing mobile food vending on state-maintained highway right-of-way.
 - 4) The locality agrees to notify the local VDOT area land use engineer of the general locations of proposed vending areas at least 48 hours prior to allowing mobile food vending to occur in those areas.
 - 5) The locality agrees to order the relocation or removal of any authorized mobile food vending activity that is determined to be in conflict with the construction, maintenance, or operation of the highway upon written notification from VDOT of such conflict.
 - 6) The locality shall immediately require the vendor to correct any situation that may arise as a result of these activities that VDOT deems hazardous to the traveling public.
 - 7) A copy of the VDOT land use permit, the locality permit (or other form of local authorization), and proof of insurance shall be maintained at all mobile food vending sites and made readily available for inspection when requested by VDOT.
 - 8) VDOT reserves the right to suspend any or all mobile food vending operations on state-maintained highway right-of-way in response to public safety or operational concerns and shall be held harmless for any resulting monetary losses by the locality or the vendors resulting from said suspension.
 - 9) Roadway drainage shall not be blocked or diverted resulting from the temporary occupation of state-maintained highway right-of-way by mobile food vendors. The shoulders, ditches, sidewalk, roadside, drainage facilities, and pavement shall be kept in an operable condition satisfactory to VDOT.

Authorized Hours and Days of Operation

The locality shall determine the normal days and hours of operation for the temporary occupation of state-maintained highway right-of-way by mobile food vendors.

Holiday Restrictions

The locality shall designate any holiday restrictions for the temporary occupation of state-maintained highway right-of-way by mobile food vendors.

Permit Revocation

At the discretion of the district administrator's designee, the locality's land use permit may be revoked should operation of the mobile food vendors within state-maintained right-of-way become detrimental to state-maintained facilities or the activity is deemed hazardous for vehicular and/or pedestrian traffic.