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Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



Maryland Department of Transportation

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

Memorandum

To: Neil Pedersen
Administrator
Maryland State Highway Administration

From: Greg Welker
Deputy Administrator/Chief Engineer – Operations
Maryland State Highway Administration

Subject: Produce and Seafood Vendor Policy

Attached for your review and approval is the Produce and Seafood Vendor Policy.

Approved: Neil J. Pedersen Date: 10/13/16

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410-545-0300 • www.marylandroads.com



- SHA will not approve any application to enter into a lease if the proposed site:
 - is located on a road with a posted speed limit of more than 45 MPH;
 - is located on a road with a posted speed limit of more than 35 MPH and there is no provision of off roadway parking (that is, parking where all vehicles are completely off of all travel lanes and shoulders);
 - likely would cause traffic safety or operations problems, as determined by the SHA District Office;
 - is determined to present a risk to the environment by SHA or a governing environmental agency
 - is located on a controlled-access road;
 - is on or under any vehicular bridge or overpass;
 - is one for which SHA has demonstrated a need or has plans to develop or use for its own purposes prior to the maximum lease duration;
 - is located within ¼ mile of an SHA Park and Ride lot; or
 - is denied by the Federal Highway Administration (FHWA).

Application for a Lease

- A vendor must apply, to the appropriate SHA District Office, for the purpose of entering into a lease with SHA to sell produce or seafood in SHA's right-of-way.
- The vendor's application must be submitted in a form and format determined by SHA.
- The application must be submitted to SHA at least 90 days prior to the opening date of the vending business on the proposed site, to allow SHA time in which to review and process the application.
- A non-refundable application fee of \$500 is required upon submission of an application, to cover costs associated with processing, inspection, and overhead. This fee will not be assessed more than once, if an initial site is denied and an alternate location is submitted.
- Applications do not automatically renew from year to year. Rather, a separate application and fee is required each year.
- A vendor with a current approved location may submit a renewal application for the same site for the next year prior to the end of the vendor's current lease. Without a renewal, site approval will be determined on a "first-come-first-served" basis.
- The application must include the following::
 - Name of the business, contact person, telephone, TAX ID and/or business ID number;
 - A vicinity map showing the location of the site;
 - A description and detailed sketch showing the layout of vehicle, stand, tent, and/or other physical structure or equipment; the proposed placement of any sign; and the proposed location of patron parking;
 - A copy of all required local permits allowing the vendor to operate within the jurisdiction (note: SHA will not process an application until the vendor provides SHA a copy of all required local licenses or permits. (If the local jurisdiction does not require a permit, then a letter from the proper official of that local jurisdiction, stating that a permit is not required, may be needed);

- The \$500 application fee;
- A bond or other documented means in the amount of \$5,000 (surety), that allows SHA to recoup any costs associated with restoration of the site due to damage sustained as the result of the vendor's operations;
- Proof of insurance in the amount of \$1 million for each incident/\$2 million general aggregate. The vendor shall maintain in full force and effect third party legal liability insurance necessary to cover claims arising from the vendor's operations under this agreement that cause damage to the person or property of third parties. The insurance shall be under a standard commercial general liability (CGL) form endorsed as necessary to comply with the above requirements; or other liability insurance form deemed acceptable by the State. The State of Maryland shall be listed as an additional named insured on the policy. The limit of liability shall be no less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate. The insurance shall be kept in full force and effect during the life of the permit. The policies shall be endorsed to provide 30 days notice of cancellation or nonrenewal to:

Maryland State Highway Administration
 Director, Office of Construction
 7450 Traffic Drive
 Hanover MD 21076

Evidence of insurance shall be provided to SHA prior to the issuance of the permit by means of a Certificate of Insurance with copies of all endorsements attached; or, in the event insurance is provided by a policy form other than a CGL form, by certified copy of the complete policy with all endorsements.

Any policy exclusions shall be shown on the face of the Certificate of Insurance.

The Certificate of Insurance shall be accompanied by a document (a copy of State License or letter from insurer) that indicates that the agent signing the certificate is an authorized agent of the insurer.

- Note: while the application review will proceed, no lease will be executed until the vendor proves he/she has the required insurance and bond (described above);
- Anticipated days and hours of operation (hours of operation are limited to those between 9 a.m. to sunset); and
- Photographs of the site prior to the start of operations, to allow SHA to determine restoration requirements.
- The vendor (or Lessee) is responsible for posting a public notice sign at the site, measuring 24 inches by 24 inches, for 2 weeks prior to site approval. The sign must indicate the applicant's intention to use the site and provide contact information for SHA District Office. Any citizen concerns will be investigated and may result in denial of the application.

Processing and Evaluation of Applications

- Upon receipt of a completed application and fee, the District Office will submit the fee to SHA's Office of Finance (OOF) and request SHA's Office of Real Estate to determine the right-of-way (ROW) lines and boundaries for the proposed site.
- The fee will be deposited into District-specific charge codes.
- Once ORE has determined the ROW lines and boundaries, the District Office will conduct various site assessments and evaluations, which will include, but are not limited to:
 - Traffic Safety Review, including crash history;
 - Environmental Review;
 - Planned Maintenance/Construction review;
 - Traffic Operations Review; and
 - Parking Assessment;
- The District Office and ORE will charge the District-specific charge codes for these site assessments and evaluations.
- Once the District Office has completed its review, it will recommend whether to approve or reject the application.
 - The following offices within the District must sign off and approve the application before a lease can be issued: Utilities, Traffic, and Right of Way/Real Estate. *and Nelson Smith*
 - If the District Office rejects the application, the District Office will provide comments to the applicant, and the applicant will have the opportunity to address SHA's concerns. The applicant may also appeal the rejection to the Deputy Administrator/Chief Engineer of Operations.
 - NOTE: After denial by the District Office or denial of the appeal by the Deputy Administrator/Chief Engineer for Operations, the applicant may, without having to pay another application fee, propose another site by submitting a second application, which will start the process over.
 - If the District Office recommends approval of the site, or if the site is approved after an appeal to the Deputy Administrator/Chief Engineer, and if all other requirements of the application have been met, the District will:
 - prepare and enter into a lease with the vendor, if it has been determined that the State highway is not a federal-aid route; or
 - forward the application to FHWA for that agency's review and approval, if it has been determined that the State highway is a federal-aid route.
 - If FHWA approves the application, SHA will then prepare and enter into a lease with the vendor
 - If FHWA rejects the application, applicant cannot appeal FHWA's rejection. However, the applicant may, without paying an additional application fee, propose second site by submitting another application, which will start the process over.
- The entire application process normally will take no longer than 60 days.

Lease Provisions

- A lease shall have a term of one month and will automatically renew upon SHA's receipt of the rent payment for the following month.
- A lease may be renewed for the length of the produce or seafood season for which the lease was signed. The produce or seafood season shall be deemed to end on November 30.
- The initial month's rent is due upon the execution of the lease.
- The lease shall require monthly rent based on the fair-market value of the location, as determined by SHA's ORE.
- Rent for the first month is due prior to the opening of the business. Rent for subsequent months is due by the first day of each month. A 5% penalty will be added if rent is not received by the 6th day of the month.
- The vendor is responsible for site maintenance activities within 50 feet of the stand including mowing; and cleanup of trash, litter, and debris.
- Vendors must provide adequate sanitary facilities for employees.
- The vendor must maintain safe sight distance around his or her operations.
- The vendor must restore the site to its original or better condition at the end of the lease. If the vendor fails to do so, the vendor is responsible for the cost of such restoration. SHA will retain the bond or other surety until the restoration has been completed and approved.
- The vendor must maintain, in full force and effect, throughout the duration of the lease, the third party legal liability insurance described above.

Termination of Lease

- All leases shall terminate by November 30.
- A vendor may terminate the lease prior to November 30, by notifying SHA in writing and restoring the site to its original condition. Until both of those conditions have occurred, the vendor will remain responsible to pay the monthly rent, as established in the lease. The vendor is responsible for payment of rent received by SHA. The written notice must be delivered to the District Office issuing the permit.
- SHA may terminate the lease, without advance notice, for any of the following reasons:
 - Vendor's failure to comply with federal, state, or local laws (including tax requirements, health requirements, safety requirements, etc.);
 - Vendor's failure to pay rent in full by the 15th day of any month;
 - Emergency or unforeseen roadwork or other work that would affect the site;
 - A substantial change in the characteristics of traffic in the vicinity of the site;
 - A substantial negative impact of the site on traffic safety or operations;
 - Vendor's failure to submit to routine inspections or comply with findings from inspections; or
 - Vendor's failure to control trash, debris, litter, sight-distance requirements, etc.

Administration of Lease

- SHA will transfer, to FHWA, a portion of the rental income SHA receives. The portion will be based on the amount of FHWA's contribution for the section of roadway on which the site is located.
- SHA's District Offices will work with ORE and OOF to administer leases.

Inspections

- Inspections may be conducted by SHA, law enforcement, or local health or labor agencies at any time.
- Inspections by SHA will consist of evaluating whether the vendor is in compliance with the terms of the lease.
- If for any reason, SHA cites a vendor for noncompliance, the vendor will have one week in which to appropriately address the issues cited. If the vendor does not address those issues to comply with the lease within that time, the lease will be terminated.

Other items

- Some sites may require dedicated off-roadway parking/pull off areas for customers. The location of this parking must be such that it does not place pedestrians in an unsafe situation to reach the vendor's site.
- The vendor (or Lessee) is responsible for the cost of any needed site preparation, including any parking areas, and must secure all applicable environmental permits.
- After the lease application has been approved, the vendor will be allowed to place 1 advertising sign, that is no larger than 12 square feet and no longer than 4 feet on any side, at the site approved by the District. The sign may be double sided.
- No utility services will be allowed for stands on SHA Right Of Way