

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 22, 2008

☐ Consent

☒ Regular

☐ Workshop

☐ Public Hearing

Department

Submitted By: ENGINEERING & PUBLIC WORKS

Submitted For: TRAFFIC DIVISION

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: On preliminary reading and advertise for public hearing on August 19, 2008 at 9:30 a.m., an Ordinance amending Palm Beach County Code Chapter 23, Article V, known as the Roadside Vendors Ordinance (Ordinance 97-40); amending Section 98, permit required for commercial use of County rights-of-way; amending Section 100, criteria for vending locations; amending Section 102, application for permit; amending Section 103, fees; amending Section 104, conditions of permit; amending Section 108, voluntary relocation; amending Section 109, renewal of permit; amending Section 110, revocation of permits; amending Section 111, appeal; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of law and ordinances; providing for effective date.

Summary: The proposed Ordinance will amend Chapter 23, Article V, known as the Roadside Vendors Ordinance (Ordinance 97-40), and designate an area to accommodate large vending locations; increase the size of vending locations in the designated area, increase fees, insurance and bond amounts associated with commercial use of County Rights-of-Way by vendors; restrict use of rights-of-way when it is used for park access and parking; provide for other changes to provide clarity, accommodate agency changes and update the appeal process. Countywide (MRE)

Background and Justification: The Board determined that certain changes were necessary to the Roadside Vendors Ordinance to better accommodate vendors and the public. This Ordinance amends Chapter 23, Article 5 (Ordinance No. 97-40). Its adoption will restrict vendors from using County Rights-of-Way abutting a County park when the road shoulders are the designated parking for the park. It also designates an area outside the Urban Service Area for use by vendors selling prepared foods who require additional space and increases that space to 500 square feet. Fees, insurance and bond amounts will increase. This amendment allows limited use of a table and chairs within the confines of a vending vehicle. The appeal process has been amended to provide for Hearing Officers to hear appeals. In addition to these substantive issues, the Ordinance will provide clarity, correct spelling, change address, names and titles to comply with legislative changes.

Attachments:

1. Proposed Ordinance

Recommended by: _____

Division Director

Date

Approved by: _____

County Engineer

7/21/08
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact: See Comment Section B.

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

* see note below

ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes _____ No _____
Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
Program

B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item has no additional fiscal impact.

C. Departmental Fiscal Review: R. J. Ward 7/21/08

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:
* Based on existing permits, the additional revenue received is expected to be less than \$10,000 per year.
atwillhite 7-21-08 SP 7/21/08 CN 7/21/08
OFMB Dr. J. J. J. 7/21/08
Contract Dev. and Control

B. Approved as to Form
and Legal Sufficiency:

Marlene R. J. 7/21/08
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

I:\WPVAgendaPage2\Agnpgtwo2008\0000.No Impact

ORDINANCE NO. 20 ____ - ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE "ROADSIDE VENDORS ORDINANCE"; AMENDING CHAPTER 23, ARTICLE V OF THE PALM BEACH COUNTY CODE, KNOWN AS THE ROADSIDE VENDORS ORDINANCE (ORDINANCE 97-40); AMENDING SECTION 98, PERMIT REQUIRED FOR COMMERCIAL USE OF COUNTY RIGHTS-OF-WAY; AMENDING SECTION 100, CRITERIA FOR VENDING LOCATIONS; AMENDING SECTION 102, APPLICATION FOR PERMIT; AMENDING SECTION 103, FEES; AMENDING SECTION 104, CONDITIONS OF PERMIT; AMENDING SECTION 108, VOLUNTARY RELOCATION; AMENDING SECTION 109, RENEWAL OF PERMIT; AMENDING SECTION 110, REVOCATION OF PERMITS; AMENDING SECTION 111, APPEAL; ~~AMENDING SECTION 112 LIMITED EXEMPTIONS;~~ providing for REPEAL OF LAWS IN CONFLICT; providing for SEVERABILITY; providing for INCLUSION IN THE CODE OF LAWS AND ORDINANCES; providing for EFFECTIVE DATE.

WHEREAS, pursuant to Florida Statutes, Section 336.02, the Board of County Commissioners of Palm Beach County, Florida, is invested with the general superintendence and control of County roads; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, has determined that it is in the best interest of the public to amend the Roadside Vendors Ordinance to allow increased vending area of operation and restrict vendors from right of way used as parking for County Parks; and

WHEREAS, the Roadside Vendors Ordinance has not been amended since 1997 and therefore required changes to clarify, and accommodate agency changes, increase fees, insurance and bond amounts and to update the appeal process by use of a hearing officer; and

WHEREAS, Palm Beach County, Florida, is a charter County and has all powers of local self government; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

- 1) The following Sections of the Roadside Vendors Ordinance as codified in the Palm Beach County Code Chapter 23, Article V, are hereby amended as follows:

SECTION 23-98. PERMIT REQUIRED FOR COMMERCIAL USE OF COUNTY RIGHTS-OF-WAY

- (a) It is unlawful and subject to the penalties and procedures provided in this Ordinance to make any commercial use of County-owned or and maintained

rights-of-way or appendages thereto, including but not limited to, rest areas, wayside parks, boat launching ramps, weigh stations and scenic easements in the unincorporated area of the County, without first obtaining a permit for permissible use in accordance with the provisions of this Ordinance. Commercial use includes, but is not limited to, the sale, advertising, or display for sale of any merchandise; servicing or repairing of any vehicles, except for rendering of emergency service; storage of vehicles being serviced or repaired on abutting property or elsewhere; solicitation for the sale of goods, property or services, whether for profit or charity; and display of advertising of any kind.

(b) A Roadside Vendor Permit (hereinafter "Permit") is valid only to the individual, partnership or corporation (hereinafter "Business Entity") to whom it is issued and who is named therein, and cannot be sold or transferred to another Business Entity.

(c) Notwithstanding anything herein to the contrary, no business tax receipt ~~occupational license~~ issued pursuant to Chapter 17, Article II, of the Palm Beach County Code, shall be deemed a Permit to vend from any County right-of-way.

SECTION 23-100 CRITERIA FOR VENDING LOCATIONS

It is unlawful and subject to penalties and procedures provided in this Ordinance for any Business Entity to vend at a location on County rights-of-way in the unincorporated area of the County which has not been approved by the Engineering and Public Works Department (hereinafter "Engineering Department"). Location is defined as the site or position where vending may be permitted.

- (1) The Engineering Department shall NOT approve Locations:
- a. On state or private roads, private property, or within municipalities.
 - b. On the side of the road which contains curbing, public sidewalks, driveways, bike paths or pathways, or on improved or maintained swale areas.
 - c. Which abut residentially developed property. This prohibits vending in front of (on the same side of the street as) a residence, unless there is an intervening easement or right-of-way (e.g., a canal) separating the Location from the residence.

- 1 d. Within five hundred (500) feet of an established ongoing legally zoned
2 business selling similar commodities. Except that an ongoing legally
3 existing business which complies with all applicable land development
4 regulations may be issued a Permit to operate in conjunction with that
5 business on County right-of-way abutting said business, only to the extent
6 allowed in the zoning district applicable to the abutting property.
- 7 e. Which require, promote or cause any vehicle to stop, stand or park in
8 violation of, or visually impair an official traffic control device, including
9 but not limited to, signs, signals, and markings erected by authority of the
10 County for the purpose of regulating, moving or guiding traffic.
- 11 f. On two-lane roads in a residentially zoned (does not include zoned
12 agricultural/residential) area within five hundred (500) feet of residential
13 unit and/or two hundred (200) feet of residential property line.
- 14 g. Within three hundred (300) feet of any property containing a pre-school,
15 elementary, middle or high school facility.
- 16 h. Within three hundred (300) feet of any property containing a church, temple,
17 synagogue or other place of worship or assembly.
- 18 i. Within three hundred (300) feet of any property containing an established
19 day care facility. Private residences are exempt from this restriction.
- 20 j. On areas of right-of-way where shoulders are used for designated parking
21 abutting County parks. This provision is effective beginning with permits
22 issued for 2009.
- 23 k. Unable to accommodate the maximum total vending area of operation as
24 provided in Chapter 23, Article V, Section 104-(16), (17)

25 (2) The Engineering Department shall only approve Locations:

- 26 a. On a County owned and maintained right-of-way in the unincorporated area
27 of the County.
- 28 b. That are a minimum of one hundred (100) feet from the intersection of any
29 two (2) road rights-of-way and/or a driveway;
- 30 c. That are at least fifteen hundred (1500) feet from any other approved
31 Location.

1 d. With adequate sight distance and parking area to ensure safe vending
2 operation with respect to normal movement of traffic in relation to the
3 location's position on the right-of-way.

4 (3) If, after a Permit has been issued, a Location becomes ineligible due to changes
5 including, but not limited to, traffic flow, storage, curbing, signalization, speed limits,
6 development, pathways, sidewalks or municipal boundaries, the Permit must be relocated. If
7 the location conflicts with any construction, reconstruction, or any project performed or
8 permitted by the County or its authorized representative(s) which is in the interest of the public,
9 the Permit is suspended for the duration of the conflict and may be relocated.

10 ***

11 SECTION.23-102. APPLICATION FOR PERMIT
12

13 (a) The following information is to be provided on an *Application for Permit*,
14 available from the Engineering Department:

15 (1) Type of application including, but not limited to, new, renewal, County-
16 mandated relocation, voluntary relocation

17 (2) Type of business including, but not limited to, sole proprietor,
18 partnership, corporation.

19 (3) Applicant's name must appear on all subsequent required documents. If
20 the applicant is a corporation, the name of a contact individual who is
21 an officer/manager of the corporation must be specified. If the
22 applicant is a partnership, the names of all partners must be specified.

23 (4) Any applicant intending to conduct business under any name other than
24 applicant's legal name (e.g. d/b/a) must provide a copy of the Fictitious
25 Name paperwork that has been filed with the Secretary of State. The
26 Fictitious Name must also appear on all subsequent required documents,
27 including but not limited to, Business Tax Receipt, Florida Resale
28 Certificate, Occupational License, Sales Tax Number, Performance
29 Bond and Certificate of Insurance.

30 (5) Mailing address, physical address, telephone number(s), and email
31 address of the applicant.

32 (6) Product category to be sold.

- 1 (7) Requested Location including road name, side of road (north, south,
2 east, west), and distance, in feet, from the nearest intersection.
- 3 (8) Execution of an indemnification agreement stating that in consideration
4 of the County issuing a Permit, pursuant to the provisions of this
5 Ordinance, the Permittee hereby releases, hold harmless, and agrees to
6 indemnify and defend the County, its agents, employees, and successors
7 from any and all liability, causes of action, claims, and/or lawsuits, as
8 well as any and all damages, judgments, settlements, attorney fees, costs
9 and other expenses that arise or may ever arise as a result of the vending
10 operation at an approved Location.
- 11 (b) Applicant must submit the completed, signed *Application for Permit*,
12 along with applicable fees to the Engineering Department.
- 13 (c) The Engineering Department shall evaluate the availability of the requested
14 Location. If the requested Location is found to be ineligible, the applicant
15 may request an alternate location, but must pay an additional location
16 evaluation fee for each alternate location requested.
- 17 (d) Once a Location is approved (hereinafter "Vending Location"), the
18 applicant shall be issued an Intent to Permit (hereinafter "Intent"). This
19 Intent is needed to obtain an ~~occupational license~~ business tax receipt from
20 the County. An Intent is valid twenty (20) business days from date of
21 issuance. An Intent essentially reserves the Vending Location while the
22 applicant obtains all necessary documents. The Intent does not allow the
23 applicant to operate at the Vending Location. If an Intent expires before a
24 Permit is issued, the Vending Location shall become available to others and
25 the applicant may reapply.
- 26 (e) A Permit shall be issued only after the applicant has provided the
27 Engineering Department with:
- 28 (1) An original Certificate of Insurance evidencing the following:
- 29 a. Name of insured is same as the applicant's name on *Application*
30 *for Permit* (including Fictitious Name, if applicable).

- 1 b. Commercial general liability insurance including contractual
2 liability, in the minimum amount of ~~Three~~ Five Hundred
3 Thousand Dollars (\$~~3~~ 500,000.00) per occurrence.
- 4 c. Coverage effective through or beyond the Permit expiration date.
- 5 d. Palm Beach County as both certificate holder and additional
6 insured.
- 7 e. Vending Location as specified on *Application for Permit* (a
8 single policy may cover multiple locations).
- 9 (2) A copy of a receipt, showing payment in full, for insurance coverage
10 specified above.
- 11 (3) A performance bond, or other satisfactory security, in the minimum
12 amount of ~~One~~ Two Thousand Dollars (\$~~1~~2,000.00) to secure any costs
13 which may be incurred by the County due to applicant's noncompliance
14 with this Ordinance or damage resulting to roadway pavements,
15 sidewalks or other improvements. The bond, or other security, must be
16 issued to same name as the applicant's name on *Application for Permit*
17 (including Fictitious Name, if applicable) and must specify Vending
18 Location(s) covered; coverage must be through or beyond Permit
19 expiration date. Each bond, or other satisfactory security, must be for
20 only one Permittee. One performance bond, or other satisfactory
21 security, may be used for two (2) Permits issued to same Permittee.
- 22 (4) A current Palm Beach County Business Tax Receipt ~~occupational~~
23 license-with:
- 24 a. ~~Licensee's~~ The same name, ~~same~~ as the applicant's ~~name~~ on
25 *Application for Permit* (including Fictitious Name, if
26 applicable);
- 27 b. The Vending Location as specified on *Application for Permit*;
28 and
- 29 c. The Product Category as specified on the *Application for Permit*.
- 30 (5) For all product categories except Produce, evidence of a current Florida
31 Resale Certificate showing the Palm Beach County sales tax number, as
32 provided by Florida Department of Revenue laws and/or regulations,

1 issued to the same name as the applicant's name on the *Application for*
2 *Permit* (including Fictitious Name, if applicable). A sales tax number
3 from another county is not sufficient. One sales tax number may be
4 used for two (2) Permits issued to the same Permittee.

5 (6) For Prepared Food only, a valid license from the State's Division of
6 Hotel and Restaurants License issued to same name as applicant's name
7 on the *Application for Permit* (including Fictitious Name, if applicable).

8 (7) Payment of all applicable fees.

9 (f) Each Permit issued by the Engineering Department shall:

10 (1) Specify Permittee's name (including Fictitious Name, if applicable),
11 Vending Location, product category, size of vending vehicle,
12 expiration date of Permit, insurer and policy expiration date.

13 (2) Specify authorized hours of operation, which shall be one-half (1/2)
14 hour ~~before~~-after sunrise to one-half (1/2) hour before sunset, except
15 as may be otherwise restricted by the Engineering Department.

16 (3) List any special conditions and/or restrictions necessary to assure
17 compliance with this Ordinance and to protect the public from
18 undue harm or risk.

19 (4) Include a summary of the provisions of this Ordinance, to be signed
20 by Permittee, certifying that Permittee has read and understands the
21 provisions and agrees to abide by them.

22 (5) Be accompanied by an official, waterproof, metal Permit plate.

23
24 SECTION 23-103. FEES.

25 (a) A nonrefundable application fee of ~~Twenty-Five~~ One Hundred Dollars
26 (~~\$25~~ 100.00) shall be submitted with the *Application for Permit*. This fee
27 is intended to cover the cost of processing an application and conducting
28 one location evaluation. It applies to applications for new Permits,
29 ~~renewals~~ and voluntary relocations. Applications for County-mandated
30 relocations are exempt from this fee. A non-refundable fee of Fifty
31 Dollars (\$50.00) shall be submitted with the *Application for Permit*
32 renewal.

- 1 (b) A nonrefundable annual Permit fee of Two Hundred Fifty Dollars
2 (\$250.00) ~~One Hundred Forty Dollars (\$140.00)~~ shall be paid at the time
3 of Permit issuance. This fee is to defray ~~intended to cover~~ the cost of
4 issuing Permits, administering the Roadside Vendor Program, addressing
5 complaints, performing inspections, and general enforcement of this
6 Ordinance. The Permit fee shall be One Hundred Fifty Dollars (\$150.00)
7 ~~Seventy Five Dollars (\$75.00)~~ for Permits issued on or after June 1 of a
8 particular year.
- 9 The only exception to this nonrefundable fee is when a Permit has been
10 issued in error. In such cases, a pro-rated portion of the annual Permit fee
11 shall be refunded to the applicant, upon request, when a Permit for an
12 alternative location is not issued.
- 13 (c) Nonrefundable miscellaneous fees shall be charged as follows:
- 14 (1) Wait List Fee: \$20.00 ~~\$10.00~~. If an applicant desires a Vending
15 Location currently permitted to another Business Entity, the
16 applicant may submit a Wait List Application for that Vending
17 Location. (Note: Wait Lists expire annually on January 31. If the
18 Vending Location is still desired beyond January 31, a new Wait
19 List Application and fee must be submitted).
- 20 (2) Additional Location evaluation fee: \$50.00 ~~15.00~~. This fee
21 applies when ~~requested the Location is found ineligible and the an~~
22 applicant requests that an ~~alternate~~ location be evaluated in order
23 to relocate and also applies to each potential alternate location
24 requested thereafter, by the applicant that requires evaluation.
- 25 (3) Replacement of metal plate: \$30.00 ~~15.00~~.
- 26 (4) Replacement of paper Permit: \$20.00 ~~5.00~~.
- 27 (d) No Permits shall be issued to a given Business Entity having unpaid
28 fees.
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(d)(e) Summary of Fee Schedule: Typical fee structures include:

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Application Permit Total

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1. Annual Fees

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1A. New Permit (prior to 6/1 June 1) \$10025.00 \$250140.00 \$350165.00

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8

2 B. New Permit (6/1 June 1 or later) \$10025.00 \$15075.00 \$250100.00

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3C. Renewal \$5025.00 \$250140.00 \$300165.00

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13

2. Miscellaneous Fees

14

4A Mandated Relocation N/A N/A N/A

15

5B Voluntary Relocation \$10025.00 N/A \$10025.00

16

6C Additional Location \$5015.00 N/A \$5015.00

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Evaluation

18

D. Wait List \$20.00 N/A \$20.00

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E. Metal Plate Replacement \$30.00 N/A \$30.00

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F. Paper Permit Replacement \$20.00 N/A \$20.00

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(f) This section provision is effective beginning with permits issued for 2009.

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SECTION 23-104. CONDITIONS OF PERMIT.

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Once issued, Permits are valid subject to all of the following conditions which apply to

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both Permittees and their employees (hereinafter collectively referred to as "Vendors"). Failure

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to comply with any of these conditions shall result in the assignment of points which may

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result in revocation of the Permit.

29

(1) A Permit is valid only for the specific Business Entity to whom it was issued.

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No Permit may be sold or transferred to another Business Entity.

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(2) The Vendor must not set-up prior to authorized hours of operation and must

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vacate the Vending Location upon the close of authorized hours.

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(3) The Vendor must not engage in any violence or disturbance at the Vending

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Location which could necessitate law enforcement intervention.

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(4) The Vendor may operate only from the Vending Location specified on the

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Permit.

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(5) The Vendor must cease vending within twenty-four (24) hours of notice by the

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Engineering Department of County-mandated relocation.

39

(6) All equipment and items used in the vending operation are to be removed from

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the right-of-way no later than one-half (1/2) hour before sunset ~~the end of the vending day as~~

1 ~~stated on the Permit~~, and are not to be replaced until any sooner than one-half (½) hour after
2 sunrise on the next day. ~~the next authorized time of operation.~~

3 (7) No vending Location shall be operated in such a manner as to require, promote
4 or cause any vehicles to stop, stand or park in violation of, or visually impair an official traffic
5 control device, including but not limited to, signs, signals and markings erected by authority of
6 the County for the purpose of regulating, moving or guiding traffic.

7 (8) The vending vehicle must be set back a minimum of twelve (12) feet from the
8 travel lane to ensure "adequate site safe distance."

9 (9) Permittee Vendor must maintain required minimum general liability coverage
10 and performance bond, or other satisfactory security, through the end of the Permit year.

11 (10) Only the product category specified on the Permit may be sold.

12 (11) Freestanding signs, flags, banners, tents, tarpaulins or awnings are not allowed
13 within the road rights-of-way. All signs, flags, banners, tents, tarpaulins or awnings must be
14 attached to, or resting against the vending vehicle/equipment. No tables, chairs or umbrellas
15 are to be set up for use by customers outside the vending vehicle. Within the confines of the
16 Vehicle used by the vendor, and one (1) table and a maximum of two (2) chairs is allowed. In
17 addition, any permitted operation, pursuant to this Ordinance, shall not display or otherwise
18 erect freestanding signs, flags, banners or tents on public or private property or anywhere on
19 the right-of-way outside ~~within five hundred (500) feet~~ of the permitted operation area.

20 (12) Vendors shall maintain mobility at all times of operation. A vehicle must be at
21 the vending Location to provide a means of immediate evacuation in case of an emergency.

22 (13) The vending area is to be kept free from garbage, litter and debris and in
23 compliance with all applicable health laws.

24 (14) Vendors must notify the Engineering Department of any site changes which
25 impact eligibility of the Vending Location. Examples: installation of a sidewalk, driveway,
26 bike path or pathway; residential development; other road construction in the area.

27 (15) Both Permit and Permit plate must be maintained at the Vending Location
28 during all times of operation, and be available upon request. The Permit plate shall be clearly
29 visible from the road.

30 (16) The total vending area of operation is not to exceed three hundred (300) square
31 feet in the urban service areas as defined in the Comprehensive Plan. This includes space taken
32 up by the vending vehicle, signs, equipment, product and any awnings, tents, canopies, etc.

1 (a) Permits may be revoked by the Engineering Department for failure to meet any
2 provisions of this Ordinance, any other County ordinances, state statutes or federal laws.
3 Vendors are expected to comply with all rules and regulations. Permittees may be held
4 accountable for actions of their employees. Grounds for revocation include, but are not limited
5 to, the following:

6 (1) Procurement of a Permit through fraud, misrepresentation, false or
7 misleading statements;

8 (2) Failure to comply with any Conditions of Permit.

9 (3) Vending without a fully opaque covering so that no portion of the male or
10 female genitals, pubic area, 1/3 of the buttocks and any portion of the
11 female breast below the top of the areola is exposed.

12 (4) Failure to maintain the integrity of the pavement edge and stabilization
13 of the road.

14 (b) ~~B. The Engineering Department~~ A point system ~~has~~ is established points for each
15 violation offense. ~~One point value has been assigned for the first occurrence and another point~~
16 ~~value for subsequent occurrences of the same offense.~~ A list of offenses and their point
17 assignments, attached hereto as Exhibit A and incorporated herein, shall be issued with each
18 Permit. ~~This list may be amended by the Engineering Department from time to time, as~~
19 ~~deemed necessary or appropriate. When amended, an updated list shall be mailed to each~~
20 ~~Permittee. Points are cumulative for a given Permit. If a Business Entity has (2) Permits,~~
21 ~~points are tallied separately for each.~~ An accumulation of ten (10) points within any twenty-
22 four (24) month period shall result in revocation of that Permit. All accumulated points for a
23 given Permit shall be cleared if no additional points are assigned on that Permit for a twelve
24 (12) month period. Once the accumulated points have been cleared, the next offense in a
25 particular category shall be treated as a first offense. Points are cumulative for a given permit.
26 If a Business Entity has two (2) Permits, points are tallied separately for each

27
28 (c) A violation report shall be issued and ~~The report~~ shall include the Permit number,
29 name of Permittee, time and date, Vending Location, name of individual vending and nature of
30 violation(s), as well as required corrective action, if any. A copy of the report shall be given to
31 the individual vending at the site. The original shall be maintained on file at the Engineering
32 Department. This report shall indicate all violations observed. Points shall only be assigned

1 for the highest violation cited at any given time. However, subsequent occurrences of any of
2 the cited violations shall be assigned points for subsequent (not first) occurrences. A ~~courtesy~~
3 copy of the violation report and a statement of points assigned, both current and cumulative,
4 shall be mailed, to the Permittee at the physical address on record, return receipt requested. If
5 the cumulative total is ten (10) points or more, the statement shall include official notification
6 of revocation of the Permit. Revocation shall be effective upon the fifth (5) day after mailing
7 this notice to the last known address for Permittee on record at the Engineering Department.

8 (d) Once a Permit has been revoked, both the Permit and the permit plate must be
9 surrendered to the Engineering Department. This must be done even in instances where
10 Permittee intends to appeal revocation. The County Engineer or his duly authorized
11 representative(s) may request both Permit and Permit plate, at time of violation. If not, it is the
12 Permittee's responsibility to surrender both, either in person or by mail, ~~at~~ to the Engineering
13 Department. Failure or refusal to do so after notification of revocation, shall subject Permittee
14 to penalties provided herein.

15 (e) When a Permit is revoked, the current number of allowable Permits for that
16 Business Entity is decreased by one (1). This decrease remains in effect for a period of two (2)
17 years from the date of revocation. At the end of two (2) years, the number of allowable Permits
18 shall be increased by one (1).

19 (f) A modified revocation will occur in cases where a Permit has been issued in
20 error including, but not limited to, on private, state or municipal roads, roads with insufficient
21 right-of-way, within a municipality, abutting a residence, adjacent to a sidewalk or bike path,
22 etc. A modified revocation means that vending must cease immediately, but no points are
23 assigned nor is the number of allowable Permits for this Business Entity decreased.
24 Engineering staff shall assist the Permittee with relocation, if requested. No additional fees
25 shall be charged. If the Permittee decides to surrender the Permit, a pro-rated portion of the
26 annual Permit fee shall be refunded, upon request.

27 **SECTION 23-111 APPEAL**

28 (a) The following appeal process applies to both denial and revocation of a Permit and
29 will be heard by a Palm Beach County Hearing Officer authorized under Article 17, Chapter,
30 Section 7 of the Unified land Development.

31 (1) The applicant (denial) or Permittee (revocation) shall submit to the Engineering
32 Department within seven (7) working days of notification of denial or revocation, a

1 notice of appeal along with a statement setting forth the grounds for appeal and all
2 allegations as to why the Permit should not be denied or revoked. The Engineering
3 Department shall forward this notice of appeal, together with a report of the
4 circumstances surrounding the denial or revocation, to the ~~Board of County~~
5 ~~Commissioners of Palm Beach County, Florida~~ the Hearing Officer ~~on the regular~~
6 ~~agenda at a regularly scheduled County Commission meeting.~~

7 (2) The decision of the ~~Board of County Commissioners of Palm Beach County, Florida~~
8 the Hearing Officer shall be conclusive and final. Should the ~~Board of County~~
9 ~~Commissioners of Palm Beach County, Florida~~ Hearing Officer reverse the denial
10 or revocation, the Permit shall be issued or reinstated. All parties shall bear their
11 own costs and expenses of such proceedings and no damages shall be compensable
12 as a result of any County or Engineering Department action hereunder.

13 (b) The appeal process for a violation is as follows:

14 The Permittee shall submit to the Engineering Department within seven (7) working
15 days ~~of the~~ notice of violation, a notice of appeal ~~along with,~~ a statement setting
16 forth the grounds for appeal and all allegations as to why the violation(s) should not
17 be cited. The decision of the County Engineer or his duly authorized
18 representative(s) shall be conclusive and final. Should the decision reverse the
19 violation citation, any points assigned shall be removed. ~~and the current number of~~
20 ~~allowable Permits for this Business Entity shall be increased by one (1).~~

22 2. REPEAL OF LAWS IN CONFLICT.

23 All local laws and ordinances in conflict with any provisions of this Ordinance, are
24 hereby repealed, to the extent of such conflict.

25 3. SEVERABILITY.

26 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
27 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not
28 affect the remainder of this Ordinance.

29 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

30 The provisions of this Ordinance shall become and be made a part of the Code of Laws
31 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be

1 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
2 "section", "article", or other appropriate word.

3 **5. EFFECTIVE DATE**

4 The provisions of this Ordinance shall become effective upon filing with the
5 Department of State.

6 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm
7 Beach County, Florida, this ____ day of _____, 2008.

8 SHARON R. BOCK, CLERK &
9 COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

10
11 By: _____
12 Deputy Clerk

By: _____
Addie L. Greene, Chairperson

13
14 APPROVED AS TO FORM AND
15 LEGAL SUFFICIENCY

16
17 By: _____
18 Assistant County Attorney

19
20 **EFFECTIVE DATE:** Filed with the Department of State on the ____ day of
21 _____, 2008.

22
23 Document2



**PALM BEACH COUNTY ROADSIDE VENDOR PROGRAM
VIOLATION POINT ASSIGNMENTS**

**POINTS PER
OCCURRENCE**

1ST	SUBSEQ.	VIOLATION / OFFENSE
10	N/A	a. Procurement of permit through fraud, misrepresentation, and/or false or misleading statements.
10	N/A	b. Sale or transfer of (or attempt to sell or transfer) permit/location to another business entity.
05	05	c. Failure to comply with applicable federal, state and/or local laws, rules or regulations.
05	05	d. Vending before/after authorized hours of operation, as stated on permit. Failure to vacate vending location at end of vending day.
05	05	e. Violence or disturbance which results in law enforcement intervention.
05	05	f. Failure to vend at the location stated on permit.
05	05	g. Continuing to vend from a location more than 24 hours after being notified by Engineering of County-mandated relocation.
03	05	h. Vending attire does not meet requirements of ordinance.
03	05	i. Failure to remove all vending equipment/items at end of vending day.
03	05	j. Vending in a manner that interferes with the health, safety and/or welfare of the general public. Examples: creation of physical or sight obstruction; promotion of violation of official traffic control devices; inadequate set-back from road; inadequate sight distances.
03	05	k. Failure to maintain required minimum general liability coverage and performance bond through the end of the permit year.
03	05	l. Sale of unauthorized goods or items.
03	05	m. Use of free standing signs, flags, banners, or tents. Set up of tables, chairs and/or umbrellas for customer use.
03	05	n. Failure to maintain mobility at all times.
01	03	o. Failure to keep vending area free from garbage, litter and debris.
01	03	p. Failure to inform Engineering/Traffic of any site changes which impact eligibility of location.
01	03	q. Failure to have both plate and permit at vending location, with plate clearly visible from the road at all times.
01	03	r. Exceeding the maximum allowed square footage area (300 sq ft or 500 sq ft) depending on service location and product category.
01	03	s. Failure to maintain integrity of the pavement edge and stabilization of the road.
01	03	t. Operating with an expired or suspended permit.
01	03	u. Failure to provide Engineering/Traffic with written notification of change of mailing address.