

5B-1

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

Meeting Date: August 18, 2015 Consent Regular
 Ordinance 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 Tuesday, September 22, 2015, at 9:30 a.m.: An ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County Code Chapter 23, Article V, known as Roadside Vendors Ordinance (Ordinance No. 2008-039) providing for criteria for permit issuance; providing for fees; providing for renewal of permit; providing for repeal of laws in conflict; providing for inclusion in the Code of Laws and Ordinances; providing for severability; providing for savings clause; providing for captions; and providing for effective date.

SUMMARY: This amendment to Chapter 23, Article V, known as the Roadside Vendors Ordinance (Ordinance 2008-39) will change the expiration date of the permits issued for roadside vendors from December 31 to January 31. It will also change the dates associated with the wait list and fees to move them each forward by a month. There is no change to the amount of permit fees associated with this program. Currently there are 40 active permits, down from a high of 141 in 1991.

Countywide (MRE)

Background and Policy Issues: Staff determined that these changes to the Roadside Vendors Ordinance Chapter 23, Article V (Ordinance No. 2008-39) are necessary to better accommodate vendors and the public. The amendment will give the vendors more time to get all required documents for the renewal process, some of which are not mailed until the first of the year. It will also give more time for staff to process permit renewals after the holidays. Currently there are 40 active permits.

Attachments:

- 1. Proposed Amended Ordinance
- 2. Original Ordinance No. 2008-39

Recommended By: Dan Musberg 07/30/15
Division Director **Date**

Approved By: S. T. Webb 8/3/15
County Engineer **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
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-
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No

Budget Acct No.: Fund__ Dept.__ Unit__ Object
Program

Recommended Sources of Funds/Summary of Fiscal Impact:

** This item has a negligible fiscal impact.

C. Departmental Fiscal Review: Alii Kovalainen

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 Steve P...
ASD 8/14 OFMB 8/14

 Anita J. ... 8/6/15
Contract Dev. and Control
B. Wheeler 8-5-15

B. Approved as to Form and Legal Sufficiency:

 M... R... 8/6/15
Assistant County Attorney

C. Other Department Review:

Department Director

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

ORDINANCE NO. 2015-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 23 ARTICLE V KNOWN AS ROADSIDE VENDORS ORDINANCE (ORDINANCE NO. 2008-039) PROVIDING FOR CRITERIA FOR PERMIT ISSUANCE; PROVIDING FOR FEES; PROVIDING FOR RENEWAL OF PERMIT; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR CAPTIONS; AND 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 better administer the permitting and permitting renewal process; and

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

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

Section 1.

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

Section. 23-101. CRITERIA FOR PERMIT ISSUANCE:

(a) The sale of produce, plants, flowers, and prepared foods from locations meeting the requirements of this article may be allowed on county rights-of-way in the unincorporated area of the county, provided the business entity first obtains a permit from the engineering department.

(b) Permits are issued to a given business entity (hereinafter "permittee"). The permittee may be an individual, partnership or corporation. All forms, including but not limited to, application for permit, intent to permit, and permit, must contain the original signature of the permittee.

(1) If the permittee is a partnership, all partners must sign all forms. A copy of the partnership's paperwork that has been filed with the secretary of state must be provided.

(2) If the permittee is a corporation, a designated officer/manager must sign all forms. A copy of the corporation's paperwork that has been filed with the secretary of state, listing the principal officers/managers, must be provided.

(3) Any permittee change (e.g., individual elects to incorporate) requires a new application for permit and subjects the applicant to all provisions of this article. A name change resulting from a marriage or divorce, in and of itself, does not impact permit status.

(c) A permit is issued for a single product category. The four (4) listed below are the only allowable categories. No other products may be sold on county rights-of-way within the unincorporated area of the county.

- 1 (1) *Prepared food.* Food prepared for human consumption that may be
2 consumed immediately upon purchase without further preparation.
3
4 (2) *Flowers.* Fresh cut or live potted flowers; not artificial or synthetic.
5
6 (3) *Plants.* Live plants, other than flowers, that can continue growing in a pot
7 or be planted in the ground.
8
9 (4) *Produce.* Fresh, uncooked agricultural plant-type products intended for
10 human consumption.
11
12 (d) A maximum of two (2) allowable permits can be issued to a given business
13 entity at any given time. The number of allowable permits can be altered as a result
14 of revocation.
15
16 (e) Only one permit shall be issued for a location.
17
18 (f) The engineering department may deny permit applications, establish special
19 restrictions (including but not limited to, restricting hours of operation), or revoke
20 permits based on violation of any applicable federal, state or local laws, ordinances,
21 rules or regulations.
22
23 (g) Permits are issued for a ~~calendar year~~ (12) twelve month period and expire on
24 ~~December~~ January 31 of each year.
25

26 **Section. 23-103. FEES:**
27

- 28 (a) A non-refundable application fee of one hundred dollars (\$100.00) shall be
29 submitted with the application for permit. This fee is intended to cover the cost of
30 processing an application and conducting one (1) location evaluation. It applies to
31 applications for new permits and voluntary relocations. Applications for county-
32 mandated relocations are exempt from this fee. A non-refundable fee of fifty
33 dollars (\$50.00) shall be submitted with the application for permit renewal.
34
35 (b) A non-refundable annual permit fee of two hundred fifty dollars (\$250.00) shall
36 be paid at the time of permit issuance. This fee is to defray the cost of issuing
37 permits, administering the roadside vendor program, addressing complaints,
38 performing inspections, and general enforcement of this article. The permit fee shall
39 be one hundred fifty dollars (\$150.00) for permits issued on or after ~~June~~ July 1 of a
40 particular year. The only exception to this non-refundable fee is when a permit has
41 been issued in error. In such cases, a pro-rated portion of the annual permit fee shall
42 be refunded to the applicant, upon request, when a permit for an alternative location
43 is not issued.
44
45 (c) Non-refundable miscellaneous fees shall be charged as follows:
46
47 (1) Wait list fee: Twenty dollars (\$20.00). If an applicant desires a location
48 currently permitted to another business entity, the applicant may submit a wait
49 list application for that location. (Note: wait lists expire annually on ~~January 31~~
50 February 28. If the location is still desired beyond ~~January 31~~ February 28, a
51 new wait list application and fee must be submitted).
52
53 (2) Additional location evaluation fee: fifty dollars (\$50.00). This fee applies
54 when an applicant requests that a location be evaluated in order to relocate
55 and also applies to each potential alternate location requested thereafter, by
56 the applicant that requires evaluation.
57
58 (3) Replacement of metal plate: Thirty dollars (\$30.00).
59
60 (4) Replacement of paper permit: Twenty dollars (\$20.00).
61 (d) No permits shall be issued to a given business entity having unpaid fees.
62
63 (e) Summary of fee schedule:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

TABLE INSET:

		Application	Permit	Total
1.	Annual Fees			
	A. New Permit (prior to June <u>July 1</u>)	\$100.00	\$250.00	\$350.00
	B. New Permit (June <u>July 1</u> or later)	100.00	150.00	250.00
	C. Renewal	50.00	250.00	300.00
2.	Miscellaneous Fees			
	A. Mandated Relocation	N/A	N/A	N/A
	B. Voluntary Relocation	100.00	N/A	100.00
	C. Additional Location Evaluation	50.00	N/A	50.00
	D. Wait List	20.00	N/A	20.00
	E. Metal Plate Replacement	30.00	N/A	30.00
	F. Paper Permit Replacement	20.00	N/A	20.00

(f) This section is effective beginning with permits issued for the year ~~2009~~ 2016.

Section. 23-109. RENEWAL OF PERMIT:

(a) All permits issued under this article shall expire on ~~December~~ January 31 of each year. The right to vend expires with the permit. Vending with an expired permit is a violation of this article.

(b) To renew a permit, the applicant must submit the renewal application fee, an application for permit and all necessary documentation showing continuing compliance with all provisions of this article. The engineering department shall evaluate the continuing availability of the location. Once a location is approved, the applicant must also submit the annual permit fee.

(c) The right to renew at an existing location expires at the close of business of the tenth business day after the permit expiration date. If permittee has not completed the renewal process by then, the permit shall be considered surrendered. Permit seniority will be lost and the location will become available to others.

Section 2. REPEAL OF LAWS IN CONFLICT

All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed.

Section 3. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this chapter shall become and made a part of the code of laws and ordinances of Palm Beach County, Florida. The Sections of the chapter may be renumbered or relettered to accomplish such and the word "ordinance" may be changed to "section," "article," "chapter" or any other appropriate word.

Section 4. SEVERABILITY:

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

1 **Section 5. SAVINGS CLAUSE:**

2
3 Notwithstanding anything to the contrary, all provisions of Palm Beach County
4 Code Section 23-96 through 23-115 codifying Palm Beach County Ordinance
5 No. 08-039, as amended, are specifically preserved and remain in full force and
6 effect for the limited purpose of enforcing any alleged violations of said Code which
7 occurred prior to its repeal or amendment.
8

9 **Section 6. CAPTIONS**

10
11 The captions, sections headings, and section designations used in this
12 Ordinance are for convenience only and shall have no effect on the interpretation of
13 the provisions of this Ordinance.
14

15 **Section 7. EFFECTIVE DATE:**

16
17 The provisions of this chapter shall become effective upon filing with the
18 Department of State.
19
20

21 **APPROVED AND ADOPTED** by the Board of County Commissioners of
22 Palm Beach County, Florida on the _____ day of _____, 2015.
23

24
25 SHARON R. BOCK
26 CLERK & COMPTROLLER

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

27
28
29
30 By: _____
31 Deputy Clerk

By: _____
Shelley Vana, Mayor

32
33 APPROVED AS TO FORM AND
34 LEGAL SUFFICIENCY

35
36
37 _____
38 County Attorney

39
40 Filed with the Department of State on the _____ day of _____, 2015.
41
42
43

ORDINANCE NO. 2008 -039

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF PALM BEACH COUNTY,
5 FLORIDA, TO BE KNOWN AS THE "ROADSIDE
6 VENDORS ORDINANCE"; AMENDING CHAPTER 23,
7 ARTICLE V OF THE PALM BEACH COUNTY CODE,
8 KNOWN AS THE ROADSIDE VENDORS ORDINANCE
9 (ORDINANCE 97-40); AMENDING SECTION 98, PERMIT
10 REQUIRED FOR COMMERCIAL USE OF COUNTY
11 RIGHTS-OF-WAY; AMENDING SECTION 100, CRITERIA
12 FOR VENDING LOCATIONS; AMENDING SECTION 102,
13 APPLICATION FOR PERMIT; AMENDING SECTION 103,
14 FEES; AMENDING SECTION 104, CONDITIONS OF
15 PERMIT; AMENDING SECTION 108, VOLUNTARY
16 RELOCATION; AMENDING SECTION 109, RENEWAL OF
17 PERMIT; AMENDING SECTION 110, REVOCATION OF
18 PERMITS; AMENDING SECTION 111, APPEAL;
19 PROVIDING FOR REPEAL OF LAWS IN CONFLICT;
20 PROVIDING FOR SEVERABILITY; PROVIDING FOR
21 INCLUSION IN THE CODE OF LAWS AND
22 ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

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

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

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

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

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

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

39 SECTION 23-98. PERMIT REQUIRED FOR COMMERCIAL USE OF COUNTY
40 RIGHT-OF-WAY

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

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

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

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

17 ***

18 **SECTION 23-100. CRITERIA FOR VENDING LOCATIONS**

19 It is unlawful and subject to penalties and procedures provided in this Ordinance for any
20 Business Entity to vend at a location on County right-of-way in the unincorporated area of the
21 County which has not been approved by the Engineering and Public Works Department
22 (hereinafter "Engineering Department"). Vending Location (hereinafter "Location") is defined
23 as the site or position where vending may be permitted.
24

25 (1) The Engineering Department shall NOT approve Locations:

- 26 a. On state or private roads, private property, or within municipalities.
- 27 b. On the side of the road which contains curbing, public sidewalks, driveways,
28 bike paths or pathways, or on improved or maintained swale areas.
- 29 c. Which abut residentially developed property. This prohibits vending in front
30 of (on the same side of the street as) a residence, unless there is an intervening
31 easement or right-of-way (e.g., a canal) separating the Location from the
32 residence.

- 1 d. Within five hundred (500) feet of an established ongoing legally zoned
2 business selling similar commodities. Except that an ongoing legally existing
3 business which complies with all applicable land development regulations
4 may be issued a Permit to operate in conjunction with that business on County
5 right-of-way abutting said business, only to the extent allowed in the zoning
6 district applicable to the abutting property.
- 7 e. Which require, promote or cause any vehicle to stop, stand or park in violation
8 of, or visually impair an official traffic control device, including but not
9 limited to, signs, signals, and markings erected by authority of the County for
10 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 a residential
13 unit and two hundred (200) feet of a 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 day
19 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. Current Permittees located on areas covered by this
22 provision may renew their permit for these Locations provided the Permittee
23 remains the same, there is no change in product category, the Location does
24 not become ineligible and all other criteria are met. Under no circumstances
25 will these Locations be available for anyone other than the Permittee holding
26 the permit for these Locations as of the effective date of this Ordinance.
- 27 k. Unable to accommodate the maximum total vending area of operation as
28 provided in Chapter 23, Article V, Section 104-(16), (17).
- 29 (2) The Engineering Department shall only approve Locations:
30 a. On a County owned and maintained right-of-way in the unincorporated area
31 of the County.

- 1 b. That are a minimum of one hundred (100) feet from the intersection of any
2 two (2) road right-of-way and/or a driveway.
- 3 c. That are at least fifteen hundred (1500) feet from any other approved
4 Location.
- 5 d. With adequate sight distance and parking area to ensure safe vending
6 operation with respect to normal movement of traffic in relation to the
7 Location on the right-of-way.

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

14 ***

15 **SECTION 23-102. APPLICATION FOR PERMIT.**
16

- 17 (a) The following information is to be provided on an *Application for Permit*,
18 available from the Engineering Department:
- 19 (1) Type of application including, but not limited to, new, renewal, County-
20 mandated relocation and voluntary relocation.
- 21 (2) Type of business including, but not limited to, sole proprietor, partnership
22 and corporation.
- 23 (3) Applicant’s name must appear on all subsequent required documents. If
24 the applicant is a corporation, the name of a contact individual who is an
25 officer/manager of the corporation must be specified. If the applicant is a
26 partnership, the names of all partners must be specified.
- 27 (4) Any applicant intending to conduct business under any name other than
28 applicant’s legal name (e.g. d/b/a) must provide a copy of the Fictitious
29 Name paperwork that has been filed with the Secretary of State. The
30 Fictitious Name must also appear on all subsequent required documents,
31 including but not limited to, Business Tax Receipt, Florida Resale
32 Certificate, Performance Bond and Certificate of Insurance.

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

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

1 from another county is not sufficient. One sales tax number may be used
2 for two (2) Permits issued to the same Permittee.

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

6 (7) Payment of all applicable fees.

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

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

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

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

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

20 (5) Be accompanied by an official waterproof metal permit plate.

21 ***

22 **SECTION 23-103. FEES.**

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

30 (b) A non-refundable annual Permit fee of Two Hundred Fifty Dollars
31 (\$250.00) shall be paid at the time of Permit issuance. This fee is to defray
32 the cost of issuing Permits, administering the Roadside Vendor Program,

1 addressing complaints, performing inspections, and general enforcement of
2 this Ordinance. The Permit fee shall be One Hundred Fifty Dollars
3 (\$150.00) for Permits issued on or after June 1 of a particular year. The
4 only exception to this non-refundable fee is when a Permit has been issued
5 in error. In such cases, a pro-rated portion of the annual Permit fee shall be
6 refunded to the applicant, upon request, when a Permit for an alternative
7 Location is not issued.

8 (c) Non-refundable miscellaneous fees shall be charged as follows:

9 (1) Wait List Fee: Twenty Dollars (\$20.00). If an applicant desires a
10 Location currently permitted to another Business Entity, the
11 applicant may submit a Wait List Application for that Location.
12 (Note: Wait Lists expire annually on January 31. If the Location is
13 still desired beyond January 31, a new Wait List Application and
14 fee must be submitted).

15 (2) Additional Location evaluation fee: Fifty Dollars (\$50.00). This
16 fee applies when an applicant requests that a Location be evaluated
17 in order to relocate and also applies to each potential alternate
18 Location requested thereafter, by the applicant that requires
19 evaluation.

20 (3) Replacement of metal plate: Thirty Dollars (\$30.00).

21 (4) Replacement of paper permit: Twenty Dollars (\$20.00).

22 (d) No Permits shall be issued to a given Business Entity having unpaid fees.

23 (e) Summary of Fee Schedule:

	<u>Application</u>	<u>Permit</u>	<u>Total</u>
24			
25			
26			
27	1. <u>Annual Fees</u>		
28	A. New Permit (prior to	\$100.00	\$250.00
29	June 1)		\$350.00
30	B. New Permit	\$100.00	\$150.00
31	June 1 or later)		\$250.00
32	C. Renewal	\$50.00	\$250.00
33			\$300.00
34	2. <u>Miscellaneous Fees</u>		
35	A. Mandated Relocation	N/A	N/A
36	B. Voluntary Relocation	\$100.00	N/A
37	C. Additional Location	\$50.00	N/A
38	Evaluation		\$50.00
39	D. Wait List	\$20.00	N/A
40	E. Metal Plate Replacement	\$30.00	N/A
	F. Paper Permit Replacement	\$20.00	N/A
			\$20.00

1
2 (f) This section is effective beginning with permits issued for 2009.

3 ***
4 **SECTION 23-104. CONDITIONS OF PERMIT.**

5 Once issued, Permits are valid subject to all of the following conditions which apply to
6 both Permittees and their employees (hereinafter collectively referred to as "Vendors"). Failure
7 to comply with any of these conditions shall result in the assignment of points which may result
8 in revocation of the Permit.

9 (1) A Permit is valid only for the specific Business Entity to whom it was issued. No
10 Permit may be sold or transferred to another Business Entity.

11 (2) The Vendor must not set-up prior to authorized hours of operation and must
12 vacate the Location upon the close of authorized hours.

13 (3) The Vendor must not engage in any violence or disturbance at the Location which
14 could necessitate law enforcement intervention.

15 (4) The Vendor may operate only from the Location specified on the Permit.

16 (5) The Vendor must cease vending within twenty-four (24) hours of notice by the
17 Engineering Department of County mandated relocation.

18 (6) All equipment and items used in the vending operation are to be removed from
19 the right-of-way no later than one-half (1/2) hour before sunset, and are not to be replaced any
20 sooner than one-half (1/2) hour after sunrise on the next day.

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

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

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

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

30 (11) Freestanding signs, flags, banners, tents, tarpaulins or awnings are not allowed
31 within the road right-of-way. All signs, flags, banners, tents, tarpaulins or awnings must be
32 attached to, or resting against the vending vehicle/equipment. No tables, chairs or umbrellas are
33 to be set up for use by customers outside the vending vehicle. Within the confines of the Vehicle

1 used by the vendor, one (1) table and a maximum of two (2) chairs is allowed. In addition, any
2 permitted operation, pursuant to this Ordinance, shall not display or otherwise erect freestanding
3 signs, flags, banners or tents on public or private property or anywhere on the right-of-way
4 outside of the permitted operation area.

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

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

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

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

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

19 (17) Outside the urban service area, the total vending area of operation for prepared
20 food only is not to exceed five hundred (500) square feet. This includes but is not limited to
21 space taken up by the vending vehicle, signs, equipment, product and any awnings, tents and
22 canopies.

23 (18) The Permittee must provide the Engineering Department with written notification
24 of a change of mailing address, physical address, phone number and email address.

25 (19) The Vendor must be in compliance with all applicable federal, state and local
26 laws, ordinances, rules and regulations.

27 ***

28 **SECTION 23-108. VOLUNTARY RELOCATION.**

29 A Permittee may request relocation of his/her current Permit by submitting either an
30 *Application for Permit* or a *Wait List Application* with applicable fees. Any application for
31 voluntary relocation shall be subject to the same review as a new application.

32 ***

1 **SECTION 23-109. RENEWAL OF PERMIT.**

2 (a) All Permits issued under this Ordinance shall expire on December 31 of each
3 year. The right to vend expires with the Permit. Vending with an expired Permit is a violation
4 of this Ordinance.

5 (b) To renew a Permit, the applicant must submit the renewal application fee, an
6 *Application for Permit* and all necessary documentation showing continuing compliance with
7 all provisions of this Ordinance. The Engineering Department shall evaluate the continuing
8 availability of the Location. Once a Location is approved, the applicant must also submit the
9 annual Permit fee.

10 (c) The right to renew at an existing Location expires at the close of business of the
11 tenth (10th) business day after the Permit expiration date. If Permittee has not completed the
12 renewal process by then, the Permit shall be considered surrendered. Permit seniority will be
13 lost and the Location will become available to others.

14 ***

15 **SECTION 23-110. REVOCATION OF PERMIT.**

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

- 21 (1) Procurement of a Permit through fraud, misrepresentation, false or
22 misleading statements.
- 23 (2) Failure to comply with any Conditions of Permit.
- 24 (3) Vending without a fully opaque covering so that no portion of the male or
25 female genitals, pubic area, 1/3 of the buttocks and any portion of the
26 female breast below the top of the areola is exposed.
- 27 (4) Failure to maintain the integrity of the pavement edge and stabilization of
28 the road.

29 (b) A point system is established for each violation offense. A list of offenses and
30 their point assignments, attached hereto as Exhibit A and incorporated herein, shall be issued
31 with each Permit. An accumulation of ten (10) points within any twenty-four (24) month period
32 shall result in revocation of that Permit. All accumulated points for a given Permit shall be

1 cleared if no additional points are assigned on that Permit for a twelve (12) month period. Once
2 the accumulated points have been cleared, the next offense in a particular category shall be
3 treated as a first offense. Points are cumulative for a given permit. If a Business Entity has two
4 (2) Permits, points are tallied separately for each.

5 (c) A violation report shall be issued and shall include the Permit number, name of
6 Permittee, time and date, Location, name of individual vending and nature of violation(s), as well
7 as required corrective action, if any. A copy of the report shall be given to the individual
8 vending at the site. The original shall be maintained on file at the Engineering Department. This
9 report shall indicate all violations observed. Points shall only be assigned for the highest
10 violation cited at any given time. However, subsequent occurrences of any of the cited
11 violations shall be assigned points for subsequent (not first) occurrences. A copy of the violation
12 report and a statement of points assigned, both current and cumulative, shall be mailed return
13 receipt requested to the Permittee at the physical address on record. If the cumulative total is ten
14 (10) points or more, the statement shall include official notification of revocation of the Permit.
15 Revocation shall be effective upon the fifth (5th) day after mailing this notice to the last known
16 address for Permittee on record.

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

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

28 (f) A modified revocation will occur in cases where a Permit has been issued in error
29 including, but not limited to, on private, state or municipal roads, roads with insufficient right-of-
30 way, within a municipality, abutting a residence, adjacent to a sidewalk or bike path. A modified
31 revocation means that vending must cease immediately, but no points are assigned nor is the
32 number of allowable Permits for this Business Entity decreased. Engineering staff shall assist

1 the Permittee with relocation, if requested. No additional fees shall be charged. If the Permittee
2 decides to surrender the Permit a pro-rated portion of the annual Permit fee shall be refunded,
3 upon request.

4 * * *

5 **SECTION 23-111 APPEAL**

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

9 (1) The applicant (denial) or Permittee (revocation) shall submit to the Engineering
10 Department within seven (7) working days of notification of denial or revocation, a
11 notice of appeal along with a statement setting forth the grounds for appeal and all
12 allegations as to why the Permit should not be denied or revoked. The Engineering
13 Department shall forward this notice of appeal, together with a report of the
14 circumstances surrounding the denial or revocation to the Hearing Officer.

15 (2) The decision of the Hearing Officer shall be conclusive and final. Should the
16 Hearing Officer reverse the denial or revocation, the Permit shall be issued or
17 reinstated. All parties shall bear their own costs and expenses of such proceedings
18 and no damages shall be compensable as a result of any County action hereunder.

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

20 The Permittee shall submit to the Engineering Department within seven (7) working
21 days the notice of violation, a notice of appeal, a statement setting forth the grounds
22 for appeal and all allegations as to why the violation(s) should not be cited. The
23 decision of the County Engineer or his duly authorized representative(s) shall be
24 conclusive and final. Should the decision reverse the violation citation, any points
25 assigned shall be removed.

26 * * *

27 **2. REPEAL OF LAWS IN CONFLICT.**

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

30

31

32

1 **3. SEVERABILITY.**

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

5 **4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

6 The provisions of this Ordinance shall become and be made a part of the Code of Laws
7 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
8 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
9 "section", "article", or other appropriate word.

10 **5. EFFECTIVE DATE.**

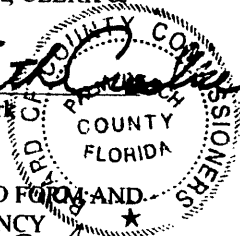
11 The provisions of this Ordinance shall become effective upon filing with the Department
12 of State.

13 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm Beach
14 County, Florida, this 9th day of September, 2008.

15

16 SHARON R. BOCK, CLERK & PALM BEACH COUNTY, FLORIDA, BY ITS
17 COMPTROLLER BOARD OF COUNTY COMMISSIONERS

18 By: Judith [Signature] Deputy Clerk By: Addie L. Greene
19 Addie L. Greene, Chairperson



22
23 APPROVED AS TO FORM AND
24 LEGAL SUFFICIENCY

25
26 By: [Signature]
27 Assistant County Attorney

28

29
30 **EFFECTIVE DATE:** Filed with the Department of State on the 18th day of
31 September, 2008.

32

33

34

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

POINTS PER OCCURRENCE		
1 ST	SUBSEQ.	VIOLATION / OFFENSE
10	N/A	Procurement of permit through fraud, misrepresentation, and/or false or misleading statements.
10	N/A	Sale or transfer of (or attempt to sell or transfer) permit/location to another business entity.
10	N/A	Failure to maintain required minimum general liability coverage and performance bond through the end of the permit year.
05	05	Failure to comply with applicable federal, state and/or local laws, rules or regulations.
05	05	Vending before/after authorized hours of operation, as stated on permit. Failure to vacate vending location at end of vending day.
05	05	Violence or disturbance which results in law enforcement intervention.
05	05	Failure to vend at the location stated on permit.
05	05	Continuing to vend from a location more than 24 hours after being notified by Engineering of County-mandated relocation.
03	05	Vending attire does not meet requirements of ordinance.
03	05	Failure to remove all vending equipment/items at end of vending day.
03	05	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	Sale of unauthorized goods or items.
03	05	Use of free standing signs, flags, banners, or tents. Set up of tables, chairs and/or umbrellas for customer use.
03	05	Failure to maintain mobility at all times.
01	03	Failure to keep vending area free from garbage, litter and debris.
01	03	Failure to inform Engineering/Traffic of any site changes which impact eligibility of location.
01	03	Failure to have both plate and permit at vending location, with plate clearly visible from the road at all times.
01	03	Exceeding the maximum allowed square footage area (300 sq ft or 500 sq ft) depending on service location and product category.
01	03	Failure to maintain integrity of the pavement edge and stabilization of the road.
01	03	Operating with an expired or suspended permit.
01	03	Failure to provide Engineering/Traffic with written notification of change of mailing address.

F:\TRAFFIC\RW\VendorForms\RV Forms\Violation Pts 8 27 08.doc

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOOK, Clerk & Comptroller
do hereby certify that this is a true and correct copy
filed in my office on SEP 09 2008
dated at West Palm Beach, FL 9-26-2008
By: Nancy P. Miller
Deputy Clerk

