

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

4D

Meeting Date:	September 22, 2015	<input type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Public Hearing

Department:
Submitted By: Engineering & Public Works
Submitted For: Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: 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 Ordinance was before the Board of County Commissioners on August 18, 2015, for preliminary reading and permission to advertise. It amends Chapter 23, Article V, known as the Roadside Vendors Ordinance (Ordinance 2008-39) that was adopted September 9, 2008. Adoption of this Ordinance 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 Ordinance Amendment: Strike-Through/Underlined Version
2. Proposed Ordinance Amendment: Clean Version

Recommended By: 

Division Director

8/24/15
Date

Approved By:


County Engineer

9/2/15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE					
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____

Budget Account 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: Alice Kovalainen

III. REVIEW COMMENTS

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

Shay Bm
2/10 AND OEMB 3/8/12
9/2 9/2

J. J. Jacobus 9/8/15
Contract Dev. and Control
9-8-15 B. Jacobus

B. Legal Sufficiency:

Malcolm R. Roberts 9/8/15
Assistant County Attorney

C. Other Department Review:

Department Director

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

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:

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.

Section 5. SAVINGS CLAUSE

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

Section 6. CAPTIONS

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

Section 7. EFFECTIVE DATE:

The provisions of this chapter shall become effective upon filing with the Department of State.

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

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

County Attorney

Filed with the Department of State on the _____ day of _____, 2015.

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CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

County Attorney

Filed with the Department of State on the _____ day of _____, 2015.