

ARTICLE V. - ROADSIDE STANDS AND VENDORS^[6]

Footnotes: --- (6) ---

Editor's note—Ord. No. 97-40, § 22, adopted October 21, 1997, amended the Code by repealing former Art. V, §§ 23-96—23-112, and §§ 1—19 of said ordinance amended the Code by adding a new Art. V, §§ 23-96—23-114. Former Art. V pertained to similar subject matter, and derived from Ord. No. 90-4, adopted January 16, 1990; Ord. No. 92-2, adopted January 28, 1992; Ord. No. 94-22, adopted September 20, 1994; and Ord. No. 97-5, adopted March 18, 1997.

Sec. 23-96. - Title.

This article shall be cited as the "Roadside Vendors Ordinance."

(Ord. No. 97-40, § 1, 10-21-97)

Sec. 23-97. - Authority.

This article is adopted pursuant to the authority granted to charter counties under Article VIII, Section 1(g) of the State of Florida Constitution, and Chapter 125, Florida Statutes, and section 163.3161, et seq., Florida Statutes, regarding local government comprehensive planning.

(Ord. No. 97-40, § 2, 10-21-97)

Sec. 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 article to make any commercial use of county-owned 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 article. 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 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.

(Ord. No. 97-40, § 3, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-99. - Permit by county engineer.

The board of county commissioners hereby authorizes and empowers the county engineer or his duly authorized representative(s) to receive and review permit applications, collect fees, issue, renew, revoke and deny permits for commercial use of county rights-of-way in the unincorporated area of the county.

(Ord. No. 97-40, § 4, 10-21-97)

Sec. 23-100. - Criteria for vending locations.

It is unlawful and subject to penalties and procedures provided in this article for any business entity to vend at a location on County right-of-way in the unincorporated area of the County which has not been approved by the Engineering and Public Works Department (hereinafter "Engineering Department"). Vending location (hereinafter "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.
 - d. Within five hundred (500) feet of an established ongoing legally zoned business selling similar commodities. Except that an ongoing legally existing business which complies with all applicable land development regulations may be issued a permit to operate in

conjunction with that business on County right-of-way abutting said business, only to the extent allowed in the zoning district applicable to the abutting property.

- e. Which require, promote or cause any vehicle to stop, stand or park in violation of, or visually impair an official traffic control device, including but not limited to, signs, signals, and markings erected by authority of the County for the purpose of regulating, moving or guiding traffic.
 - f. On two-lane roads in a residentially zoned (does not include zoned agricultural/residential) area within five hundred (500) feet of a residential unit and two hundred (200) feet of a residential property line.
 - g. Within three hundred (300) feet of any property containing a pre-school, elementary, middle or high school facility.
 - h. Within three hundred (300) feet of any property containing a church, temple, synagogue or other place of worship or assembly.
 - i. Within three hundred (300) feet of any property containing an established day care facility. Private residences are exempt from this restriction.
 - j. On areas of right-of-way where shoulders are used for designated parking abutting County parks. Current permittees located on areas covered by this provision may renew their permit for these locations provided the permittee remains the same, there is no change in product category, the location does not become ineligible and all other criteria are met. Under no circumstances will these locations be available for anyone other than the permittee holding the permit for these locations as of the effective date of this article.
 - k. Unable to accommodate the maximum total vending area of operation as provided in subsections 23-104(16) and (17).
- (2) The Engineering Department shall only approve locations:
- a. On a County owned and maintained right-of-way in the unincorporated area of the County.
 - b. That are a minimum of one hundred (100) feet from the intersection of any two (2) road rights-of-way and/or a driveway.
 - c. That are at least fifteen hundred (1,500) feet from any other approved location.
 - d. With adequate sight distance and parking area to ensure safe vending operation with respect to normal movement of traffic in relation to the location on the right-of-way.
- (3) If, after a permit has been issued, a location becomes ineligible due to changes including, but not limited to, traffic flow, storage, curbing, signalization, speed limits, development, pathways, sidewalks or municipal boundaries, the permit must be relocated. If the location conflicts with any construction, reconstruction, or any project performed or permitted by the county or its authorized representative(s) which is in the interest of the public, the permit is suspended for the duration of the conflict and may be relocated.

(Ord. No. 97-40, § 5, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 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) Prepared food. Food prepared for human consumption that may be consumed immediately upon purchase without further preparation.
 - (2) Flowers. Fresh cut or live potted flowers; not artificial or synthetic.
 - (3) Plants. Live plants, other than flowers, that can continue growing in a pot or be planted in the ground.
 - (4) Produce. Fresh, uncooked agricultural plant-type products intended for human consumption.

- (d) A maximum of two (2) allowable permits can be issued to a given business entity at any given time. The number of allowable permits can be altered as a result of revocation.
- (e) Only one (1) permit shall be issued for a location.
- (f) The Engineering Department may deny permit applications, establish special restrictions (including but not limited to, restricting hours of operation), or revoke permits based on violation of any applicable federal, state or local laws, ordinances, rules or regulations.
- (g) Permits are issued for a twelve-month period and expire on January 31 of each year.

(Ord. No. 97-40, § 6, 10-21-97; Ord. No. [2015-034](#), § 1, 9-22-15)

Sec. 23-102. - Application for permit.

- (a) The following information is to be provided on an application for permit, available from the Engineering Department:
 - (1) Type of application including, but not limited to, new, renewal, county-mandated relocation and voluntary relocation.
 - (2) Type of business including, but not limited to, sole proprietor, partnership and corporation.
 - (3) Applicant's name must appear on all subsequent required documents. If the applicant is a corporation, the name of a contact individual who is an officer/manager of the corporation must be specified. If the applicant is a partnership, the names of all partners must be specified.
 - (4) Any applicant intending to conduct business under any name other than applicant's legal name (e.g. D/b/a) must provide a copy of the fictitious name paperwork that has been filed with the Secretary of State. The fictitious name must also appear on all subsequent required documents, including but not limited to, business tax receipt, Florida resale certificate, performance bond and certificate of insurance.
 - (5) Mailing address, physical address, telephone number(s) and email address of the applicant.
 - (6) Product category to be sold.
 - (7) Requested location including road name, side of road (north, south, east, west), and distance, in feet, from the nearest intersection.
 - (8) Execution of an indemnification agreement stating that in consideration of the County issuing a permit, pursuant to the provisions of this article, the permittee hereby releases, hold harmless, and agrees to indemnify and defend the County, its agents, employees, and successors from any and all liability, causes of action, claims, and/or lawsuits, as well as any and all damages, judgments, settlements, attorney fees, costs and other expenses that arise or may ever arise as a result of the vending operation at an approved location.
- (b) Applicant must submit the completed signed application for permit, along with applicable fees to the Engineering Department.
- (c) The Engineering Department shall evaluate the availability of the requested location. If the requested location is found to be ineligible, the applicant may request an alternate location, but must pay an additional location evaluation fee for each alternate location requested.
- (d) Once a location is approved, the applicant shall be issued an intent to permit (hereinafter "intent"). This intent is needed to obtain a business tax receipt from the County. An intent is valid twenty (20) business days from date of issuance. An intent essentially reserves the location while the applicant obtains all necessary documents. The intent does not allow the applicant to operate at the location. If an intent expires before a permit is issued, the location shall become available to others and the applicant may reapply.
- (e) A permit shall be issued only after the applicant has provided the Engineering Department with:
 - (1) An original certificate of insurance evidencing the following:
 - a. Name of insured is same as the applicant's name on application for permit (including fictitious name, if applicable).
 - b. Commercial general liability insurance including contractual liability, in the minimum amount of five hundred thousand dollars (\$500,000.00) per occurrence.
 - c. Coverage effective through or beyond the permit expiration date.
 - d. The County as both certificate holder and additional insured.
 - e. Location as specified on application for permit (a single policy may cover multiple locations).
 - (2) A copy of a receipt showing payment in full for insurance coverage specified above.
 - (3) A performance bond or other satisfactory security in the minimum amount of two thousand dollars (\$2,000.00) to secure any costs which may be incurred by the county due to applicant's noncompliance with this article or damage resulting to roadway pavements, sidewalks or other improvements. The bond or other security must be issued to same name as the applicant's name on application for permit (including fictitious name, if applicable) and must specify location(s) covered. Coverage must be through or beyond permit expiration date. Each bond or other satisfactory security must be for only one (1) permittee. One (1) performance bond or other satisfactory security may be used for two (2) permits issued to same permittee.

- (4) A current County business tax receipt with:
 - a. The same name as the applicant on application for permit (including fictitious name, if applicable);
 - b. The location as specified on application for permit; and
 - c. The product category as specified on the application for permit.
- (5) For all product categories except produce, evidence of a current Florida resale certificate showing the county sales tax number, as provided by the State Department of Revenue laws and/or regulations, issued to the same name as the applicant's name on the application for permit (including fictitious name, if applicable). A sales tax number from another county is not sufficient. One (1) sales tax number may be used for two (2) permits issued to the same permittee.
- (6) For prepared food only, a valid license from the state's division of hotel and restaurants issued to same name as applicant's name on the application for permit (including fictitious name, if applicable).
- (7) Payment of all applicable fees.
- (f) Each permit issued by the Engineering Department shall:
 - (1) Specify permittee's name (including fictitious name, if applicable), location, product category, size of vending vehicle, expiration date of permit, insurer and policy expiration date.
 - (2) Specify authorized hours of operation, which shall be one-half (½) hour after sunrise to one-half (½) hour before sunset, except as may be otherwise restricted by the Engineering Department.
 - (3) List any special conditions and/or restrictions necessary to assure compliance with this article and to protect the public from undue harm or risk.
 - (4) Include a summary of the provisions of this article to be signed by permittee certifying that permittee has read and understands the provisions and agrees to abide by them.
 - (5) Be accompanied by an official waterproof metal permit plate.

(Ord. No. 97-40, § 7, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-103. - Fees.

- (a) A non-refundable application fee of one hundred dollars (\$100.00) shall be submitted with the application for permit. This fee is intended to cover the cost of processing an application and conducting one (1) location evaluation. It applies to applications for new permits and voluntary relocations. Applications for county-mandated relocations are exempt from this fee. A nonrefundable fee of fifty dollars (\$50.00) shall be submitted with the application for permit renewal.
- (b) A non-refundable annual permit fee of two hundred fifty dollars (\$250.00) shall be paid at the time of permit issuance. This fee is to defray the cost of issuing permits, administering the roadside vendor program, addressing complaints, performing inspections, and general enforcement of this article. The permit fee shall be one hundred fifty dollars (\$150.00) for permits issued on or after July 1 of a particular year. The only exception to this nonrefundable fee is when a permit has been issued in error. In such cases, a pro-rated portion of the annual permit fee shall be refunded to the applicant, upon request, when a permit for an alternative location is not issued.
- (c) Non-refundable miscellaneous fees shall be charged as follows:
 - (1) Wait list fee: Twenty dollars (\$20.00). If an applicant desires a location currently permitted to another business entity, the applicant may submit a wait list application for that location. (Note: wait lists expire annually on February 28. If the location is still desired beyond February 28, a new wait list application and fee must be submitted).
 - (2) Additional location evaluation fee: Fifty dollars (\$50.00). This fee applies when an applicant requests that a location be evaluated in order to relocate and also applies to each potential alternate location requested thereafter, by the applicant that requires evaluation.
 - (3) Replacement of metal plate: Thirty dollars (\$30.00).
 - (4) Replacement of paper permit: Twenty dollars (\$20.00).
- (d) No permits shall be issued to a given business entity having unpaid fees.

See fee table on next page

(e) Summary of fee schedule:

		Application	Permit	Total
1.	Annual fees:			
	A. New permit (prior to July 1)	\$100.00	\$250.00	\$350.00
	B. New permit (July 1 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 2016.

(Ord. No. 97-40, § 8, 10-21-97; Ord. No. 08-039, § 1, 9-9-08; Ord. No. [2015-034](#), § 1, 9-22-15)

Sec. 23-104. - Conditions of permit.

Once issued, permits are valid subject to all of the following conditions which apply to both permittees and their employees (hereinafter collectively referred to as "vendors"). Failure to comply with any of these conditions shall result in the assignment of points which may result in revocation of the permit.

- (1) A permit is valid only for the specific business entity to whom it was issued. No permit may be sold or transferred to another business entity.
- (2) The vendor must not set up prior to authorized hours of operation and must vacate the location upon the close of authorized hours.
- (3) The vendor must not engage in any violence or disturbance at the location which could necessitate law enforcement intervention.
- (4) The vendor may operate only from the location specified on the permit.
- (5) The vendor must cease vending within twenty-four (24) hours of notice by the Engineering Department of County-mandated relocation.
- (6) All equipment and items used in the vending operation are to be removed from the right-of-way no later than one-half (½) hour before sunset, and are not to be replaced any sooner than one-half (½) hour after sunrise on the next day.
- (7) No location shall be operated in such a manner as to require, promote or cause any vehicles to stop, stand or park in violation of, or visually impair an official traffic control device, including but not limited to, signs, signals and markings erected by authority of the county for the purpose of regulating, moving or guiding traffic.
- (8) The vending vehicle must be set back a minimum of twelve (12) feet from the travel lane to ensure "adequate site safe distance."
- (9) Vendor must maintain required minimum general liability coverage and performance bond, or other satisfactory security, through the end of the permit year.

- (10) Only the product category specified on the permit may be sold.
- (11) Freestanding signs, flags, banners, tents, tarpaulins or awnings are not allowed within the road right-of-way. All signs, flags, banners, tents, tarpaulins or awnings must be attached to, or resting against the vending vehicle/equipment. No tables, chairs or umbrellas are to be set up for use by customers outside the vending vehicle. Within the confines of the vehicle used by the vendor, one (1) table and a maximum of two (2) chairs is allowed. In addition, any permitted operation, pursuant to this article, shall not display or otherwise erect freestanding signs, flags, banners or tents on public or private property or anywhere on the right-of-way outside of the permitted operation area.
- (12) Vendors shall maintain mobility at all times of operation. A vehicle must be at the location to provide a means of immediate evacuation in case of an emergency.
- (13) The vending area is to be kept free from garbage, litter and debris and in compliance with all applicable health laws.
- (14) Vendors must notify the engineering department of any site changes which impact eligibility of the location. Examples: installation of a sidewalk, driveway, bike path or pathway, residential development, other road construction in the area.
- (15) Both permit and permit plate must be maintained at the location during all times of operation, and be available upon request. The permit plate shall be clearly visible from the road.
- (16) The total vending area of operation is not to exceed three hundred (300) square feet in the urban service areas as defined in the comprehensive plan. This includes but is not limited to space taken up by the vending vehicle, signs, equipment, product and any awnings, tents and canopies.
- (17) Outside the urban service area, the total vending area of operation for prepared food only is not to exceed five hundred (500) square feet. This includes but is not limited to space taken up by the vending vehicle, signs, equipment, product and any awnings, tents and canopies.
- (18) The permittee must provide the Engineering Department with written notification of a change of mailing address, physical address, phone number and email address.
- (19) The vendor must be in compliance with all applicable federal, state and local laws, ordinances, rules and regulations.

(Ord. No. 97-40, § 9, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-105. - Attire.

All vendors shall be sufficiently clothed with a fully opaque covering so that no portion of the male or female genitals, pubic area, one third (1/3) of the buttocks, as described herein, and any portion of the female breast below the top of the areola is exposed. Buttocks shall be defined as: The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two (2) imaginary straight lines running parallel to the ground when a person is standing, the first or top such line being one-half (½) inch below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being one-half (½) inch above the lowest point of the curvature of the fleshy protuberance (sometimes referred to as the gluteal fold), and between two (2) imaginary straight lines, one (1) on each side of the body (the "outside lines"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each natis meets the outer side of each leg. Notwithstanding the above, buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above-described portion of the human body that is between either (i) the left inside perpendicular line and the left outside perpendicular line or (ii) the right inside perpendicular line and the right outside perpendicular line. For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus (i) that is perpendicular to the ground and to the horizontal lines described above and (ii) that is one-third (1/3) of the distances from the anus to the left outside line, and the right inside perpendicular line shall be an imaginary straight line on the right side of the anus (i) that is perpendicular to the ground and to the horizontal lines described above and (ii) that is one-third (1/3) of the distance from the anus to the right outside line. (The above description can generally be described as covering one-third (1/3) of the buttocks centered over the cleavage for the length of the cleavage.)

(Ord. No. 97-40, § 10, 10-21-97)

Sec. 23-106. - Damage to county roads or rights-of-way.

The permittee is required to maintain the integrity of the pavement edge and stabilization of the road in accordance with accepted engineering standards as set forth in the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. Failure to do so is a violation of this article.

The County Engineer or his duly authorized representative(s) may issue a violation if any county road, right-of-way, sidewalk, bike path or pathway is damaged or impaired in any way because of operation of a vending location pursuant to this article. The permittee must contact the engineering department within three (3) business days of notification of violation to coordinate necessary repairs.

If contact is not made within the designated time frame, the County shall undertake the necessary repairs and the permittee shall be responsible, either by direct payment or from posted surety, for all costs incurred by the Engineering Department. If full payment is not received by the specified date, the permit shall be suspended until full payment is received. No renewals shall be issued to a business entity who has any unpaid fees and/or bills.

It is a violation of this article to vend with a suspended permit.

(Ord. No. 97-40, § 11, 10-21-97)

Sec. 23-107. - County-mandated relocation.

- (a) Any permit issued under this article shall not constitute nor be construed as permitting a permanent location. Each permit is subject to the County's right to use the right-of-way at any time for roadway or other valid public purpose, including but not limited to, construction, reconstruction, or project performed or permitted by the County or its authorized representative(s) which is deemed to be in the interest of the general public.
- (b) Any permit issued under this article shall be relocated if the vending location or permit is in conflict with state statutes or county ordinances, or if the permit was issued in error.
- (c) Any permit issued under this article shall be relocated if site changes impact the availability of the location. Such site changes include, but are not limited to, changes in traffic flow, storage, curbing, signalization, speed limits, development, pathways, sidewalks and municipal boundaries.
- (d) The vendor may be required to cease vending within twenty-four (24) hours of notice by the engineering department of county-mandated relocation. To relocate, permittee must submit an application for permit with a new location request. No application fee shall be charged. However, if a requested location does not meet the requirements of this article, the location evaluation fee shall apply to each alternate location requested.
- (e) In the event two (2) or more permittees are required to relocate, priority for a new location shall be based on permit seniority date. Permit seniority date is the earliest date available on record with the Engineering Department for continuous active status for that permit.

(Ord. No. 97-40, § 12, 10-21-97)

Sec. 23-108. - Voluntary relocation.

A permittee may request relocation of his/her current permit by submitting either an application for permit or a wait list application with applicable fees. Any application for voluntary relocation shall be subject to the same review as a new application.

(Ord. No. 97-40, § 13, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-109. - Renewal of permit.

- (a) All permits issued under this article shall expire on 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.

(Ord. No. 97-40, § 14, 10-21-97; Ord. No. 08-039, § 1, 9-9-08; Ord. No. [2015-034](#), § 1, 9-22-15)

Sec. 23-110. - Revocation of permit.

- (a) Permits may be revoked by the Engineering Department for failure to meet any provisions of this article, any other County ordinances, state statutes or federal laws. Vendors are expected to comply with all rules and regulations. Permittees may be held accountable for actions of their employees. Grounds for revocation include, but are not limited to the following:
 - (1) Procurement of a permit through fraud, misrepresentation, false or misleading statements.
 - (2) Failure to comply with any conditions of permit.
 - (3) Vending without a fully opaque covering so that no portion of the male or female genitals, pubic area, one-third (1/3) of the buttocks and any portion of the female breast below the top of the areola is exposed.
 - (4) Failure to maintain the integrity of the pavement edge and stabilization of the road.

- (b) A point system is established for each violation offense. A list of offenses and their point assignments, attached to Ord. No. 08-039 as Exhibit A and incorporated herein, shall be issued with each permit. An accumulation of ten (10) points within any twenty-four-month period shall result in revocation of that permit. All accumulated points for a given permit shall be cleared if no additional points are assigned on that permit for a twelve-month period. Once the accumulated points have been cleared, the next offense in a particular category shall be treated as a first offense. Points are cumulative for a given permit. If a business entity has two (2) permits, points are tallied separately for each.
- (c) A violation report shall be issued and shall include the permit number, name of permittee, time and date, location, name of individual vending and nature of violation(s), as well as required corrective action, if any. A copy of the report shall be given to the individual vending at the site. The original shall be maintained on file at the Engineering Department. This report shall indicate all violations observed. Points shall only be assigned for the highest violation cited at any given time. However, subsequent occurrences of any of the cited violations shall be assigned points for subsequent (not first) occurrences. A copy of the violation report and a statement of points assigned, both current and cumulative, shall be mailed return receipt requested to the permittee at the physical address on record. If the cumulative total is ten (10) points or more, the statement shall include official notification of revocation of the permit. Revocation shall be effective upon the fifth day after mailing this notice to the last known address for permittee on record.
- (d) Once a permit has been revoked, both the permit and the permit plate must be surrendered to the Engineering Department. This must be done even in instances where permittee intends to appeal revocation. The County Engineer or his duly authorized representative(s) may request both permit and permit plate at time of violation. If not, it is the permittee's responsibility to surrender both, either in person or by mail, to the Engineering Department. Failure or refusal to do so after notification of revocation shall subject permittee to penalties provided herein.
- (e) When a permit is revoked, the current number of allowable permits for that business entity is decreased by one (1). This decrease remains in effect for a period of two (2) years from the date of revocation. At the end of two (2) years, the number of allowable permits shall be increased by one (1).
- (f) A modified revocation will occur in cases where a permit has been issued in error including, but not limited to, on private, state or municipal roads, roads with insufficient right-of-way, within a municipality, abutting a residence, adjacent to a sidewalk or bike path. A modified revocation means that vending must cease immediately, but no points are assigned nor is the number of allowable permits for this business entity decreased. Engineering staff shall assist the permittee with relocation, if requested. No additional fees shall be charged. If the permittee decides to surrender the permit a pro-rated portion of the annual permit fee shall be refunded, upon request.

(Ord. No. 97-40, § 15, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-111. - Appeal.

- (a) The following appeal process applies to both denial and revocation of a permit and will be heard by a county hearing officer authorized under article 17, chapter C, section 7 of the Unified Land Development Code.
 - (1) The applicant (denial) or permittee (revocation) shall submit to the engineering department within seven (7) working days of notification of denial or revocation, a notice of appeal along with a statement setting forth the grounds for appeal and all allegations as to why the permit should not be denied or revoked. The engineering department shall forward this notice of appeal, together with a report of the circumstances surrounding the denial or revocation to the hearing officer.
 - (2) The decision of the hearing officer shall be conclusive and final. Should the hearing officer reverse the denial or revocation, the permit shall be issued or reinstated. All parties shall bear their own costs and expenses of such proceedings and no damages shall be compensable as a result of any county action hereunder.
- (b) The appeal process for a violation is as follows: The permittee shall submit to the engineering department within seven (7) working days the notice of violation, a notice of appeal, a statement setting forth the grounds for appeal and all allegations as to why the violation(s) should not be cited. The decision of the county engineer or his duly authorized representative(s) shall be conclusive and final. Should the decision reverse the violation citation, any points assigned shall be removed.

(Ord. No. 97-40, § 16, 10-21-97; Ord. No. 08-039, § 1, 9-9-08)

Sec. 23-112. - Limited exemptions.

- (a) All vending locations permitted upon adoption of this article are exempt from the location criteria for residential proximity on two-lane roads, and proximity to places of worship, schools and day care facilities. Permits issued at these exempt locations may be renewed each year, provided there is no change in the permittee or product category, the location has not become ineligible, and all other criteria are met. Under no circumstances will new permits issued after the effective date of this article be allowed at the exempt locations.
- (b) At locations with multiple permits, the two permits with the earliest permit seniority date are exempt from criteria limiting the number of permits per location to one. Other permits at these exempt

locations shall be required to relocate within ten (10) days of the effective date of this article. These required relocations shall be exempt from the location criteria specified above in subsection (a). These exempt permits may be renewed each year, provided there is no change in the permittee, vending location or product category, the location has not become ineligible and all other criteria are met. Both exempt permits must be surrendered, relocated or revoked before new permits can be issued at these vending locations.

- (c) Minor location adjustments may be allowed without loss of the above permit and/or location exemption status, provided these adjustments do not result in any new violation to the provisions of this article.

(Ord. No. 97-40, § 17, 10-21-97)

Sec. 23-113. - Violation of article.

In addition to sanctions and penalties imposed, violation of this article shall be a misdemeanor of the second degree. Such violation shall be prosecuted in the name of the State in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the county jail not to exceed sixty (60) days or by both fine and imprisonment.

(Ord. No. 97-40, § 18, 10-21-97)

Sec. 23-114. - Enforcement.

The county sheriff's office, other law enforcement agencies, the county engineer and his duly authorized representative(s) are authorized and directed to enforce this article. The provisions of this article may also be enforced in accordance with Chapter 336, Florida Statutes, or any other means lawfully available for enforcement of its provisions.

(Ord. No. 97-40, § 19, 10-21-97)

Sec. 23-115. - Applicability.

The provisions of this article shall be in full force and effect and apply to all vendors seeking to make commercial use of county-owned and maintained rights-of-way in the unincorporated area of the county and to all permits, except those specifically addressed in section 23-112, Limited exemptions.

Secs. 23-115—23-125. - Reserved.