

ORDINANCE NO. 016-2023

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida Providing Amendments To The Application Procedures For Various Events In The Town Including Amendments To Chapter 10, Animals; Section 10-10, Temporary Permit; Section 10-11, Penalties; And By Adding New Sections 1-12, Duties Of Permittee; 10-13, False Information Prohibited In Application; 10-15 Waiver Of Provisions; And 10-16, Possession; Also Amending Chapter 22, Businesses At Article IV. Commercial Motion Picture Making, Division I. Generally At Section 22-127. Penalty For Violations, Division 2. Permit At 22-151, Required Application Fee, Section 22-152. Application Section 22-153. Prerequisite To Issuance And By Adding New Sections 22-154. Appeals, 22-155. Duties Of Permittee, 22-156. False Information Prohibited In Application, 22-157. Permits Nontransferable, 22-158. Waiver Of Provisions And 22-159 Possession; Amending Chapter 78, Peddlers And Solicitors At Article III. Charitable Solicitations Division 1. Generally, By Deleting Section 78-79. Receipts Required And By Adding Section 78-81 Duties Of Permittee And 78-82. Possession; Further Amending Division 2. Permit At Section 78-102. Application. Section 78-104. Town To Issue Permit, Section 78-105. Fees, Section 78-109. Permit Suspension, Revocation, By Deleting Section 78-110. Permittee To Keep Records, Section 78-111. Reports Required And By Amending Section 78-112. Appeals And Section 78-113. Penalties And By Renumbering Said Section; Further Amending Chapter 94. Sales At Article II. Auctions And Auctioneers At Section 94-35. Application, At Section 94-36. Standards For Issuance, By Deleting Section 94-37. Notice Of Approval Or Denial, By Amending Section 94-38, Appeal Procedure, By Deleting Section 94-41. Revocation. And By Adding The Following New Section 94-42. False Information Prohibited In Application, 94-43. Permits Nontransferable And 94-44. Waiver Of Provisions; Further Amending Article III, Closing-Out Or Distress Sales At Division 2. Permit By Amending Section 94-101. Required, By Deleting Section 94-102. Application Required Form, Contents, By Deleting Section 94-104. Investigation, Issuance Of Permit Duration, By Amending Section 94-107. Denial Of Permit, By Amending Section 94-108. Renewal, Section 94-109. Fees, By Deleting Section 94-110. Permit Suspension, Section 94-111. Permit Revocation Appeals, By Deleting Section 94-113. Duplicate Application And Inventory To Be Kept On Premises, By Deleting 94-114. Records Required; Inspection, By Amending

Section 94-115. Additions To Stock Prohibited And By Adding The Following Sections, 94-120. Duties Of Permittee, 94-121. Waiver Of Provisions, And 94-122. Penalties; Further Amending Chapter 106, Streets, Sidewalks And Other Public Places At Article VII, Special Events On Public Property By Amending Section 106-258. Penalties, By Adding Sections 106-259. Permits Non-Transferable, 106.260. Waiver Of Provisions And 106.261. False Information Prohibited In Application," Amending Division 2 Permit At Section 106-282. Application, Section 106-283. Standards For Issuance, Deleting Section 106-284. Notice Of Approval Or Denial, Amending Section 106-285. Appeal Procedure, Deleting Section 106-288. Revocation; By Amending Section 106.288.1. Walks and Runs; Renumbering Said Sections; By Adding A New Section 106.288. Religious Holiday Symbol Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

BE IT ORDAINED by the Town Council of the Town of Palm Beach as follows:

Section 1 –

Chapter 10, Animals is hereby amended at Sections 10-10 through 10-16 as follows:

Sec. 10-10. Temporary permits.

(a) Permits may be granted for the temporary possession of animals otherwise prohibited under this chapter in connection with either a special event, as said term is defined in this Code or in regard to a private event, subject to the following conditions:

(1) Application shall be filed with the town clerk ~~at least 30 days~~ prior to the event at which the temporary possession permit is requested. An application fee is hereby authorized and shall be paid upon filing of the application with the town clerk. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the application shall notify the town in writing thereof within 24 hours after such change. ~~The application fee shall be established by adoption of a resolution of the town council and may be amended by adoption of a resolution of the town council. Before a permit is issued pursuant to this article, there shall be paid to the town an administrative processing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time. The 30-day period may be waived by the town manager if it is determined by the town manager that good~~

~~cause exists for waiving the period and further providing that all other requirements set forth in this section are met.~~

- (2) A temporary possession permit shall be approved by the town manager or designee if:
- a. The applicant agrees to abide by the most recently adopted rules and regulations designated as the wildlife code of the state as promulgated by the fish and wildlife conservation commission or its successor organization as designated by the state.
 - b. The permit is for a period of time no longer than eight hours, between the hours of 9:00 a.m. to 6:00 p.m., on residential properties. This eight hour period may fluctuate for private clubs in the town which request a permit for an extended period of time not to exceed eight hours and not to go beyond 9:00 p.m.
 - c. A floor plan or site plan, whichever is deemed appropriate by the town for the property in question is submitted in conjunction with a fully completed town application for a temporary permit indicating to the satisfaction of the town the location of the animals to be displayed, the location where the animals will be displayed and the location of the people that will be in attendance to view the animals to be displayed. A buffer of not less than 50 feet shall be maintained between the location of the wildlife and the nearest adjacent residentially zoned area of the town.
 - d. Adequate proof is submitted that a trained animal handler licensed or permitted by the state fish and wildlife conservation commission or its successor organization as designated by the state will be responsible for the handling of any animal permitted, and that a sufficient number of licensed and permitted handlers be present to handle the animal or animals for the duration of the special event.\
 - e. No animals permitted under this exception shall be permitted in residentially zoned areas of the town, except for animals which are part of a petting zoo otherwise permitted as set forth above.
 - f. ~~A certificate of insurance naming the town as insured shall be provided for an amount of insurance not less than \$5,000,000.00 to indemnify the town against any and all liability relating to the presence of the animals in the town. A certificate of insurance shall not be required for events described in subsection (a)(2)e. relating to animals appropriate for a petting zoo such as ponies and trained monkeys.~~ Applicant shall provide at its own cost and expense Comprehensive General Liability Insurance coverage endorsing the Town of Palm Beach as an additional insured with limits of liability

not less than \$5,000,000.00 per occurrence. All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy. A certificate of insurance will not be required for events described in subsection (a)(2)e. relating to animals appropriate for a petting zoo such as sheep, goats, rabbits, guinea pigs, ponies, alpacas, llamas, pigs, miniature donkeys, miniature horses, ducks, geese, chickens, and turkeys.

- g. Notwithstanding the requirements set forth in subsections c. and d., a permit may be allowed for animal displays used in conjunction with educational wildlife programs on town property and on public or private school property within the town.
 - h. The applicant agrees to all written conditions issued by the town in conjunction with and requisite to the permit.
- (b) The town manager or his designee shall have the authority to revoke a temporary animal permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a temporary animal permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. If a permit is denied by the town manager or designee, the applicant may appeal the decision to the town council, which shall give consideration to the appeal at the next regular meeting of the town council subsequent to the denial of the permit.
- (c) If a special event or a private event is scheduled or held involving the display or possession of animals prohibited by this section, absent a permit as required under this section, the event may be terminated or dispersed by action of the code enforcement officer, fire rescue officer or by the police department.

Sec. 10-11. - Penalties.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances. Any person, organization, corporation, agency or entity that obtains temporary possession of an animal for a special or private event without having first

obtained a valid permit shall be assessed a penalty, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

Sec. 10-12. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

Sec. 10-13. False information prohibited in application.

No person shall knowingly falsify or misrepresent any information or representations made in the permit application.

Sec. 10-14. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 10-15. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

Sec. 10-16. Possession.

The person heading or leading the event shall carry the temporary animal permit upon his or her person during the conduct of the event and shall be present at the event.

Section 2 –

Chapter 22, Businesses is hereby amended at Article IV Commercial Motion Picture Making as follows:

ARTICLE IV. COMMERCIAL MOTION PICTURE MAKING

DIVISION 1. GENERALLY

Sec. 22-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial motion picture making includes video production of any nature.

Sec. 22-127. Penalty for violations.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall

~~prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances. Any person found guilty of violating the terms of this article shall be subject to section 1-14. A citation for violation of this article shall not preclude the town from seeking other relief such as injunctive or declaratory relief to enforce the provisions of this article.~~

DIVISION 2. PERMIT

Sec. 22-151. Required; application fee.

- (a) Any person desiring to use the public streets or sidewalks, the public rights-of-way, or other public properties within the town for the purposes of commercial motion picture making shall be required to first obtain a permit for that activity from the town council. This permit is not intended to preclude legitimate video production of news events.
- (b) ~~The application for permit shall be accompanied by a \$1,000.00 nonrefundable permit fee payable to the town for the administrative processing of the permit application. In addition to the \$1,000.00 application fee, there will be a filming fee of \$800.00 per day for each day of filming. Before a permit is issued pursuant to this article, there shall be paid to the town an administrative processing fees and daily filming fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.~~

Sec. 22-152. Application.

~~All applications for permits referenced in section 22-151 shall be filed with the town clerk at least 30 days and not more than 45 days prior to the date or dates upon which the applicant wishes to conduct the activity. Complete applications must be filed with the town clerk no less than 20 days prior to the town council meeting at which the application is to be considered. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change.~~

~~The application shall contain the following information.~~

- ~~(1) The name and address of the person applying for the permit.~~
- ~~(2) The number of personnel required by the applicant to conduct the activities for which the permit is sought.~~
- ~~(3) The date, time and places during which the proposed activity is to be conducted and a description of the specific activities. This information shall describe the specific public property sought to be utilized, the specific times of day during which the properties are requested to be utilized, and the specific activity which is to be conducted upon the property.~~

- (4) ~~The name, address and telephone number of the specific person who is to be responsible for all of the activities to be conducted pursuant to the terms of the permit.~~

Sec. 22-153. Prerequisites to issuance.

Prior to a permit's being granted under this division, the following shall be provided to the town by the applicant:

- (1) ~~(1) *Hold harmless agreement.* The applicant shall execute a hold harmless agreement in favor of the town saving, defending and holding harmless the town, its agents, employees and representatives, from any claim arising as a result of the activities of the applicant, his agents, representatives or employees, within the town. This agreement shall be executed by an individual and/or entity capable financially and otherwise of honoring the terms thereof, and the agreement shall be in a manner and form acceptable to the town and deemed to provide the protection necessary to the town as intended by this section. The applicant shall execute a hold harmless agreement in favor of the Town of Palm Beach hereby releasing and forever discharging the Town of Palm Beach, and agree to indemnify, defend, and hold the Town of Palm Beach its agents, employees, elected officials and representatives, free and harmless from and against any and all claims, losses, expenses, suits, costs fines and damages (including attorney fees) or liabilities of every kind and character arising out of or relating to any and all claims for bodily injury, including death in connection with or arising directly or indirectly out of the activities of the applicant, its agents, representatives or employees, within the Town of Palm Beach. This agreement shall be executed by an individual and/or entity capable financially and otherwise of honoring the terms thereof, and the agreement shall be in a manner and form acceptable to the Town of Palm Beach and deemed to provide the protection necessary to the Town of Palm Beach as intended by this section.~~
- (2) Indemnification Clause - To the fullest extent allowed by law the applicant shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of very kind and character in connection with, or arising directly or indirectly out of or related to this applicant and the activity performed hereunder. Without limiting the generality of the foregoing, applicant's Indemnity shall include all claims, damages, losses, or expense arising out of or related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court.

Applicant agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at applicant's sole expense and agrees to bear and remain liable for all such other costs and expenses relating thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, applicant's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents, and employees.

(1)(3) Applicant acknowledges and agrees that the Town would not enter into a contract without this indemnification of Town by applicant, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the applicant. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28.

(4) *Certificate of insurance.* The applicant shall provide a certificate of insurance naming the town as a named insured under the insurance policy for an amount not less than \$10,000,000.00. When an aircraft is to be involved in any filming, the insurance policy shall be for an amount not less than \$100,000,000.00, and when any watercraft is to be involved in any filming, the insurance policy shall be for an amount not less than \$25,000,000.00. The town council may increase the minimum amount of insurance specified herein upon the recommendation of the town manager or his designee. Applicant shall provide at its own cost and expense Comprehensive General Liability Insurance coverage endorsing the Town of Palm Beach as an additional insured with limits of liability not less than \$10,000,000.00 per occurrence. All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above-described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy. When an aircraft is to be involved in any filming, the applicant will be required to obtain aviation coverage with limits of liability not less than \$100,000,000.00 per occurrence. If any watercraft is to be involved in filming, Marine coverage is required with limits of liability not less than \$25,000,000.00 per occurrence. The Town Council may increase the limits of liability and request additional coverages as necessary upon the recommendation of the Town Manager or their designee.

(5) *Deposit for services.* The applicant shall deposit with the town an amount determined by the town manager or designee and approved by the town council, to compensate the town for any extraordinary services required by the town for purposes of carrying on the activity to be conducted pursuant to the terms of the permit.

- (64) *Time schedule.* In no event shall any of the activities to be conducted pursuant to the terms of the permit be conducted between the hours of 8:00 a.m. and 10:00 a.m., and 4:00 p.m. and 6:00 p.m. Dates and times during which filming shall be allowed shall be subject to the approval of the town manager or designee.
- (75) *Deference to normal flow patterns.* At no time shall the public streets, sidewalks or rights-of-way of the town be blocked or impeded to restrict or inhibit the normal flow of pedestrian or vehicular traffic.
- (86) *Limitation to commercial districts.* The activities permitted by this section are restricted to the commercially zoned districts within the town and shall not be permitted within the residentially zoned districts.
- (97) *Prohibition during season.* The activities permitted by this section shall take place only from April 16 through November 14 of any year. In no event shall commercial motion picture making take place from November 15 through April 15 of any year.
- (108) *Prohibition on narrow streets.* In no event shall any of the activities to be conducted pursuant to the terms of a permit be conducted on any street, road or thoroughfare that is less than 30 feet in width of paved right-of-way.
- (119) *Prohibition in or adjacent to governmental buildings.* In no event shall any of the activities to be conducted pursuant to the terms of a permit be conducted in any governmental building of the town or on the sidewalks or rights-of-way abutting any such building.
- (120) *Maximum number of days per month.* In no event shall commercial motion picture making be permitted to be conducted within the town for a period of more than seven days in any one month during the period of time that is allowed for that activity as specified by the terms of this section. It is the intention of this subsection that the seven-day period is the maximum number of days allowed for motion picture making during any one month within the town. In other words, if one applicant has already received a permit to conduct motion picture making activities within the town for a period of seven days during any one month, no other permits shall be granted to that applicant or any other applicant for motion picture making activities during that particular month. For purposes of this section, applications shall be considered by the town council in the priority of the earliest filed application.

Sec. 22-154. Appeals.

The town manager or his designee shall have the authority to revoke a commercial motion picture filming permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a commercial motion picture filming permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least live

days prior to the next available meeting of the town council subsequent to the notice of appeal.

Sec. 22-155. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit direction and conditions of the permit.

Sec. 22-156. False information prohibited in application.

No person shall knowingly falsify or misrepresent any information or representation made in the permit.

Sec. 22-157. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 22-158. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

Sec. 22-159. Possession.

The person heading or leading the filming process shall carry the commercial motion picture filming permit upon his or her person during the conduct of filming and shall be present.

Section 3 –

Chapter 78, Peddlers and Solicitations is hereby amended at Article III Charitable Solicitations as follows:

ARTICLE III. CHARITABLE SOLICITATIONS

DIVISION 1. GENERALLY

Sec. 78-76. Findings of necessity.

It is found and determined by the town council that the public welfare of the town requires that the solicitation of funds for charitable purposes be regulated.

Sec. 78-77. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable means and includes the words patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

Contributions means and includes the words alms, food, clothing, money, subscription, property or donation, including when under the guise of a loan of money or property.

Cost of solicitation means all costs of whatever nature incurred by the person conducting a solicitation in raising the funds solicited.

Professional promoter means a person who, for compensation, plans, conducts, manages or carries on or attempts to plan, conduct, manage or carry on any drive or campaign for the purpose of soliciting contributions for or on behalf of any charitable organization or person, or engages in the business of, or who holds himself out as independently engaged in the business of, soliciting contributions for charitable purposes. A bona fide officer or regular employee of a person shall not be deemed a professional promoter by reason of his participation in a charitable solicitation made by or on behalf of his employer.

Professional solicitor means any person other than a professional promoter who is employed or retained for compensation to make solicitations in connection with a charitable solicitation.

Solicit and *solicitation* mean the request, either directly or indirectly, for money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable purpose. *Solicit* and *solicitation* shall not include food drives, toy drives or school supply collections traditionally undertaken in the town prior to the adoption of the ordinance from which this section is derived.

Sec. 78-78. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

Sec. 78-79. Receipts required.

- (a) ~~Any solicitor or agent receiving money or anything of the value of \$1.00 or more from any contributor to a charitable solicitation shall give to the contributor a written receipt signed by the solicitor showing plainly the name, permit number of the person under whose permit the solicitation is conducted, the date the person makes the donation, and the amount or thing and value thereof received. No such receipt, however, shall be required where the solicitation is in the form of the sale of numbered tickets and such tickets are given to the contributor, or where the solicitations is in the form of a benefit, bazaar or similar event and the contribution is solicited on the premises on which such event is being held.~~
- (b) ~~The receipts required by this article shall be in duplicate or in the form of a numbered receipt and matching numbered stub, the duplicate copy or the stub, as~~

~~the case may be, shall be retained by the solicitor and turned over to the permittee in charge of the solicitation.~~

Sec. 78-7980. Misrepresentation prohibited.

No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social condition or residence; and no person shall make or perpetrate any misstatement, deception or fraud in connection with any solicitation of any contribution for any purpose in the town, or in any application or report filed under this article.

Sec. 78-80. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

Sec. 78-81. Possession.

The person heading or leading the charitable event shall carry the charitable solicitations permit upon his or her person during the conduct of the event and shall be present at the event.

DIVISION 2. PERMIT

Sec. 78-101. Required; exceptions.

No person or agent of such person shall solicit contributions for any charitable purpose or person within the town without a permit issued by the town ~~clerk~~ authorizing such solicitation; however, the provisions of this article shall not apply:

- (1) To any solicitation made by a person organized and operating exclusively for charitable purposes and not operated for the pecuniary profit of any person if the solicitation by such is conducted solely among the established and bona fide membership thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations; or
- (2) If the solicitation is in the form of collections or contributions at a regular assembly or services of such established person.

Sec. 78-102. Application.

- (a) Each application for a permit to solicit contributions for a charitable purpose or persons shall be made to the town ~~on forms provided by it, which shall be available at the office of the town clerk.~~
- (b) Each application shall be complete to address all requested information and be sworn to and filed with the town at the office of the town clerk at least 60 days prior

~~to the proposed effective date of the permit applied for. Permits applied for less than 60 days prior to the effective date of the permit shall be subject to late fees as determined by resolution of the town council as may be amended from time to time.~~

~~(c) Each application shall contain the following information:~~

- ~~(1) The name, date of birth, address or headquarters of the person applying for the permit.~~
- ~~(2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified as to a true and correct copy of the officer having charge of the applicant's records.~~
- ~~(3) The purposes for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of such funds.~~
- ~~(4) A specific statement, supported by reasons, and, if available, figures showing the need for the funds to be solicited.~~
- ~~(5) The names, date of birth and address of the person or persons by whom the receipts of such solicitation shall be disbursed.~~
- ~~(6) the names, date of birth and addresses of the person or persons who will be in direct charge of conducting the solicitation.~~
- ~~(7) An outline of the method or methods to be used in conducting the solicitation.~~
- ~~(8) The time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitation.~~
- ~~(9) The estimated cost of solicitation.~~
- ~~(10) The names, dates of birth and addresses of all professional promoters and professional solicitors who will be connected with the solicitation and the amount of wages, fees, commissions, expenses or emoluments to be paid to each professional promoter and professional solicitor, and a copy of the contract, if any, given each professional promoter.~~
- ~~(11) A schedule for the last preceding fiscal year of any funds collected in the town through a charitable solicitation by the applicant, which schedule shall disclose the amount of money so raised, together with the direct cost of raising it, the final distribution of net proceeds and the percentage of net proceeds applied directly to functions and activities within the state, within the town and within the county.~~

- ~~(12) A statement as to what the actual cost of the solicitation will be, expressed as a percentage of the total amount to be raised. This statement relating to cost of solicitation shall include a specific statement as to donations of in-kind contributions and the estimated value of same. Additionally, statement as to the amount of the funds raised estimated to be applied directly to functions and activities within the town and the state.~~
- ~~(13) A statement to the effect that if the permit is granted, it will not be used or represented in any way as an endorsement by the town or by the town council of the solicitation conducted thereunder.~~
- ~~(14) A copy of an approved registration statement filed with the state division of consumer services of the department of agriculture and consumer services shall be filed with the town prior to solicitation being conducted within the town or a permit granted under this division. This registration statement shall affirmatively show that it shall be in effect for the full duration of any solicitation to be conducted within the town. The registration statement shall not be required if the organization is determined to be exempt from registration pursuant to F.S. ch. 496.~~
- ~~(d) Any delinquent fees from prior filings or events must be paid at the time of application in addition to current fees as prescribed in this division.~~
- ~~(e) If an applicant cannot furnish some of the information required by this section, a detailed statement shall be given of the reasons why such information cannot be furnished.~~
- (c) If, while any application is pending, or during the term of any permit granted pursuant thereto, here is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change.

Sec. 78-103. Information contained in application to be public.

The information contained in the application for a permit to solicit funds for charitable purposes shall be available to the public.

Sec. 78-104. Town clerk to issue permit.

The town clerk or designee shall issue a permit to solicit funds for a charitable purpose unless one or more of the following facts are found to exist:

- ~~(1)~~ (1) That not all statements made in the application are found to not be true.
- ~~(1)~~ (2) The required documentation and application are incomplete.
- ~~(2)~~ That the applicant is, or has engaged in, a fraudulent action or enterprise.

~~(3) That the solicitation will be a fraud upon the public.~~

~~(4) That the solicitation is not prompted solely by a desire to finance the charitable cause described in the application, but will be conducted primarily for the private personal benefit of the people conducting it.~~

Sec. 78-105. Fees.

Before a permit is issued pursuant to this article, there shall be paid to the town ~~clerk~~ an administrative processing fee, and in the event of a late filing a late filing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time. This provision shall not apply to the first three events held in any given year by organizations which receive financial support from the town through its budgeting process, ~~provided that the application and all required documentation is received at least 60 days prior to the proposed effective date of the permit applied for.~~

Sec. 78-106. Permit form, duration.

Permits issued under this article shall bear the name and address of the person by whom the solicitation is to be made, the number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the town or the town council of the purpose of, or the person conducting the solicitation. All permits shall be signed by the town clerk or designee and shall be in effect for the time stated thereon, but in no event shall the permit be valid beyond 12 months from the date of issuance, and in no event shall the permits be valid for more than two events during the 12-month period from the date of issuance. This limitation shall not apply to organizations which receive financial support from the town through its budgeting process or to businesses located within the town which raise funds for charity as a percentage of sales of merchandise.

Sec. 78-107. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 78-108. Credentials for solicitors.

- (a) All persons to whom permits have been issued under this article shall furnish proper credentials to their agents and solicitors for such solicitation. Such credentials shall include the name of the permit holder, the date of issuance, a statement describing the permittee's charitable activity, a description of the purpose of the solicitation, including a statement as to whether professional solicitors are being used in the solicitation, the signature of the permittee or of its chief executive officer, and the name, address and signature of the solicitor to whom such credentials are issued and the period of time during which the solicitor is authorized to solicit on behalf of the permit holder.
- (b) No person shall solicit under any permit granted under this article without the credentials required by this article and a facsimile copy of the permit in his

possession. The credentials and facsimile copy of the permit must be shown to all persons solicited.

Sec. 78-109. Permit suspension, revocation.

When the town manager or designee has reason to believe that any person to whom a permit has been issued under this article or any promoter, agent or solicitor of such permittee has misrepresented the purpose of the solicitation, the town manager or designee may direct the ~~town clerk to~~ suspension of the permit of such person. ~~Upon such direction, the town clerk or designee shall forthwith give written notice of such suspension by certified mail to such person at his last known address. The notice shall contain a statement of the grounds on which the suspension is based and shall set a date for hearing before the town council not more than 12 days after the date of suspension. Notice of such hearing shall be given such person at least five days prior to the date of hearing unless such person shall waive such period of notice. At such hearing the town council may permanently revoke such permit if it finds there were grounds for such suspension, or take such other action as it deems advisable.~~

Sec. 78-110. Permittee to keep records.

~~Every person granted a permit under this article shall maintain a system of accounting that shows to the satisfaction of the town all contributions solicited and the disbursement thereof.~~

Sec. 78-111. Reports required.

~~Every permit holder shall make available to the town manager or to any person designated in writing by the town manager as the representative for such purpose, all books, records and papers for the purpose of checking the accuracy of the report required by this section.~~

Sec. 78-~~110~~112. Appeals.

The town manager or his designee shall have the authority to revoke a charitable solicitation permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a charitable solicitation permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. If a permit for a charitable solicitation is denied, an appeal shall be afforded to the town council at the next available meeting of the town council subsequent to the date of denial.

Sec. 78-~~111~~113. Penalties.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in

the circumstances. Any person, organization, corporation, agency, or entity that engages in charitable solicitation without having first obtained a valid permit shall be assessed a penalty, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

Section 4 –

Chapter 94. Sales is hereby amended at Article II. Auctions and Auctioneers and at Article III. Closing-Out Or Distress Sales as follows:

ARTICLE II. AUCTIONS AND AUCTIONEERS

Sec. 94-31. Night sales prohibited.

No permit shall be issued and it shall be unlawful for any person to conduct a sale at public auction in the town between the hours of 6:00 p.m. and 8:00 a.m.

Sec. 94-32. Prohibited in season on certain streets.

It shall be unlawful to hold or conduct any auction sale between November 1 and April 30 of any year, in buildings fronting on any of the following designated streets within the town:

- (1) On Worth Avenue, between County Road and Lake Drive.
- (2) On Hibiscus Street, between Peruvian Avenue and Worth Avenue.
- (3) On Coconut Row, between Peruvian Avenue and Worth Avenue.
- (4) On Ocean Boulevard, between Barton Avenue and Gulf Stream Road.
- (5) On County Road, between Worth Avenue and Wells Road.
- (6) On Royal Palm Way.
- (7) On Bradley Place, between Royal Poinciana Way and Wells Road.
- (8) On Sunrise Avenue, between Bradley Place and Ocean Boulevard.

Sec. 94-33. Permit required.

No person shall engage in, participate in, aid, form or start any auction unless a permit shall have first been obtained from the town ~~clerk~~.

Sec. 94-34. Permit limitation.

No more than two permits per calendar year shall be issued to conduct an auction at any location or address in town.

Sec. 94-35. Application.

- (a) *Required.* A person seeking issuance of an auction permit shall file an application with the town clerk's office on forms provided by the town.
- (b) *Filing.* A completed application for an auction permit, providing all information required herein, shall be filed with the town clerk's office. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change. Before a permit is issued pursuant to this article, there shall be paid to the town an administrative processing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

~~not less than 30 days nor more than 90 days before the date on which it is proposed to conduct the auction.~~

- ~~(c) Contents. The application for an auction permit shall set forth the following information:~~
 - ~~(1) The name, address and telephone number of the person seeking to conduct such an auction.~~
 - ~~(2) The purpose of the auction.~~
 - ~~(3) A general description of the items to be auctioned.~~
 - ~~(4) If the auction is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.~~
 - ~~(5) The date on which the auction is to be conducted.~~
 - ~~(6) The exact hours the auction is to be conducted.~~
 - ~~(7) The name of or type of auction.~~
 - ~~(8) The exact location of the auction.~~
 - ~~(9) The approximate number of participants and spectators.~~
 - ~~(10) A detailed description of the activity or activities, including whether or not the auction event requires support facilities such as traffic control, parking volume, crowd control.~~
 - ~~(11) The signature of the applicant.~~

- ~~(12) The name, address and telephone number of the person who will be responsible for the conduct of the auction.~~
- ~~(13) An application fee adopted by resolution of the town council, as may be amended from time to time.~~

Sec. 94-36. Standards for issuance.

The town ~~clerk's office~~ shall issue an auction permit when from a consideration of the application and from such other information as may otherwise be obtained, ~~the town clerk determines that:~~

- (1) The applicant has agreed in writing to abide by all provisions set forth in this article.
- (2) All required information is set forth in the application and is in accordance with all provisions set forth in this article.
- (3) The concentration of persons and vehicles at assembly points of the auction location will not interfere with the proper fire and police protection of or ambulance services to areas contiguous to such assembly points of the auction as determined by the chief of police or his designee and the chief of fire-rescue or his designee.
- (4) The conduct of the auction will not interfere with the movement of police and fire rescue vehicles and equipment en route to a fire or the movement of emergency medical services equipment en route to an emergency as determined by the chief of police or his designee and the chief of fire-rescue or his designee.
- (5) The conduct of the auction will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to the place of the auction as determined by the chief of police or his designee.
- (6) The conduct of the auction will not result in damage to town-owned property as determined by the director of public works or his designee or constitute a hazard to the safety of other persons within the immediate vicinity of the auction as determined by the chief of police or his designee and the chief of fire-rescue or his designee.
- (7) No event or auction is scheduled elsewhere in the town where the town's resources required for that event or auction are so great that the deployment of resources for the proposed auction would have an immediate and adverse effect upon the welfare and safety of persons and property as determined by the chief of police or his designee and the chief of fire-rescue or his designee.

- (8) The auction will be conducted within a commercial zoning district of the town.
- (9) The auction will be conducted by a licensed auctioneer.
- (10) The goods or services to be auctioned shall be the same or similar to the licensed use of the facility within which the auction is to be held as determined by the director of the planning, zoning and building department, or his designee, in the permit application review process. For example, a licensed real estate office would be eligible to conduct an auction of real estate, but not jewelry. Likewise, a licensed jewelry store would be eligible to auction jewelry, but not real estate.
- (11) The granting of the permit will not cause more than two auctions to be held within a calendar year at the location or address where the auction is proposed to be conducted.

Sec. 94-37. Notice of approval or denial.

~~The town clerk's office shall act upon an application for an auction within 15 days after the filing thereof and must notify the applicant of the approval or denial of the application within that same period. If the town clerk or designee denies an application, a written notice stating the reasons for denial shall be sent to the applicant by mail and made available by the town for inspection within the 15-day period specified above.~~

Sec. 94-3738. Appeal procedure.

~~The town manager or his designee shall have the authority to revoke an auction permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If an auction permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. Any person aggrieved shall have the right to appeal the denial of an auction permit to the town council. The appeal shall be filed within five days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal at the next regular monthly meeting of the town council subsequent to the notice of appeal.~~

Sec. 94-3839. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

Sec. 94-3940. Possession.

The person heading or leading such auction shall carry the auction permit upon his person during the conduct of the auction and shall be present at the auction.

Sec. 94-41. Revocation.

The town manager or his designee shall have the authority to revoke an auction permit issued under this division upon violation of the provisions applicable to auction permittees. If an auction is conducted in violation of the terms of the permit, the permit shall be determined to be null and void and may be immediately terminated. The revocation of a permit may be appealed in the same manner and under the same time limitations as a permit denial.

Sec. 94-40. False information prohibited in application.

No person shall knowingly falsify or misrepresent any information or representations made in the permit application

Sec. 94-41. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 94-42. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

ARTICLE III. CLOSING-OUT OR DISTRESS SALES

DIVISION 1. GENERALLY

Sec. 94-66. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advertise, advertising, advertisement, advertised and publish means all means of conveying to the public notice of a sale, or notice of intention to conduct a sale, whether by word of mouth, newspaper, magazine, periodical, handbill, written notice, printed display, poster, billboard, radio and television announcement and any and all other means.

Goods means any goods, wares, merchandise or other property capable of being the object of a sale regulated under this article.

Permit means a permit issued pursuant to this article.

Permittee means the person to whom a permit has been issued pursuant to this article.

Sale means:

- (1) The sale, or offer to sell, by any person to the public of goods in stock, on order, or in transit, with a declared advertised purpose that such sale is

anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business, or any part thereof, or any line of goods, or any one store of a group of stores in connection with such sale, and it shall include any and all sales advertised in such manner as to reasonably convey to the public the impression that upon the disposal of the goods advertised, or on hand, the business will permanently cease and be discontinued;

- (2) The sale, or offer to sell, by any person to the public of goods in stock, on order, or in transit, with a declared advertised purpose that such sale is anticipatory to the temporary closing or temporary discontinuance of the business for the purpose of alterations or remodeling of the premises, or for the purpose of moving to another specific location in the town;
- (3) The sale, or offer to sell, by any person to the public, of goods so advertised as to reasonably convey to the public that such goods are damaged or altered by fire, smoke, water, hurricane, flood, explosion or other means; or
- (4) The sale, or offer to sell, by any person to the public, of goods advertised in such a manner as to reasonably cause the public to believe that the goods to be sold, or any part thereof, have been involved in any business failure, or have been derived from a business that has failed, been closed, discontinued or liquidated, or where such advertising indicates a business failure or emergency affecting the seller or any previous holder of the goods to be sold.

Sec. 94-67. Exceptions.

Provisions of this article shall not apply to sales advertised as anticipatory or closing for vacation or the summer or discontinuing business for vacation or the summer; except that, in no event, shall such sales exceed a period of time of longer than 30 consecutive days, Sundays and legal holidays included, in any one year after such sale is first advertised or commenced. It shall be unlawful to conduct such sale in violation of this section; and for the purpose of this section failure of the person so advertising or conducting such sale to close the business immediately after expiration of such period of time for a period of at least 14 consecutive days, Sundays and legal holidays included, shall be prima facie evidence of the intent of such person to mislead or defraud the public.

Sec. 94-68. Persons and officers exempt.

The following persons shall be exempt from the provisions of this article:

- (1) Persons acting pursuant to an order of a court of competent jurisdiction.
- (2) Sheriffs and marshals acting in accordance with their powers and duties as public officers.
- (3) Duly licensed auctioneers, selling at auction.

DIVISION 2. PERMIT

Sec. 94-101. Required.

No person shall advertise or conduct a sale without first obtaining a permit from the town clerk. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change.

Sec. 94-102. Application required; form, contents.

~~No permit for a sale shall be granted except upon written application, upon forms provided, to the town clerk; and such application shall be signed and verified before a person authorized to administer oaths by the person who intends to conduct such sale. Such application shall be submitted to the town clerk at least five days prior to the advertising or conducting of such sale., and each application shall set forth and contain the following:~~

- ~~(1) — The name and address of the owner of the goods to be sold, and if the owner is a corporation, the name, address and title of at least one officer of the corporation.~~
- ~~(2) — A description of the place where such sale is to be held.~~
- ~~(3) — The nature of the occupancy, whether by lease, sublease or otherwise, and the date of the beginning of such occupancy and the date of the termination thereof.~~
- ~~(4) — The means to be employed in advertising such sale, together with the proposed language content of any advertisement to be used for such sale.~~
- ~~(5) — A complete and detailed inventory of all goods to be sold, or offered for sale, including all goods then in stock, on order or in transit, and the cost and retail price of such goods.~~
- ~~(6) — The place where such goods were purchased or acquired and, if not purchased, the manner of such acquisition.~~
- ~~(7) — A statement by the applicant that upon receipt of permit for a sale, the applicant will immediately surrender any existing occupational licenses for the business for cancellation without refund of the tax, or any portion thereof, paid for such occupational license.~~
- ~~(8) — A statement by the applicant that representations made therein are bona fide. If the application is made for a sale as defined in section 94-66, such application shall also state, that if such permit is issued by the town clerk, acting in reliance on such representations, the applicant will not, directly or~~

~~indirectly, engage in the same business or any similar business under the same trade name or a similar trade name in the town, for a period of two years from the date of application and shall not engage in the same business or similar business under any name at the premises for a period of two years from the date of application.~~

~~(9) Any additional information relating to such sale as the town clerk may deem necessary.~~

Sec. 94-~~102~~103. False information prohibited in application.

No person shall knowingly falsify or misrepresent any information or representations made in the permit application provided for in section 94-102.

Sec. 94-104. Investigation, issuance of permit; duration.

~~Upon receipt of an application pursuant to this article and payment of the fee prescribed by section 94-109, the town clerk shall cause the same to be investigated. If after such investigation the town clerk is satisfied as to the truth of statements contained in the application, and as to the form and language content of the proposed advertising matter, he may, in his discretion, issue a permit permitting the advertising and conduct of such sale for a period of not more than 30 consecutive days, Sundays and legal holidays included, following the issuance thereof; provided that, in addition, for a sale as defined in section 94-66, the applicant shall surrender all occupational licenses held for the business as a prerequisite to issuance of such license.~~

Sec. 94-~~103~~106. Not transferable.

A permit shall not be assignable or transferable, and no person shall assign or transfer or attempt to assign or transfer such permit.

Sec. 94-~~104~~107. Denial of permit.

The town clerk or designee shall not issue the permit provided for in this article if any one or more of the following facts or circumstances are found:

- (1) That the applicant was granted a permit for a sale within two years preceding the date of the filing of the application.
- (2) That the applicant has heretofore been convicted of violation of this article, or has had a permit issued to him pursuant to this article revoked within a five-year period immediately preceding the date of filing of the application.
- ~~(3) That the inventory includes goods purchased by the applicant, or added to the stock, in contemplation of such sale and for the purpose of selling the same at such sale. For the purpose of this subsection, any unusual addition to the stock of goods made within 60 days prior to the filing of such application shall be prima facie evidence that such addition was made in~~

~~contemplation of such sale and for the purpose of selling the same at such sale.~~

- ~~(4) That the applicant in ticketing, pricing or marking of the goods to be offered for sale has misrepresented the retail price as listed in the inventory required under this article, or the value thereof, or the quality, kind or quantity of such goods, or the country of origin of such goods.~~
- (5) That any lease or sublease held by the applicant was formerly held by a corporation of which the applicant was an officer, director or stockholder or by any member of the applicant's immediate family, who have been granted a permit under this article within two years preceding the date of the filing of the application.
- (6) That any representation made in the application is false.

Sec. 94-~~105~~108. Renewal.

The town clerk may renew a permit for one period of time only, such period to be in addition to the 30 days permitted in the original permit and not to exceed 15 consecutive days, Sundays and legal holidays included, when he finds upon submission to him of an application on forms provided, and payment of the fee hereafter provided for, that:

~~(1) Goods inventoried in the original application~~ have not been disposed of and that facts exist justifying permit renewal.

- ~~(2) The applicant has submitted with the application a revised inventory showing the items listed on the original inventory that remain unsold and it shall appear that such application does not list goods not included in the original inventory. For the purpose of this subsection, any application for a permit that covers any goods previously inventoried as required by this article shall be deemed an application for renewal, whether presented by the original applicant or by any other person.~~

Sec. 94-~~106~~109. Fees.

The applicant for an original permit or a renewal, shall pay to the town clerk an administrative processing fee in accordance with the fee schedule adopted by the town council by resolution ~~the sum adopted by resolution of the town council, as may be amended from time to time.~~, upon filing of each such application as a fee to defray the cost of investigating statements contained in such application, and no part of such fee shall be refundable.

Sec. 94-110. Permit suspension.

~~If for good cause shown it appears to the town clerk or designee that in any sale a violation has occurred, the town clerk or designee may, in his discretion, temporarily suspend any permit for a time not to exceed 24 hours for the purpose of investigation of such violation.~~

~~If upon investigation the town clerk or designee finds no violation has occurred, the time period in which the sale was to be conducted under this article shall be extended by the period of time during which such suspension was in effect, but not to exceed a period of 24 hours.~~

Sec. 94-~~107~~111. Permit revocation, appeals.

The town manager or his designee shall have the authority to revoke a closing out sales permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a closing out sales permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. The town clerk or designee shall revoke any permit if he shall find that the permittee has knowingly:

- (1) Violated one or more provisions of this article.
- (2) Made any material misstatement in his application.
- ~~(3) Failed to include in the inventory required under this article all goods being advertised, sold or offered for sale on the permitted premises.~~
- ~~(4) Failed to revise the inventory daily or keep complete and detailed books and records of the sale.~~
- (5) Made or permitted to be made any false or misleading statements or representations in advertising the sale or goods or in displaying, ticketing, pricing or identifying goods offered for sale.
- (6) Refused to allow examination by the town clerk or his inspectors, of the goods offered for sale or of the books and records of the sale.

Sec. 94-~~108~~112. Display required.

Upon commencement and throughout the duration of any sale, the original permit or renewal shall be prominently posted, so as to be visible to the public, near the entrance to the premises where such sale is advertised or conducted; and no person shall advertise or cause to be advertised any copy or reproduction of such permit.

Sec. 94-~~113~~. Duplicate application and inventory to be kept on premises.

~~A duplicate of the original application and inventory or renewal application and inventory for a permit shall be kept on the permitted premises at all times during such sale and shall be available at all times to the town clerk or his inspectors, and the permittee shall permit the town clerk or his inspectors to examine all goods on the premises for comparison with such inventory.~~

Sec. 94-114. Records required; inspection.

~~At the close of each day's business, the permittee shall cause the inventory attached to such duplicate application to be revised by noting thereon items disposed of during the day. Complete and detailed books and records of the sale shall be kept by the permittee and shall be available at all times for inspection by the town clerk or his inspectors.~~

Sec. 94-109115. Additions to stock prohibited.

No permittee shall bring upon or cause to be brought upon the permitted premises goods ~~not shown or otherwise accounted for in the application and inventory that have not been involved in any business failure, or that have not been derived from a business that has failed, been closed, discontinued or liquidated~~ that have not been involved in any business failure, or that have not been derived from a business that has failed, been closed, discontinued or liquidated with intent to advertise, sell or offer for sale of such goods to the public. For the purpose of this section, advertisement, exposure for sale as part of the stock, or display of such goods to the public shall be prima facie evidence of intent to sell or offer for sale of such goods to the public.

Sec. 94-110116. Accuracy of advertising.

Advertising shall be descriptive of the nature of such sale, and no sale shall be advertised or conducted for a purpose other than stated in the application therefor, and the language contained therein shall be identical with the advertising language content set forth in the application.

Sec. 94-111117. Statement required in advertising.

No permittee shall indicate in any advertising, either directly or indirectly, that a sale is held with the approval of the town or any of its officers and employees. Such advertising shall contain a statement in the following words and no others:

"This sale held pursuant to Town Permit No. _____, granted the _____ day of _____, 19____."

Sec. 94-112118. Marking of distressed goods.

Where goods held for sale or offered for sale as defined under section 94-66 are commingled with goods that have not been involved in any business failure, or that have not been derived from a business that has failed, been closed, discontinued or liquidated, such goods shall be plainly marked or ticketed as distressed items; and no goods not distressed shall be so marked or ticketed.

Sec. 94-113119. Doing business beyond closing date.

No person shall conduct a business or a sale after a date has been fixed for the closing of a business or by advertising unless a renewal permit provided shall first have been

obtained from the town clerk's office, and no person granted such renewal shall conduct such business or sale beyond the closing date fixed in such renewal.

Sec. 94-114. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

Sec. 94-115. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

Sec. 94-116. Penalties.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances.

Sec. 94-117. Possession.

The person heading or leading the sale shall carry the closing out sales permit upon his or her person during the conduct of the sale and shall be present at the sale.

Section 5 –

Chapter 106, Streets, Sidewalks And Other Public Placed is hereby amended at Article VII. Special Events On Public Property is hereby amended to read as follows:

ARTICLE VII. SPECIAL EVENTS ON PUBLIC PROPERTY

DIVISION 1. GENERALLY

Sec. 106-256. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Special event means any meeting, activity, walk/run, or gathering of a group of persons having a common purpose, design or goal, upon any public street, sidewalk, alley, park, beach or other public place or building, which special event substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any public area or building, which results in preempted use by the general public or which deviates from the established use.

Nothing in this article shall preclude the use of such areas by the town for governmental purposes.

Sec. 106-257. Regulations relating to special event.

The following regulations shall apply to all special events held within the town:

- (1) There shall be held at the location requested no more than one special event per month, without priority for any particular date, to be granted to the first person to submit a completed application designating that day. The town reserves the right to limit use of public spaces at any time to prevent overuse and/or adverse impacts to adjacent neighborhoods.
- (2) The maximum total duration of each special event and the assembly thereof shall be five hours.
- (3) Any signs, props or displays used in conjunction with the special event must be removed immediately after the time permitted for the special event has expired.
- (4) The use of banners, flags (other than flags of official governmental bodies), streamers, balloons or any similar devices, in connection with the event, shall be prohibited.
- (5) The use of decorated vehicles and trailers in connection with the event is prohibited.
- (6) The granting of a special event permit under this article shall not require the complete blockading of streets or intersections to vehicular traffic, and the town shall be empowered to apportion such streets and intersections for simultaneous use by special event participants and vehicular and pedestrian traffic.
- (7) The concentration of persons and/or vehicles at the special event will not interfere unduly with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly area or other areas of the town.
- (8) There are sufficient parking places near to the site of the special event to accommodate the approximate number of automobiles reasonably expected to be driven to the special event.
- (9) The event is not otherwise in violation of ordinances or regulations of the town or the state or of federal law.

Sec. 106-258. Penalties.

Any person determined to be in violation of the provisions of this article, not relating to revocation of the permit, shall be subject to section 1-14. Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances. Any person, organization, corporation, agency, or entity that holds a special event on public property without having first obtained a valid permit shall be assessed a penalty, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

Sec. 106-259. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 106-260. Waiver of provisions.

The town council may in its discretion waive any requirements of this article.

Sec. 106-261. False information prohibited in application.

No person shall knowingly falsify or misrepresent any information or representations made in the permit application.

DIVISION 2. PERMIT

Sec. 106-281. Required.

No person shall engage in, participate in, aid, form or start any special event unless a special event permit shall have first been obtained from the town manager or his/her designee. No permit shall be required and none of the limitations above shall apply for special events officially sponsored by the town government and/or approved by the town council, nor shall the regulations set forth in this division 2 apply to such special events.

Sec. 106-282. Application.

- (a) Required. A person seeking issuance of a special event permit shall file an application with the town clerk's office on forms provided by the town.
- (b) Filing. A completed application for a special event permit, providing all information required herein, shall be filed with the town clerk's office. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change, not less than 24 hours after such change, not less than 45 days (or a shorter period of time as deemed appropriate at the discretion of the town manager) and not more than nine months for residents and four months for non-residents before the date on which it is proposed to conduct the special event.

- (c) Applicant shall provide at its own cost and expense Comprehensive General Liability Insurance coverage with limits of liability not less than \$1,000,000 Each Occurrence/\$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The applicant's General Liability coverage shall be primary and non-contributory.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above-described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

The Town of Palm Beach reserves the right to require additional coverages and limits based upon the particular special event proposed by the applicant. If the special event applicant maintains higher limits than the minimums shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the applicant.

Contents. The application for a special event permit shall set forth the following information:

- (1) ~~The name, address and telephone number of the person seeking to conduct such a special event.~~
- (2) ~~The purpose of the special event.~~
- (3) ~~If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.~~
- (4) ~~The date on which the special event is to be conducted.~~
- (5) ~~The exact hours the special event is to be conducted.~~
- (6) ~~The name or type of event.~~
- (7) ~~The exact location of the event.~~
- (8) ~~The approximate number of participants and spectators.~~
- (9) ~~A detailed description of the activity or activities, including whether or not the event requires support facilities such as traffic control, parking volume, crowd control.~~
- (10) ~~The name of the applicant's insurance company for the event and proof of insurance. The town shall be named as additional insured on a policy of~~

liability insurance in an amount not less than \$1,000,000.00. The Town of Palm Beach reserves the right to require additional coverages and limits based upon the particular special event proposed by the applicant. If the special event applicant maintains higher limits than the minimums shown below, the town requires and shall be entitled to coverage for the higher limits maintained by the applicant.

- (11) ~~The signature of the applicant.~~
- (12) ~~The name, address and telephone number of the person who will be responsible for the conduct of the special event (i.e., special event chair).~~
- (13) ~~Provisions for cleanup after conclusion of the special event. The applicant shall be responsible for costs of complete and immediate cleanup.~~

(d) Fees. Before a permit is issued pursuant to this article, there shall be paid to the town an administrative processing fee, and any other related special event fees, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time. ~~The following fees in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time:~~

- a. ~~An administrative processing fee;~~
- b. ~~A refundable damage deposit, if applicable;~~
- c. ~~A usage fee prepaid for the hours requested to hold the proposed special event, if applicable.~~

Sec. 106-283. Standards for issuance.

The town ~~manager~~ shall issue a special event permit, when from consideration of the application and from such other information as may otherwise be obtained, ~~he/she finds~~ that:

- (1) No other applicant has obtained a permit for the date requested.
- (2) The special event applicant has agreed in writing to abide by all provisions set forth in this article.
- (3) All required information is set forth in the application and is in accordance with all provisions set forth in this article.
- (4) The concentration of persons and vehicles at assembly points of the special event will not interfere with the proper fire and police protection of or ambulance services to areas contiguous to such assembly areas.

- (5) The conduct of such special event will not interfere with the movement of police and fire rescue vehicles and equipment en route to a fire or the movement of emergency medical services equipment en route to an emergency.
- (6) The special event is not being held for the purpose of advertising any product, goods or event, and shall not be held for private profit or fund raising, unless the applicant is a 501(c)3 non-profit, in which a charitable solicitation permit would also be required.
- (7) The conduct of the special event will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to the place of the special event.
- (8) The conduct of the special event will not result in damage to town-owned property or constitute a hazard to the safety of other persons within the immediate vicinity of the event.
- (9) No event is scheduled elsewhere in the town where the town's resources required for that event are so great that the deployment of resources for the proposed assembly would have an immediate and adverse effect upon the welfare and safety of persons and property.
- (10) An original certificate of insurance was supplied to the town naming the town as additional insured on a policy of liability insurance in an amount not less than \$1,000,000.00 or an amount higher based upon the particular special event proposed.

Applications for the use of Phipps Plaza Park, Memorial Park and Lake Drive Park shall not be accepted, as special event permits shall not be issued for the use of these properties for non-governmental events.

Applications for special events that involve leaving the primary event location (public or private properties) to utilize public sidewalks, streets and/or bike paths shall receive town council approval prior to the issuance of a special event permit and shall be subject to section 106-288.1.

~~Sec. 106-284. Notice of approval or denial.~~

~~The town manager or designee shall act upon an application for a special event permit within 20 days after the filing thereof and must notify the applicant of the approval or denial of the application within that same period. If the town manager or designee denies an application, a written notice stating the reasons for denial shall be sent to the applicant by certified mail and made available by the town for inspection within the 20-day period specified above.~~

Sec. 106-~~284~~285. Appeal procedure.

~~The town manager or his designee shall have the authority to revoke a special event permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a special event permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. Any person aggrieved shall have the right to appeal the denial of a special event permit to the town council. The appeal shall be submitted in writing within five days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal at the next regular monthly meeting of the town council subsequent to the notice of appeal.~~

Sec. 106-~~285~~286. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

Sec. 106-~~286~~287. Possession.

The special event chair or other person heading or leading such special event shall carry the special event permit upon his person during the conduct of the special event and shall be present at the special event.

Sec. 106-~~288~~. Revocation.

~~The town manager or his designee shall have the authority to revoke a special event permit issued under this division upon violation of the provisions applicable to special event permittees. If a special event is held in violation of the terms of the permit, the permit shall be determined to be null and void and may be immediately terminated. The revocation of a permit may be appealed in the same manner and under the same time limitations as a permit denial.~~

Sec. 106-~~287~~288.1. Walks and runs.

Applications for activities or events that involve leaving the primary event location on public or private properties that will utilize public sidewalks, streets and/or bike paths, and other right-of-way areas for the purpose of organized walks or runs of any distance, shall receive town council approval prior to the issuance of a special event permit.

The following procedure and criteria for approving a walk/run event shall be as follows:

- (a) Applications for walk/run events shall be submitted as required in section 106-282.
- (b) The town manager or his/her designee will submit a staff report, the special event application and supporting documentation to the town council for its consideration and final approval.

- (c) Approval of a walk/run event application shall be subject to the following requirements:
- (1) Adequacy of the location of the start and finish line as well as the walk/run route, relative to public safety and impact to the residents; and
 - (2) The date(s) and start time(s) of the event, and/or whether or not it will conflict with a town sponsored event or another event in close proximity of the proposed event, and will not adversely impact adjacent residential areas.
 - (3) The maximum number of events held in the requested route area is no more than three per year calendar year and no more than one event every other month.
 - (4) The maximum number of persons permitted by the town to participate in a walk/run event (including but not limited to spectators, vendors, volunteers, and staff) is 400.
 - (5) Set-up prior to council approved walk/run event shall not begin prior to 8:00 a.m. without council approval.
 - (6) No amplified music or speaking shall be permitted prior to 9:00 a.m. without council approval.
 - (7) No walk/run events shall be held on a Sunday.

Sec. 106-288. Religious Holiday Symbol Permits.

Bradley Park is designated as the location for the erection and display of unattended symbols relating to religious holidays during that period of the year beginning the day after Thanksgiving and ending on January 10 of the ensuing year.

A display of unattended symbols relating to religious holidays permit application shall be filed with the town clerk's office. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 24 hours after such change. Before a permit is issued pursuant to this resolution, there shall be paid to the town an administrative processing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

The Public Works Director / Designee shall establish that the display does not present a public safety hazard, that the display will remain in place for a period of time of 15 consecutive days or less, and that it will not interfere with the use of the park for other park purposes.

Any display not removed upon the date indicated for removal on the permit may be removed by the town, and the cost for removal billed to the individual and/or organization designated as the responsible party for the display.

The town manager or his designee shall have the authority to revoke a religious holiday symbol permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a religious holiday symbol permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

No person shall knowingly falsify or misrepresent any information or representations made in the permit application.

Permits issued under this article shall be nontransferable.

The town council may in its discretion waive any requirements of this article.

Section 6 – Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 7 – Repeal Of Ordinances Or Parts Of Ordinances In Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 8 – Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this _____ day of _____, 2023; and for the Second and Final Reading on this _____ day of _____, 2023.

Danielle H. Moore, Mayor

Margaret Zeidman, Town Council President

Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kelly Churney, Acting Town Clerk

Edward Cooney, Town Council Member