

FILED FOR RECORD

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COURT
FLORIDA

ORDINANCE 86-13

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, MAKING A FINDING OF PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATION FOR COMMERCIAL VENDING PERMITS AND PEDDLING PERMITS; PROVIDING FOR APPLICATION FEES; PROVIDING FOR BONDS; PROVIDING FOR ISSUANCE, DENIAL, SUSPENSE OR REVOCATION OF PERMITS; PROVIDING FOR APPEAL; PROVIDING FOR EXPIRATION AND RENEWAL OF PERMITS; PROVIDING FOR A GENERAL PROHIBITION; PROVIDING FOR RESTRICTIONS, LIMITATIONS AND CONDITIONS OF PERMIT FOR COMMERCIAL VENDING PERMITS; PROVIDING FOR RESTRICTIONS, LIMITATIONS AND CONDITIONS OF PERMIT FOR PEDDLING PERMIT; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCE 84-28; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 125, Florida Statutes, the Board of County Commissioners of Manatee County, Florida, ("Board") is authorized to regulate and prohibit activities concerning the private use of public property and public right-of-way for the conduct of commercial activities; and

WHEREAS, the use of all land within the unincorporated area of Manatee County is regulated pursuant to the terms of the Manatee County Comprehensive Zoning and Land Development Code, Ordinance 81-4, which classifies real property according to uses; and

WHEREAS, commercial activity on public right-of-way is a use of real property requiring regulation in the interest of the public health, safety and welfare; and,

WHEREAS, property owned by Manatee County is acquired, operated and maintained for governmental-public purposes and, the public right-of-way is held in trust for the citizens of Manatee County; and

WHEREAS, the purpose of sidewalks and areas adjacent thereto, as part of the public right-of-way, is to facilitate the safe movement of pedestrian traffic free of conditions or impediments which delay, obstruct or annoy the public in the use of the same; and

"V" Vendors (transit merchants, Peddlers)

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WHEREAS, the reasonable regulation of peddlers, street vendors and transient merchants promotes the health, safety and welfare of the citizens of Manatee County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, that:

Section 1. Findings and Purpose.

The Board of County Commissioners of Manatee County, Florida finds:

A. The use of public right-of-way, by private persons for commercial activities is a special or extra use in the nature of a privilege which may be granted on condition or entirely withheld.

B. The proper location for the conducting of commercial activities is on private property and that no person has any inherent right to conduct commercial activities in or on the public right-or-way.

C. The use of public property other than public right-of-way, or otherwise controlled property owned by Manatee County, by private persons or entities for their own private commercial purposes and for their personal gain is not consistent with the purpose and intent of the use of such property.

D. Reasonable regulation of the use of public right-of-way, by private persons for the conduct of their private commercial vending, so that the public use of such right-of-way is not impaired, made inconvenient, or unsafe for its intended use is necessary to protect the public health, safety and welfare.

E. The regulations contained in this ordinance do not prohibit pure speech by religious organizations, but merely regulate the activities of an organization which are commercial in nature.

F. The regulations contained in this ordinance do not regulate any activity so as to regulate interstate commerce.

Section 2. Definitions

A. "Application" shall mean the submission of materials required by the County Administrator or his designee

pursuant to this ordinance for each stand or motor vehicle to be utilized for commercial vending and for each peddler.

B. "Board" shall mean Board of County Commissioners of Manatee County, Florida.

C. "Commercial Vending" shall mean the selling by dispensing, hawking or offering for sale by soliciting or displaying any foodstuffs, beverages, wares or any other items of merchandise whatsoever from a stand, motor vehicle, whether stationary or by traveling from place to place carrying said merchandise in unincorporated Manatee County.

D. "County" shall mean Manatee County, Florida a political subdivision of the State of Florida.

E. "Motor Vehicle" shall mean any type of vehicle required to be licensed and registered by the Florida Department of Motor Vehicles.

F. "Peddler" shall mean a vendor on foot who without the use of a commercial stand or commercial motor vehicle temporarily stops to make an immediate sale to a customer already present at the location of the stop and then moves on to another location where another customer is present.

G. "Peddling" shall mean the sale or offering for sale by soliciting or displaying any foodstuffs, beverages, wares or any other items of merchandise whatsoever by a peddler.

H. "Permittee" shall mean any vendor or peddler who has been issued a permit by Manatee County to engage in commercial vending.

I. "Public Property" shall mean any real property owned by Manatee County, in fee; controlled by Manatee County for public use, or which is dedicated for the public use, and which is not classified as public right-of-way, within the meaning of this ordinance, whether or not the same has been improved, and shall include driveways and parking lots.

J. "Public Right-of-Way" shall mean all land area owned by Manatee County, in fee, or in which Manatee County has an easement, or which is dedicated to public use, or which is used for motor vehicle or pedestrian safety and control or for

the locating of traffic control signs and devices or public utilities, including land adjacent thereto, whether landscaped or not, and shall include land area that is dedicated to public use whether or not the same has been improved for its intended purpose. Right-of-way shall specifically include but shall not be limited to any street, alley, thoroughfare, median or sidewalk.

K. "Stand" shall mean any table, showcase, bench, rack, pushcart, wagon or any other wheeled non-motorized vehicle or similar device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Florida Department of Motor Vehicles.

L. "Vendor" shall mean an individual, group of individuals, any partnership, limited partnership, trust, association, corporation, firm, or other business entity, by whatever name identified, owning or responsible for the placing, maintaining or controlling of any commercial vending activity which is regulated by this ordinance. The use of the singular shall include the plural.

Section 3. Permits.

Permits to engage in commercial vending or peddling or both shall be issued by the County Administrator or his designee in accordance with the provisions of this section.

Section 3.01. Application for Commercial Vending Permit.

The application for a commercial vending permit shall include:

A. The name, home and business address of the applicant, and if the stand(s) or motor vehicle(s) is owned by an entity other than the applicant, the name and address of the owner(s) of the stand(s) or motor vehicle(s). Each vendor shall provide the name(s) and addresses of its principals and officers.

B. A description or photograph of the proposed commercial stand or commercial motor vehicle(s) to be used, including the license and registration number(s) of each motor vehicle.

C. A copy of the warranty deed or other proof of ownership satisfactory to the County Administrator or his designee indicating ownership of the property on which the commercial vending is to be conducted.

D. Where a vendor intends to engage in commercial vending from the real property belonging to another individual, group of individuals, partnership, limited partnership, trust, association, corporation, firm, other business entity, or the state or a local government, the vendor must present an executed copy of the lease agreement or other agreement authorizing the vendor to utilize the real property for this purpose.

E. A description and itemization of the types of items to be sold.

F. For vending from a stand: a detailed, scaled site sketch of the proposed vending location showing location of the stand; existing parking; property lines; the location of waste receptacles; and the location of routes of vehicular and pedestrian ingress and egress on the subject property and adjacent properties as approved by the Manatee County Department of Public Works, Division of Highway.

G. For vending from motor vehicles: a description of the general area and routes in which applicant proposes to vend.

H. A full-face photograph, not less than 2" x 2", taken not more than thirty (30) days prior to the date of the application, of any person who will engage in commercial vending.

I. A certificate of insurance as provided in Section 6.01.b. of this ordinance.

J. Application fee.

K. A sworn, notarized statement that the vendor, its principal and officers are at least eighteen (18) years of age, and that all information contained in the application for permit is true and accurate.

L. A current health permit from the Manatee County Health Department, if any food or beverage will be commercially vended.

Section 3.02 Application for Peddling Permit.

The application for a peddling permit shall include:

A. The name, home and business address of the applicant, the scope of all affiliations with each business entities they may represent within the terms of this permit, and the name and address of each such business entity.

B. A description and itemization of the types of merchandise to be sold.

C. A description of the general area in which peddler proposes to vend.

D. A full-face photograph, not less than 2" x 2", taken not more than thirty (30) days prior to the application, of any person who will engage in peddling.

E. A certificate of insurance as provided in Section 6.02.b. of this ordinance.

F. Application fee.

G. A current health permit from the Manatee County Health Department if any food or beverage will be peddled.

H. A sworn, notarized statement that all information contained in the application for permit is true and accurate.

Section 3.03. Application Fee.

As part of the application, the vendor shall submit a non-refundable two hundred fifty dollars (\$250.00) fee for the processing of each application.

Section 3.04. Bond.

A. Prior to the issuance of each commercial vending permit for vending from a stand which the vendor has declared in its application to remain in a fixed location during the term of the permit, the vendor shall deposit with the County Administrator or his designee a cash bond or a cashiers check in the amount of One Thousand Dollars (\$1,000.00), for the purpose of ensuring the removal of the stand at the termination of the permit.

B. Cash bonds and cashiers checks shall be accepted by the County Administrator or his designee and held in escrow by Manatee County for sixty (60) days beyond either the term of permit or revocation of the permit, which ever shall occur first.

C. The funds escrowed pursuant to this ordinance shall be released to the permittee by the Board upon representation by the County Administrator or his designee that the stand has been removed.

Section 4. Issuance of Permit; Denial, Suspension or Revocation of Permit; Appeal.

Section 4.01. Intent to Issue.

The County Administrator or his designee shall issue a permit for commercial vending and peddling upon:

- A. The submission of a completed application; and
- B. A determination by the County Administrator or his designee that the application complies with the requirements of this ordinance.

Section 4.02. Intent to Deny, Suspend or Revoke.

A. The County Administrator or his designee shall issue letter of intent to deny, suspend or revoke a permit under this ordinance whenever he finds that the vendor, its principals and officers:

1. Are under eighteen (18) years of age;
2. Have been convicted of a felony within the last five years;
3. Have been convicted of a violation of this ordinance or similar ordinance of any other jurisdiction;
4. Have filed false or misleading statements in its application for permit;
5. Conduct the business of commercial vending or peddling in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals; or
6. Conduct the business of commercial vending or peddling in a manner contrary to the provisions of this ordinance.

B. The County Administrator or his designee shall deliver a copy of the letter of intent to deny, suspend or revoke permit to the vendor or permittee by mail or delivery to the

address listed on the application. The letter of intent to deny, suspend or revoke the permit shall make findings of fact and set forth reasons for the determination; shall state that an appeal may be taken to the Board at which the vendor or permittee may be heard, may be represented by counsel and may produce evidence in a quasi-judicial review of the determination by the County Administrator or his designee.

Section 4.03. Appeal.

Appeal of a letter of intent to deny, suspend or revoke may only be taken within sixty (60) days of the issuance of the County Administrator or his designee's determination. The vendor or permittee shall provide advertised public notice as set out in Section 125.66, Florida Statutes, after receiving the appeal date from the County Administrator or his designee. Failure to provide evidence of advertised public notice shall result in deferral of the appeal until advertising is completed as provided herein.

Section 5. Expiration and Renewal of Permits.

Section 5.01 Expiration.

Each commercial vending permit and peddling permit shall expire on September 30 annually.

Section 5.02 Renewal.

Permits may be renewed annually upon:

- A. Filing an updated application not later than August 31 annually; and
- B. A written finding by the County Administrator or his designee of permittee's compliance with the ordinance in the prior permit period; and
- C. Extending the escrowed funds required in Section 3 of this ordinance to the next term of the permit(s), and if the required bond amount has been increased, the Permittee shall deposit additional funds as provided in subsection 3.04 of this ordinance to meet the required amount.
- D. Filing of a renewal application after August 31st, shall not entitle applicant/permittee to continue operation after September 30th, unless a new permit has been issued.

Section 6. General Prohibition.

Commercial vending and peddling is permitted solely in accordance with the terms; restrictions and limitations; conditions and requirements of this ordinance.

Section 6.01 Commercial Vending Permit:

A. Restrictions and Limitations:

1. Commercial vending from stands or motor vehicles shall be permitted only where permitted by the Manatee County Comprehensive Zoning and Land Development Code, Ordinance 81-4, as amended.

2. Commercial vending from stands or motor vehicles is prohibited on public rights-of-way identified as arterials by the Manatee County Comprehensive Zoning and Land Development Code, Ordinance 81-4, as amended.

3. Commercial vending from stands or motor vehicles located on parking space required to meet the minimum parking criteria for the development, as required by the Manatee County Comprehensive Zoning and Land Development Code, Ordinance 81-4, as amended, is prohibited.

4. No stand or motor vehicle shall be permitted at any location except a designated location authorized by permit issued by the County Administrator or his designee. Only one stand or motor vehicle stand shall be permitted on each lot subdivided in accordance with the Manatee County Comprehensive Zoning and Land Development Code, Ordinance 81-4, as amended.

5. Commercial vending from stands or motor vehicles may not unreasonably increase traffic congestion or cause traffic delay or constitute a hazard to life or property.

6. Commercial vending from stands or motor vehicles may not unreasonably interfere with or restrict ingress and egress to the permitted location or adjacent public or private property.

7. The permittee shall keep the area surrounding the stand or motor vehicle free of debris, trash or other

refuse, and shall provide documentation of arrangements for the collection and disposal of the same.

8. The permittee shall not set up, maintain or permit the use of any table, crate, carton, rack, or any other device to increase the selling or display capacity of his approved stand or motor vehicle.

9. The permittee shall not display more than one sign on the permitted premises. The sign shall not exceed a total of thirty-two (32) square feet and shall not be electrically powered. Signs placed on state rights-of-way shall comply with Section 337.407, Florida Statutes.

10. No external electrical hook-ups to any source or supply of electrical current is permitted.

11. The permittee shall not sound or permit the sounding of any device which produces, amplifies or transmits noise.

12. The permittee must comply with all applicable County ordinances, State and Federal Law.

B. Conditions of Permit:

1. Each stand or motor vehicle shall bear a identification containing the following information:

(a) The name of permittee; and

(b) The permit identification number, issued for the placement of the stand or motor vehicle, which must be positioned so as to be visible from the nearest street; and

(c) A current health permit issued by the Manatee County Health Department, if required by this ordinance.

2. The permittee shall carry liability and product liability insurance in amounts approved by the Office of Risk Management for Manatee County. Evidence of insurance shall be submitted to the County Administrator or his designee along with the application for permit. The insurance shall name Manatee County as an additional insured and shall provide that the policy shall not terminate or be

cancelled prior to its expiration date without thirty (30) days advance written notice to the County Administrator or his designee.

3. The real property owner and the permittee shall be jointly and individually responsible for compliance with local, state and Federal laws and regulation and shall hold the County harmless for any permit issued which may violate local, state and Federal law and regulations.

Section 6.02 Peddling Permit.

A. Restrictions and Limitations.

1. Peddling shall be permitted only in the unincorporated area of Manatee County between the hours of 8 a.m. and 8 p.m.

2. Peddling in the public right-of-way prohibited.

3. Peddling from door to door is permitted subject to the discretion of the property owner in preserving his privacy. Failure to observe posted "NO SOLICITATION" signs is a violation of this permit.

4. The permittee shall identify himself and shall at all times while peddling wear an identification tag bearing his name, the name of the applicant, and the permit identification number. The tag issued by the County Administrator or his designee, shall be worn so as to be visible at all times.

5. No peddling shall occur in other than the designated area authorized by the permit issued by the County Administrator or his designee. Each peddler shall have a permit.

6. Peddling shall not unreasonably constitute or create a hazard to life or property, or a public nuisance.

7. The permittee shall not sound or permit the sounding of any device which produces, amplifies or transmits noise.

B. Conditions of Permit.

1. The permittee shall carry liability and product liability insurance in amounts approved by the Office of Risk Management for Manatee County. Evidence of insurance shall be submitted to the County Administrator or his designee along with the application for permit. The insurance shall name Manatee County as an additional insured and shall provide that the policy shall not terminate or be cancelled prior to its expiration date without thirty (30) days advance written notice to the County Administrator or his designee.

2. The permittee shall be responsible for compliance with local, state and Federal laws and regulation and shall hold the County harmless for any permit issued which may violate local, state and Federal law and regulations.

3. The identification tag required in Section 6.02.a.4 herein, shall remain the property of Manatee County and shall be surrendered upon the expiration or termination of the permit. Failure to surrender the tag upon demand by the County Administrator or his designee, shall be presumed to be a violation of this ordinance, punishable as provided herein.

Section 7. Exemptions.

A. Charitable, Religious, Civic and Related Organizations.

Charitable, religious, fraternal, youth, school, civic, service or other such organizations which makes occasional sales or engages in fund raising projects, where the activity is performed exclusively by the members thereof and the proceeds derived from the activity are for the exclusive use of the organization are exempt from the following sections of this ordinance:

Subsection 3.01 (subsections: (b); (c); (d); (f); (h); (i) and (j); Subsection 3.02 (subsections: (d); (e) and (f); Subsection 3.03; Subsection 3.04; Subsection 4.01; Subsection 4.02; Subsection 4.03; Subsection 5.01; Sub-

section 5.02; Subsection 6.01 (Subsections: (b.2); and Subsection 6.02. (Subsections (b.1) and (b.3)).

B. Chapter 626, Florida Statutes.

Any person licensed under Chapter 626, Florida Statutes, while acting within the scope of the licensed authority or any person enrolled in a documented training program for licensure under Chapter 626, Florida Statutes are exempt from the following sections of this ordinance.

Subsection 3.01 (subsections: (b); (c); (d); (f); (h); (i) and (j); Subsection 3.02 (subsections: (d); (e) and (f); Subsection 3.03; Subsection 3.04; Subsection 4.01; Subsection 4.02; Subsection 4.03; Subsection 5.01; Subsection 5.02; Subsection 6.01 (subsections: (b.2) and Subsection 6.02 (subsections: (b.1) and (6.3)).

Section 8. Penalty.

Any person violation or failing to comply with any of the provisions of this Ordinance shall be guilty and punished as provided by general law. Each violation shall constitute a separate offense.

Section 9. Severability.

If any part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared to be void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Board declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision or application.

Section 10. Repeal.

Manatee County Ordinance 84-28 regulating peddlers, transient merchants and transient merchants is hereby repealed in its entirety; and all other ordinances in conflict herewith are

hereby to the extent of such conflict. Said repeal being effective upon the effective date of this ordinance.

Section 11. Effective Date.

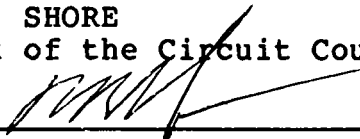
This Ordinance shall become effective on August 1, 1986 and after receipt of the official acknowledgement from the Office of the Secretary of State in Tallahassee, Florida, that this Ordinance has been filed with that office.

PASSED AND DULY ADOPTED with a quorum present and voting this 6th day of May, 1986.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: 
Chairman 5/6/86

ATTEST: R. B. SHORE
Clerk of the Circuit Court




STATE OF FLORIDA

COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of an ORDINANCE adopted by the Board of County Commissioners of said County in session on the 6th day of May, 1986.

SUBJECT: ORDINANCE 86-13
AN ORDINANCE OF MANATEE COUNTY, FLORIDA,
MAKING A FINDING OF PURPOSE; PROVIDING FOR
DEFINITIONS; PROVIDING FOR APPLICATION FOR
COMMERCIAL VENDING PERMITS AND PEDDLING PERMITS;
PROVIDING FOR APPLICATION FEES; PROVIDING FOR
BONDS; PROVIDING FOR ISSUANCE, DENIAL, SUSPENSE
OR REVOCATION OF PERMITS; PROVIDING FOR APPEAL;
PROVIDING FOR EXPIRATION AND RENEWAL OF PERMITS;
PROVIDING FOR A GENERAL PROHIBITION; PROVIDING
FOR RESTRICTIONS, LIMITATIONS AND CONDITIONS OF
PERMIT FOR COMMERCIAL VENDING PERMITS; PROVIDING
FOR RESTRICTIONS, LIMITATIONS AND CONDITIONS OF
PERMIT FOR PEDDLING PERMIT; PROVIDING FOR EXEMPTIONS;
PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY;
PROVIDING FOR REPEAL OF ORDINANCE 84-28; AND PROVIDING
AN EFFECTIVE DATE

WITNESS My Hand and Official Seal this the 7th day of May,
1986, in Bradenton, Florida.



R. B. Shore, Clerk of Circuit Court
Manatee County, Florida



FLORIDA DEPARTMENT OF STATE

George Firestone
Secretary of State

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May 12, 1986

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County Courthouse
Post Office Box 1000
Bradenton, Florida 33506

R. B. SHORE,
CLERK CIRCUIT COURT
MANATEE CO. FLORIDA

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

1. Receipt of letter/s of May 5, & May 8, 1986
and certified copy/ies of Manatee Zoning Ord.
County Ordinance(s) #Z-86-42 & Regular Ordinances
86-2, 86-13, and 86-14
2. Receipt of _____ County Ordinance(s)
relative to:
(a) _____
which we have numbered _____
(b) _____
which we have numbered _____
3. We have filed this/these Ordinance(s) in this office
on May 12, _____ 1986.
one each
4. The original/duplicate copy/ies showing the filing date
~~is~~/are being returned for your records.

Cordially,

(Mrs.) Liz Cloud, Chief
Bureau of Administrative Code

LC/ mb

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"V" Vendors (transit merchants, Peddlars)

FLORIDA-State of the Arts

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