

CITY OF FORT PIERCE

CONFERENCE AGENDA

Conference Agenda Meeting - Monday, May 12, 2014 - 8:30 a.m.

City Hall - 2nd Floor Conference Room, 100 North U.S. #1, Fort Pierce, Florida

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **New Business**
 - A. Proposed Mobile Vendor Ordinance Update - Code Compliance Manager / City Attorney
 - B. City Manager's Performance Evaluation
 - C. City Clerk's Performance Evaluation
 - D. Discussion of a City Attorney's Performance Evaluation
5. **Adjournment**

City Commission Conference Agenda

Agenda Item # 4. A.

Meeting Date: 05/12/2014

Re: Proposed Vendor Ordinance Update

Submitted For: Robert Bradshaw, City Manager

SUBJECT:

Proposed Mobile Vendor Ordinance Update - Code Compliance Manager / City Attorney

Attachments

Memo to City Attorney re: Proposed Mobile Vendor Ordinance dated 1/27/14

Form Review

Inbox

Reviewed By

Date

City Manager

Form Started By: Jennifer Robinson

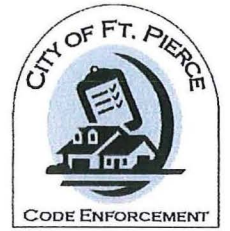
Started On: 05/01/2014 09:40 AM



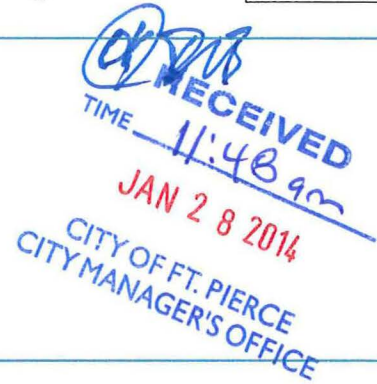
CITY OF FORT PIERCE

COMMUNITY RESPONSE DIVISIONS
MARGARET M. ARRAIZ, CODE COMPLIANCE MANAGER

Protecting the health, safety and welfare of our community



TO: Robert V. Schwerer, City Attorney
CC: Robert Bradshaw, City Manager
Nicholas Mimms, Deputy City Manager
FROM: Peggy Arraiz, Code Compliance Manager
RE: Proposed Mobile Vendor Ordinance
DATE: January 27, 2014



Attached please find the proposed mobile vendor ordinance, the related changes to the fine schedule and a resolution for your review as to form and correctness only. Please do not re-write the ordinance or delete items that you may not like (i.e. mobile merchant vending). There is no reason to hold a meeting to discuss your unsolicited deletions and insertions that do not reflect the direction given to me from the City Commission.

Thank you for your attention to this matter.

Article IV. –Vendors & Solicitors

Division 1. - Generally

Sec. 9-76. - Definitions.

As used in this article:

Vendor or solicitor is defined as any individual, soliciting or traveling either by foot, or conveyance, from place to place, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

Commissary is a state approved facility that provides support services for specific required functions to any mobile food vendor, including but not limited to a mobile food vehicle or a mobile food cart. Services required of the commissary are based upon the food sold and the mobile food vendor type. A private residence may not be used as a commissary.

Retail produce vendor shall mean any person who engages in a business, by selling or offering for sale to consumers, any fruit, vegetables, or garden produce, which are sold in their natural and unaltered state.

Mobile Food Dispensing Vehicle (MFDV) is classified as a vehicle-mounted public food service establishment, self-propelled or otherwise movable from place to place. Such vehicles must be self-sufficient for utilities (e.g., gas, water, electricity, and liquid waste disposal). Each MFDV is required to have a state-approved commissary that they report to at least once a day. MFDVs may also be referred to as Mobile Food Establishments.

- a) *Hot dog carts* are MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.
- b) *Mobile food carts* are any non-motorized MFDV used to store, prepare, cook and / or serve food and beverages for immediate consumption.
- c) *Ice cream vendors* are MFDVs that limit food sales to pre-packaged individually portioned frozen novelties, soft served or hand-dipped frozen dairy products or frozen water based products.
- d) *Lunch trucks* are MFDVs that are transient in nature and specifically authorized to cater to customers on private commercial or industrial property for a short period of time not to exceed 60 minutes.
- e) *Mobile food vehicles* are any motorized MFDV used to store, prepare, cook and / or serve food and beverages for immediate consumption.

Mobile merchant sales shall include any vendor selling non-food products.

Mobile merchant vehicle shall be any vehicle-mounted establishment, which is self-propelled or otherwise movable from place to place utilized for mobile merchant sales.

Place of business shall include any commercial zoned off-street location, lot, or premises where any truck, wagon, automobile, trailer, cart, or vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any prepared food, beverages, fruit, vegetables, or garden produce. It shall be unlawful for any person to place or cause to be placed at such place of business any box, crate, stand, counter or shelving independent from said truck, wagon, automobile, trailer, or other vehicle used in and about the conduct of such business.

Seasonal sales vendor shall mean outside vendor of products traditionally associated with the following holidays, including but not limited to: Valentine's Day, Fourth of July, Halloween, Thanksgiving and Christmas.

(Code 1960, § 14-30(a—d))

Sec. 9-77. - Duty to enforce.

It shall be the duty of any police officer or code enforcement officer of the city to enforce the provisions of this article against any person found to be violating the same.

(Code 1960, § 14-36) *Cross reference— Police department, Ch. 14.*

Sec. 9-78. - Records.

All violations of this article shall be reported to the code enforcement department, who shall maintain a record for each permit issued and record the reports of violations therein.

(Code 1960, § 14-37)

Sec. 9-79. - Prohibited acts.

- (a) It shall be unlawful for any solicitor or vendor to engage in such businesses within the corporate limits of the city.
- (b) It shall be unlawful for any person, solicitor or vendor to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant or person in charge thereof.
- (c) No vendor or solicitor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of the peace, offensive to public decency or menace to the health, safety or general welfare of the public in violation § 877.03 Florida Statutes.

Sec. 9-80. - Permit.

- (a) It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right of way or private property in the city, without first securing a permit and paying the annual permit fee, such fee to be set by resolution of the City Commission.
- (b) It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right of way or private property in the city, without first making payment of the required business tax as set forth under Article II of this chapter.

(d) Violations of this section shall be a Class III violation.

Secs. 9-81—9-90. – Reserved.

Division 2. – Permit Generally

Sec. 9-91. - Application.

(a) Applicants for permit under this article must file with the planning department a sworn application in writing which shall give the following information:

- (1) Name of the applicant.
- (2) Permanent home address and a valid telephone number.
- (3) A brief description of the nature of the business and the goods, food, or beverages to be sold.
- (4) E-mail address of the applicant.
- (5) The address of the planned vending site, including the property owner's name and telephone number.
- (6) For Mobile Food Dispensing Vehicles:
 - (a) Copy of the current license from the State of Florida / Department of Business & Professional Regulations or Department of Agriculture; and
 - (b) Copy of the vehicle or unit plans as submitted to the State of Florida / Department of Business & Professional Regulations or Department of Agriculture.
 - (d) Copy of the notarized Commissary Agreement.
- (7) For Mobile Merchant Sales:
 - (a) Submit a plan of the proposed unit.
 - (i) The plan does not have to be drawn by a professional, but must be to scale and clear for review.
 - (ii) The plan should show both a top view and front view of the unit.
 - (iii) The plan should include, but is not limited to, all equipment, shelving, windows, wheels, umbrellas, or awnings.
 - (b) Notarized statement from a business, licensed in the City of Fort Pierce, attesting to their sponsorship of the vendor and providing basic necessities such as bathroom facilities and garbage disposal.
- (8) Copy of a valid vehicle registration for any motorized unit.
- (9) A site plan must be submitted for use of any private commercial property. Such plan must include:

- (a) General survey or sketch of the lot showing existing structures and accessory structures or any other significant site feature.
 - (b) Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.
 - (c) Identify appropriate set-backs for accessory structures.
 - (d) Notarized affidavit of permission to vend from the property owner, if different from the applicant.
- (10) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two-inches by two-inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
 - (11) Photographs of the vehicle or unit showing side, front, and back views.
 - (12) A sworn affidavit as to whether or not the applicant has been convicted of any felony or misdemeanor, the nature of the offense and the punishment or penalty assessed therefor.
 - (10) Proof of general liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, including death, which may arise from operations under or in connection with mobile vending. If applying to use public property or right-of-way, City of Fort Pierce is to be named as an additional insured.
 - (11) For all motorized mobile vending units, proof of auto liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with mobile vending and shall be in an amount no less than \$500,000 per occurrence.
 - (12) Any permit application review fee that may be assessed by resolution of the City Commission.

(Code 1960, § 14-31; Ord. No. H-191, 9-8-81)

Sec. 9-92. Appeal.

Any person aggrieved by the denial of a permit as provided in this article, shall have the right of appeal to the city manager. Such appeal shall be taken by filing with the city manager's office, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 9-97 for notice of hearing on revocation. The decision and order of the city manager on such appeal shall be final and conclusive.

Sec. 9-93. - Fees.

- (a) All fees required for permit application review and the annual permit fee shall be established by resolution by the City Commission.

(Code 1960, § 14-34)

Sec. 9-94. - Exhibition of permit.

Approved vendors of food or merchandise are required to exhibit their permits at all times in a prominent location, no lower than 40" and no higher than 65" above the ground.

(Code 1960, § 14-35)

Sec. 9-95. -Penalties.

- (a) Unless otherwise stated, violations of this article are Class II violations as defined in Section 2-260 and shall be addressed as provided for in Chapter 2, Article XIII.5 of the City Code.
- (b) Permits issued under the provisions of this article may be revoked by the Code Enforcement Board or Special Magistrate after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for permit;
 - (2) Fraud, misrepresentation or false statement made in the course or conduct of business or activities for which the city has issued a permit under this article;
 - (3) Two or more violations of this article;
 - (4) Operating outside vending locations approved under the permit issued;
 - (5) Failure to comply with any conditions included in the permit;
- (c) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the ground of complaint and the time and place of hearing. Such notice shall be mailed in accordance with the notice provisions outlined in Chapter 2-250.

Sec. 9-96. – Request for Variance.

Any person who wishes to obtain a mobile vending permit that does not comply with the provisions of this article must petition the City Commission for a variance. Such request shall be made through the Planning Department and follow the procedures set forth in Chapter 22, Article V – Conditional Uses.

Secs. 9-97—9-110. - Reserved.

Division 3. – Mobile Vending

Sec. 9-111. General Regulations

- (a) The telephone number included on the permit application must remain valid and active at all times. The vendor is responsible for notifying the city of any changes to their contact information.

- (b) Mobile vending units must comply with the following minimum distance requirements, which shall be measured from the approved vending location to the nearest point of an established property line:
 - (1) 500 ft from a similar type business
 - (2) 300 ft from a school or church
 - (3) 1000 ft from an approved special event
- (b) May not block the ingress / egress to any property, sidewalk or street.
- (c) May not block or impede pedestrian or vehicular traffic.
- (d) Mobile vending units operating on the sidewalk or City right of way must allow for five (5) foot clear pedestrian clearance.
- (e) May only operate at the approved location, clearly identified on the permit.
- (f) May have one (1) advertisement sign with a maximum size of sixteen (16) sq. feet. Such sign may not be free standing, illuminated, moving, flashing or utilizing neon color typically reserved for emergency services. Such restriction to be separate from any business name, decal or logo professionally installed on any motorized MFDV.
- (g) May have one (1) menu sign with a maximum size of nine (9) sq. feet.
- (h) No amplified sounds, music or other loud noises, except as provided for in Sec. 9-113 – Ice Cream Vendors.
- (i) A trash receptacle must be provided and must be removed by the operator daily. Trash may not be placed within public street side trash receptacles.
- (j) Mobile vendors are responsible for picking up all litter and waste within twenty-five (25) feet of their unit.
- (k) No wastewater leakage or any other leakage is allowed.
- (l) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.
- (m) It shall be unlawful to place any chair, table, box, crate, stand, counter, or shelving independent from the approved mobile vending unit.
- (n) (O) No mobile vending unit is to be left unattended at any time and must be removed from the location when not in operation.

Sec. 9-112. – Itinerant Retail Produce Merchant.

- (a) Every person who engages in the business of an itinerant retail produce merchant within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.
- (b) A business tax receipt is not required for itinerant retail produce merchants.
- (c) All products and produce offered for sale under this division must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.
- (d) Itinerant retail produce vendors are permitted to vend from any truck, wagon, automobile, trailer or other vehicle provided that the vehicle is properly registered with the State of Florida. A copy of such registration shall be submitted with the permit application.
- (e) All other regulations as outlined in section 9-111 of this chapter shall apply.

Sec. 9-113. – Ice Cream Vendors

- (a) *General.* The rules in this section shall apply to each person lawfully permitted as an Ice Cream Vendor.
- (b) *Prohibited sales.* It shall be unlawful for any ice cream vendor to sell or attempt to sell any commodity:
 - (1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, church or other place of worship during the hours when services are being held.
 - (2) Within five hundred (500) feet of any school during the school year.
- (c) *Noise—Vehicle stopped.* It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle is stopped for the purpose of making a sale.
- (d) *Same—Hours.* The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day.
- (e) *Traffic.* It shall be unlawful for any vendor to:
 - (1) Exceed a speed of fifteen (15) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale.
 - (2) Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale.
 - (3) Double-park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale.
 - (4) Make a U-turn on any block in a residential zone.
 - (5) Drive his/her vehicle backwards to make or attempt to make a sale.
 - (6) Sell to any person who is standing in the street.
 - (7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants.
 - (8) Remain standing or stopped at any place for a period of time exceeding five (5) minutes.
 - (9) Sell or attempt to sell along any particular route more than one time during a twenty-four-hour period.

Sec. 9-114. – Seasonal Sale Vendors

- (a) *General.* The rules in this section shall apply to each person lawfully permitted to as a Seasonal Sales Vendor.
 - (1) Every person who engages in the business of seasonal sales within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.
 - (2) Tents or canopies larger than 12' by 12' are prohibited unless a supplemental tent permit is obtained. Application for such permit shall be made with the Building Department. A sketch of the property showing the location of the tent

or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.

- (3) Seasonal Sales permits will be issued no sooner than 30 days prior to the associated holiday and shall expire 7 days following the holiday.

Secs. 9-115—9-130. - Reserved.

Article IV. — ~~Peddlers, Vendors & Solicitors and Canvassers~~

Division 1. - Generally

Sec. 9-76. - Definitions.

As used in this article:

~~Agent is defined to be a person engaged in telephone canvassing or solicitation, or in a house-to-house canvass, demonstrating or taking orders for any goods, wares or merchandise or taking orders from samples where goods are to be delivered later. Goods, wares and merchandise as herein defined shall be held to include, but not restricted to, a photograph and coupons or tickets good in whole or in part for a photograph, magazine, periodical or other merchandise.~~

~~Canvasser/Vendor or solicitor is defined as any individual, whether resident of the city or not, soliciting by telephone or traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided further, that such definitions shall include any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.~~

~~Commissary is a state approved facility that provides support services for specific required functions to any mobile food vendor, including but not limited to a mobile food vehicle or a mobile food cart. Services required of the commissary are based upon the food sold and the mobile food vendor type. A private residence may not be used as a commissary.~~

~~Itinerant peddler or hawkler is defined to be a nonresident of the city who, by telephone sales, or one who goes from house to house, or place to place, exposing for sale and selling goods, wares or merchandise under the conditions and circumstances stated in the following paragraph. Retail produce vendor shall mean any person who engages in a business, by selling or offering for sale to consumers, any fruit, vegetables, or garden produce, which are sold in their natural and unaltered state.~~

~~Mobile Food Dispensing Vehicle (MFDV) is classified as a vehicle-mounted public food service establishment, self-propelled or otherwise movable from place to place. Such vehicles must be self-sufficient for utilities (e.g., gas, water, electricity, and liquid waste disposal). Each MFDV is required to have a state-approved commissary that they report to at least once a day. MFDVs may also be referred to as Mobile Food Establishments.~~

- ~~a) Hot dog carts are MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.~~

- b) Mobile food carts are any non-motorized MFDV used to store, prepare, cook and / or serve food and beverages for immediate consumption.
- c) Ice cream vendors are MFDVs that limit food sales to pre-packaged individually portioned frozen novelties, soft served or hand-dipped frozen dairy products or frozen water based products.
- d) Lunch trucks are MFDVs that are transient in nature and specifically authorized to cater to customers on private commercial or industrial property for a short period of time not to exceed 60 minutes.
- e) Mobile food vehicles are any motorized MFDV used to store, prepare, cook and / or serve food and beverages for immediate consumption.

Mobile merchant sales shall include any vendor selling non-food products.

Mobile merchant vehicle shall be any vehicle-mounted establishment, which is self-propelled or otherwise movable from place to place utilized for mobile merchant sales.

Place of business shall include any commercial zoned off-street location, lot, or premises where any truck, wagon, automobile, trailer, cart, or vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any prepared food, beverages, fruit, vegetables, or garden produce. It shall be unlawful for any person to place or cause to be placed at such place of business any box, crate, stand, counter or shelving independent from said truck, wagon, automobile, trailer, or other vehicle used in and about the conduct of such business.

~~Peddler is defined to be a person who solicits by telephone or who brings goods, wares or merchandise from outside the city or state or where the goods, wares or merchandise is manufactured in the city for sale at retail, and is in this state at the time that all negotiations prior to and at the sale thereof are had, and the goods, wares or merchandise is not sold in original packages in interstate commerce but at retail, in small quantities, by means of telephone solicitation or house to house, or place to place, canvass. Goods ordered, or in transit, that were so ordered without reference to particular sales, shall be deemed to be in the state.~~ Seasonal sales vendor shall mean outside vendor of products traditionally associated with the following holidays, including but not limited to: Valentine's Day, Fourth of July, Halloween, Thanksgiving and Christmas.

(Code 1960, § 14-30(a—d))

Sec. 9-77. - Duty ~~of police~~ to enforce.

It shall be the duty of any police officer or code enforcement officer of the city to ~~require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to~~ enforce the provisions of this article against any person found to be violating the same.

(Code 1960, § 14-36)

Cross reference— *Police department, Ch. 14.*

Sec. 9-78. - Records.

~~The chief of police shall~~All violations of this article shall be reported to the ~~city clerk~~code enforcement department, who ~~all convictions for violation of this article and the city clerk shall~~ maintain a record for each license permit issued and record the reports of violations therein.

(Code 1960, § 14-37)

Sec. 9-79. - Prohibited acts.

- (a) ~~It shall be unlawful for any person to enter upon any private premises without permission or invitation from the occupant or homeowner. It shall be unlawful for any solicitor or vendor to engage in such businesses within the corporate limits of the city.~~
- (b) It shall be unlawful for any person, solicitor or peddler vendor to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant or person in charge thereof.
- (c) ~~No solicitor or peddler shall enter in or upon any house, building or other structure or upon any land or property, without the prior consent of the owner or occupant thereof, where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons engaged in such or similar activity to enter upon the premises. No vendor or solicitor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of the peace, offensive to public decency or menace to the health, safety or general welfare of the public in violation § 877.03 Florida Statutes.~~

~~(Code 1960, § 14-30)~~

~~State law reference— Burglary and trespass, F.S. Ch. 810.~~

Sec. 9-80. - ~~Street vendors~~—Permit.

- (a) ~~It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right of way or private property in the city, without first securing a permit and paying a fee of twenty dollars (\$20.00) therefor and an annual occupational license fee of one hundred dollars (\$100.00). the annual permit fee, such fee to be set by resolution of the City Commission.~~
- (b) ~~It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right of way or private property in the city, without first making payment of the required business tax as set forth under Article II of this chapter.~~
- (d) ~~Violations of this section shall be a Class III violation.~~

Sec. 9-81. Same—Regulation:

(a) *General.* The rules in this section shall be compiled with by each person using a vehicle for street vending.

(b) *Prohibited sales.* It shall be unlawful for any street vendor to sell or attempt to sell any commodity:

(1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, church or other place of worship during the hours when services are being held;

(2) Within five hundred (500) feet of any school during the school year;

(c) *Noise—Vehicle stopped.* It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale;

(d) *Same—Hours.* The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day;

(e) *Traffic.* It shall be unlawful for any vendor to:

(1) Exceed a speed of twelve (12) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale;

(2) Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;

(3) Double park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale;

(4) Make a U-turn on any block;

(5) Drive his vehicle backwards to make or attempt to make a sale;

(6) Sell to any person who is standing in the street;

(7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;

(8) Remain standing or stopped at any place for a period of time exceeding five (5) minutes;

(9) Sell or attempt to sell along any particular route more than one time during a twenty-four-hour period;

~~Sec. 9-82. — Seasonal vendors; permit.~~

~~It shall be unlawful for any person to sell or attempt to sell on private property any seasonal commodity without first securing a permit. Seasonal commodities include, but are not necessarily limited to, Christmas trees, flowers, and pumpkins. A permit may not be issued unless the applicant has written permission of the property owner or agent to conduct the seasonal sale for which application is made.~~

~~(Ord. No. K-09, § 1, 4-17-00; Ord. No. K-142, 3-18-02)~~

~~Secs. 9-831—9-90. — Reserved.~~

Division 2. — License/Permit Generally

~~Sec. 9-91. — Required.~~

~~It shall be unlawful for any solicitor, canvasser, peddler, hawker, itinerant merchant, transient vendor of merchandise or agent as defined in section 9-76 to engage in such businesses within the corporate limits of the city without first obtaining a permit and license therefor in compliance with the provisions of this article, excepting therefrom persons engaged solely in interstate commerce, who shall be exempt from license fees only.~~

~~(Code 1960, § 14-29)~~

~~Sec. 9-92. — Appeal.~~

~~Any person aggrieved by the action of the chief of police or the city clerk in the denial of a permit or license as provided in section 9-94, or the revocation by the city manager in the assessing of the fee as provided in section 9-95(c) shall have the right of appeal to the city commission. Such appeal shall be taken by filing with the city commission, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The commission shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 9-98 for notice of hearing on revocation. The decision and order of the city commission on such appeal shall be final and conclusive.~~

~~(Code 1960, § 14-39)~~

Sec. 9-931. - Application.

(a) Applicants for permit ~~and license~~ under this article must file with the ~~city clerk~~ planning department a sworn application in writing ~~in duplicate~~ which shall give the following information:

- (1) Name ~~and description~~ of the applicant.
- (2) Permanent home address and ~~full local address of the applicant~~ a valid telephone number.

(3) A brief description of the nature of the business and the goods, food, or beverages to be sold.

(4) E-mail address of the applicant.

(5) The address of the planned vending site, including the property owner's name and telephone number.

(4)(6) For Mobile Food Dispensing Vehicles:

(a) Copy of the current license from the State of Florida / Department of Business & Professional Regulations or Department of Agriculture; and

(b) Copy of the vehicle or unit plans as submitted to the State of Florida / Department of Business & Professional Regulations or Department of Agriculture.

(d) Copy of the notarized Commissary Agreement.

If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(5)(7) For Mobile Merchant Sales:

(a) Submit a plan of the proposed unit.

(i) The plan does not have to be drawn by a professional, but must be to scale and clear for review.

(ii) The plan should show both a top view and front view of the unit.

(iii) The plan should include, but is not limited to, all equipment, shelving, windows, wheels, umbrellas, or awnings.

(b) Notarized statement from a business, licensed in the City of Fort Pierce, attesting to their sponsorship of the vendor and providing basic necessities such as bathroom facilities and garbage disposal. The length of time for which the right to do business is desired.

(6)(8) Copy of a valid vehicle registration for any motorized unit.

(9) A site plan must be submitted for use of any private commercial property. Such plan must include:

(a) General survey or sketch of the lot showing existing structures and accessory structures or any other significant site feature.

(b) Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.

(c) Identify appropriate set-backs for accessory structures.

- ~~(d) Notarized affidavit of permission to vend from the property owner, if different from the applicant. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.~~
- ~~(7)(10) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two-inches by two-inches showing the head and shoulders of the applicant in a clear and distinguishing manner.~~
- ~~(8)(11) Photographs of the vehicle or unit showing side, front, and back views. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the county who will certify as to the applicant's good character and business responsibility or, in lieu of the names of the references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.~~
- ~~(9)(12) A statement sworn affidavit as to whether or not the applicant has been convicted of any crime, felony or misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.~~
- (10) Proof of general liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, including death, which may arise from operations under or in connection with mobile vending. If applying to use public property or right-of-way, City of Fort Pierce is to be named as an additional insured.
- (11) For all motorized mobile vending units, proof of auto liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with mobile vending and shall be in an amount no less than \$500,000 per occurrence.
- (12) Any permit application review fee that may be assessed by resolution of the City Commission.
- ~~A statement by a reputable physician of the city, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious, infectious or communicable disease.~~

Sec. 9-92. Appeal.

(Code 1960, § 14-32)

- (1) Photograph of applicant:
 - (2) Fingerprint of applicant:
 - (3) Date of issuance and date of expiration:
 - (4) Name and address of applicant, and the business applicant is representing:
 - (5) That said permit may be revoked at the discretion of the city commission.
 - (6) That the permit is not transferable.
 - (7) That the permit must be carried on the person and shown on request.
 - (8) Solicitors must not go to back or rear doors.
 - (9) Statement that the issuance of said permit is not an endorsement of the bearer of the merchandise or service offered, nor the business methods used in selling the same.
 - (10) Signature of the city clerk.
- (e) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval. Such application, signed by the chief of police or his designated subordinate, along with a permit (identification card) shall be returned by the police department to the city clerk who shall, upon payment of the prescribed license fee, if any, deliver to the applicant his permit (identification card) and prescribed license. The said permit (identification card) shall contain the following:
- (a) Upon receipt of the completed applications by the city clerk, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. At least ten (10) days shall be allowed for such investigation.
 - (b) If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
 - (c) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval. Such application, signed by the chief of police or his designated subordinate, along with a permit (identification card) shall be returned by the police department to the city clerk who shall, upon payment of the prescribed license fee, if any, deliver to the applicant his permit (identification card) and prescribed license. The said permit (identification card) shall contain the following:

Sec. 9-94. Investigation; issuance.

(Code 1960, § 14-31; Ord. No. H-191, 9-8-81)

- (b) At the time an applicant requests permission to solicit within the city a fee of twenty dollars (\$20.00) for each applicant shall be paid to the city clerk to cover the cost of investigation of the facts stated in the application, but in no event shall the application be refunded.

Any person aggrieved by the denial of a permit as provided in this article, shall have the right of appeal to the city manager. Such appeal shall be taken by filing with the city manager's office, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 9-97 for notice of hearing on revocation. The decision and order of the city manager on such appeal shall be final and conclusive.

Sec. 9-953. - Fees.

- (a) All fees required for permit application review and the annual permit fee shall be established by resolution by the City Commission. The fee which shall be charged by the city for a license under this article shall be one hundred dollars (\$100.00).
- (b) ~~None of the license fees provided for by this article shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the city manager for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the city manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The city manager shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make finding of fact from which he shall determine whether the fee fixed by this article is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the city manager shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by subsection (a). Should the city manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the city or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in subsection (a).~~
- (c) ~~Every applicant not a resident of the city, or who being a resident of the city represents a firm whose principal place of business is located outside the state, shall~~

~~file with the city clerk a surety bond, running to the city in the amount of one thousand dollars (\$1,000.00) with surety acceptable to and approved by the city attorney, conditioned that the applicant shall comply fully with all the provisions of the ordinances of the city and the statutes of the state regulating and concerning the business of solicitor, and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the city doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the city for the use or benefit of the aggrieved person.~~

~~(Code 1960, § 14-33)~~

~~Sec. 9-96. —Badges.~~

~~The city clerk may issue to each licensee under this article at the time of delivery of his license a badge which shall contain the words "licensed solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten (10) feet. Such badge shall, during the time such licensee is engaging in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.~~

~~(Code 1960, § 14-34)~~

~~Sec. 9-974. - Exhibition of license permit.~~

~~Solicitors, canvassers, agents or peddlers, hawkers, itinerant merchants or transient Approved vendors of food or merchandise are required to exhibit their licenses permits at all times in a prominent location, no lower than 40" and no higher than 65" above the ground at the request of any police officer or any person being solicited.~~

~~(Code 1960, § 14-35)~~

~~Sec. 9-985. —Revocation Penalties.~~

~~(a) Unless otherwise stated, violations of this article are Class II violations as defined in Section 2-260 and shall be addressed as provided for in Chapter 2, Article XIII.5 of the City Code.~~

~~(ab) Permits and licenses issued under the provisions of this article may be revoked by the city clerk Code Enforcement Board or Special Magistrate after notice and hearing, for any of the following causes:~~

- ~~(1) Fraud, misrepresentation or false statement contained in the application for license permit;~~
- ~~(2) Fraud, misrepresentation or false statement made in the course of carrying on a or conduct of business or activites for which the city has issued a permit under this article as solicitor, canvasser, agent, peddler, hawker, itinerant merchant or transient vendor;~~
- ~~(3) Any Two or more violations of this article;~~

(4) Operating outside vending locations approved under the permit issued;
Conviction of any crime or misdemeanor involving moral turpitude; or

(5) Failure to comply with any conditions included in the permit;

Conducting the business of soliciting, canvassing or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(bc) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the ground of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing in accordance with the notice provisions outlined in Chapter 2-250.

Sec. 9-96. – Request for Variance.

Any person who wishes to obtain a mobile vending permit that does not comply with the provisions of this article must petition the City Commission for a variance. Such request shall be made through the Planning Department and follow the procedures set forth in Chapter 22, Article V – Conditional Uses.

(Code 1960, § 14-38)

Secs. 9-997—9-110. - Reserved.

Division 3. – Mobile Vending

Sec. 9-111. General Regulations

(a) The telephone number included on the permit application must remain valid and active at all times. The vendor is responsible for notifying the city of any changes to their contact information.

(b) Mobile vending units must comply with the following minimum distance requirements, which shall be measured from the approved vending location to the nearest point of an established property line:

(1) 500 ft from a similar type business

(2) 300 ft from a school or church

(3) 1000 ft from an approved special event

(b) May not block the ingress / egress to any property, sidewalk or street.

(c) May not block or impede pedestrian or vehicular traffic.

(d) Mobile vending units operating on the sidewalk or City right of way must allow for five (5) foot clear pedestrian clearance.

(e) May only operate at the approved location, clearly identified on the permit.

(f) May have one (1) advertisement sign with a maximum size of sixteen (16) sq. feet. Such sign may not be free standing, illuminated, moving, flashing or utilizing neon

color typically reserved for emergency services. Such restriction to be separate from any business name, decal or logo professionally installed on any motorized MFDV.

- (g) May have one (1) menu sign with a maximum size of nine (9) sq. feet.
- (h) No amplified sounds, music or other loud noises, except as provided for in Sec. 9-113 – Ice Cream Vendors.
- (i) A trash receptacle must be provided and must be removed by the operator daily. Trash may not be placed within public street side trash receptacles.
- (j) Mobile vendors are responsible for picking up all litter and waste within twenty-five (25) feet of their unit.
- (k) No wastewater leakage or any other leakage is allowed.
- (l) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.
- (m) It shall be unlawful to place any chair, table, box, crate, stand, counter, or shelving independent from the approved mobile vending unit.
- (n)
- (O) No mobile vending unit is to be left unattended at any time and must be removed from the location when not in operation.

Itinerant Produce Vendor's License

Sec. 9-111. – Definitions.

For the purposes of this division:

Itinerant retail produce merchant shall mean any person who engages within the limits of the city in a seasonable business during certain seasons of the year only, by selling or offering for sale at retail to consumers, any fruit, meat, meat products, vegetables, garden produce, flowers or shrubs.

Place of business shall include any commercial zoned off street location, lot, or premises where any truck, wagon, automobile, trailer, or other vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any fruit, meat, meat products, vegetables, garden produce, flowers, or shrubs. It shall be unlawful for any person to place or cause to be placed at such place of business any box, crate, stand, counter, or shelving independent from said truck, wagon, automobile, trailer, or other vehicle used in and about the conduct of such business.

(Code 1960, § 11-27; Ord. No. 1-123, § 7, 8-5-85)

Sec. 9-112. – Itinerant Retail Produce Merchant Required.

- (a) Every person who engages in the business of an itinerant retail produce merchant within the corporate limits of the city, before engaging in such business, shall apply for and obtain a ~~license mobile vending permit~~therefor from the city ~~clerk to do so~~ pursuant to this division.
- (b) A business tax receipt is not required for itinerant retail produce merchants.
- (bc) All products and produce offered for sale under this division must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.
- (d) Itinerant retail produce vendors are permitted to vend from any truck, wagon, automobile, trailer or other vehicle provided that the vehicle is properly registered

with the State of Florida. A copy of such registration shall be submitted with the permit application.

- (e) All other regulations as outlined in section 9-111 of this chapter shall apply.
No occupational license fee shall be required for the sale by any farmer of any fruits, vegetable or garden produce raised by such farmer, exhibiting a valid Florida grower's permit.
(Code 1960, § 11-28; Ord. No. 1-123, § 8, 8-5-85)

Sec. 9-113. – Ice Cream Vendors

- (a) General. The rules in this section shall apply to each person lawfully permitted as an Ice Cream Vendor.
- (b) Prohibited sales. It shall be unlawful for any ice cream vendor to sell or attempt to sell any commodity:
- (1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, church or other place of worship during the hours when services are being held.
 - (2) Within five hundred (500) feet of any school during the school year.
- (c) Noise—Vehicle stopped. It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle is stopped for the purpose of making a sale.
- (d) Same—Hours. The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day.
- (e) Traffic. It shall be unlawful for any vendor to:
- (1) Exceed a speed of fifteen (15) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale.
 - (2) Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale.
 - (3) Double-park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale.
 - (4) Make a U-turn on any block in a residential zone.
 - (5) Drive his/her vehicle backwards to make or attempt to make a sale.
 - (6) Sell to any person who is standing in the street.
 - (7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants.
 - (8) Remain standing or stopped at any place for a period of time exceeding five (5) minutes.
 - (9) Sell or attempt to sell along any particular route more than one time during a twenty-four-hour period.

Sec. 9-114. – Seasonal Sale Vendors

(a) General. The rules in this section shall apply to each person lawfully permitted to as a Seasonal Sales Vendor.

(1) Every person who engages in the business of seasonal sales within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.

(2) Tents or canopies larger than 12' by 12' are prohibited unless a supplemental tent permit is obtained. Application for such permit shall be made with the Building Department. A sketch of the property showing the location of the tent or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.

(3) Seasonal Sales permits will be issued no sooner than 30 days prior to the associated holiday and shall expire 7 days following the holiday.

~~-Approval of health department required.~~

~~An applicant for a license under this division shall receive approval of the county health department as to the location and vehicle or vehicles to be used in the conduct of the business.~~

~~(Code 1960, § 11-29)~~

~~Cross reference— Health, § 2-261 et seq.~~

~~Sec. 9-114.— Screens on vehicle windows.~~

~~All windows and other openings of the truck, wagon, automobile, trailer or other vehicle, or compartments where fruits, vegetables or garden produce for human consumption are stored or handled, shall be closed by metal screens having a mesh not coarser than sixteen (16) wires to the inch as will as far as possible keep out all flies and other sources of contamination.~~

~~(Code 1960, § 11-30)~~

~~Sec. 9-115.— Condition of products; compliance with state law.~~

~~All products and produce offered for sale under this division must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.~~

~~(Code 1960, § 11-31)~~

~~State law reference— Food generally, F.S. Ch. 500.~~

~~Sec. 9-116.— Condemnation authority given to health officers.~~

~~It shall be lawful for the county health officer or his designated representative to condemn, take and destroy, or cause to be condemned, taken and destroyed, any fruit, vegetables or garden produce which, in his opinion, is unwholesome or unfit for human consumption by reason of unsoundness, contamination, adulteration or sophistication.~~

~~(Code 1960, § 11-32)~~

~~Sec. 9-117.— Manner of transporting produce; standards for vehicles, receptacles.~~

~~All fruits, vegetables, garden produce, flowers and shrubs under this division shall be so carried and conveyed that they shall not tend to injure or annoy the public health or comfort, and only in vehicles or receptacles which are neat and clean and do not leak.~~

(Code 1960, § 11-33)

Sec. 9-118. Assistant allowed, limitation:

Upon a truck, wagon, automobile, trailer or other vehicle licensed under the provisions of this division, there shall be permitted only one helper or assistant to the driver or operator of such vehicle:

(Code 1960, § 11-34)

Sec. 9-119. Itinerant vending of foods, flowers, etc., on city streets:

It shall be unlawful for any person to engage in or manage the business of vending, hawking, peddling, selling or offering for sale at retail to consumers upon any public street, alley, public place or highway within the city from any truck, wagon, automobile, trailer or other vehicle driven by power or otherwise, any fruit, meat, meat products, vegetables, garden produce, flowers, shrubs, nuts, popcorn, sandwiches, pastries, candy or carbonated drinks.

(Code 1960, § 11-26)

Cross reference—Streets and sidewalks, Ch. 17.

Secs. 9-120~~15~~—9-130. - Reserved.

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; ESTABLISHING FEES FOR MOBILE VENDING, ESTABLISHING THE NUMBER OF MOBILE VENDOR PERMITS; ESTABLISHING APPROVED VENDOR LOCATIONS UTILIZING RIGHT OF WAY OR OTHER PUBLIC PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Code has been amended by Ordinance No. _____ to provide for mobile vending within the City Limits; and

WHEREAS, Ordinance No. _____ references that such permit fees, number of permits and locations shall be set by Resolution; and

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fort Pierce, Florida:

1. The City Commission establishes the following Mobile Vendor Fee Schedule, approved vendor location map and permit limitations attached as Exhibit A.
2. This Resolution shall take effect immediately upon adoption.

IN WITNESS WHEREOF, this Resolution has been duly adopted this ____ day of _____, 2013.

Linda Hudson, Mayor

ATTEST:

Linda W. Cox, City Clerk

CITY OF FORT PIERCE

DIVISIONS OF CODE ENFORCEMENT & ANIMAL CONTROL



MARGARET M. ARRAIZ, CODE COMPLIANCE MANAGER

EXHIBIT A

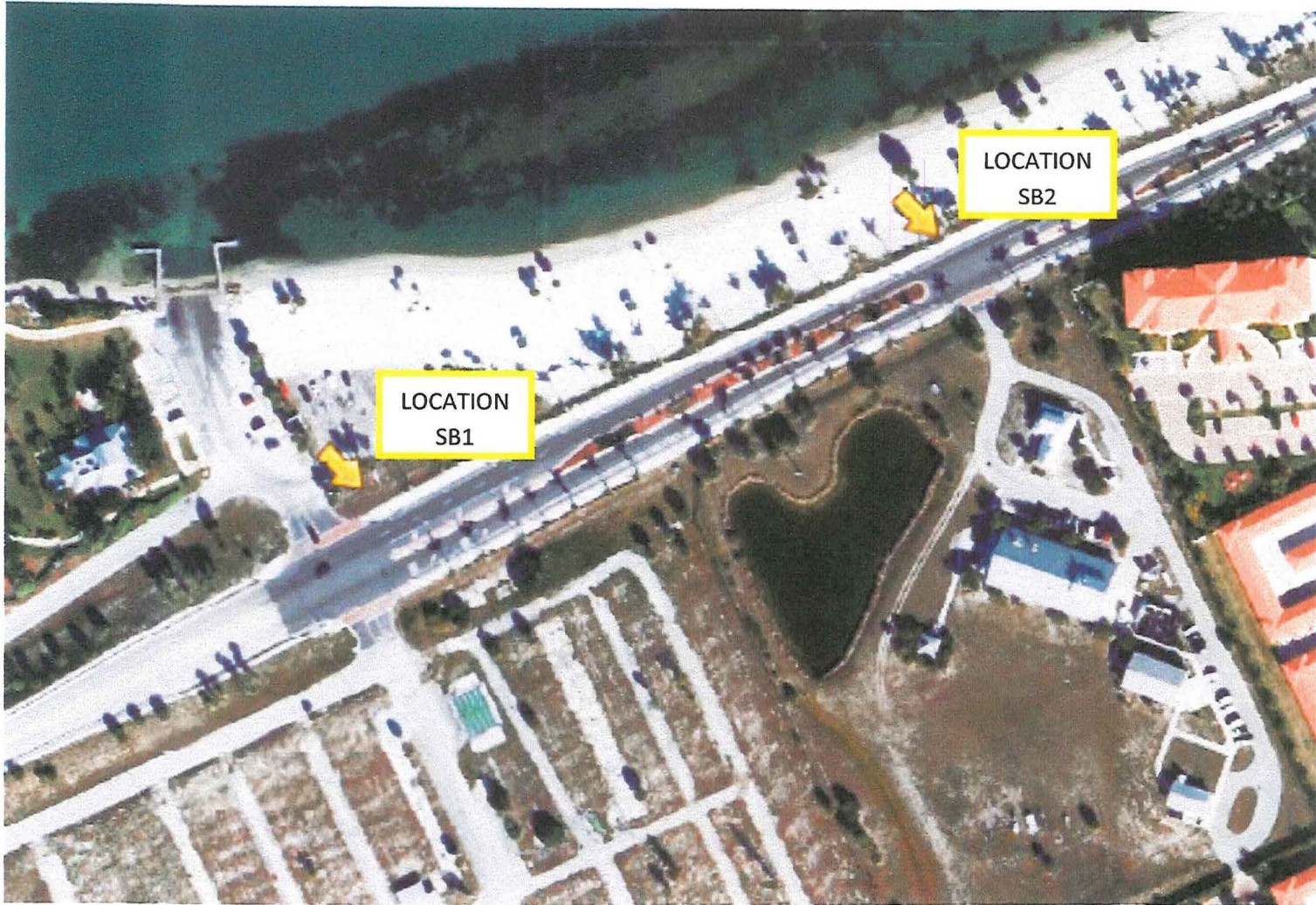
Fees:

Application Fee	One time, non-refundable	\$100.00
Plan Review Fee	Required for mobile merchandise vendors	\$150.00
Annual Mobile Vending Permit Fee	Must be paid prior to October 1 st of each calendar year. Applications approved after January 1 st will be pro-rated.	\$250.00
Reduced Mobile Vending Permit Fee	To be eligible, must have an existing licensed business and utilize the same name on the mobile unit as the licensed location. Limit 1 per licensed business.	\$50.00
Itinerant Retail Produce Merchants	Must comply with requirements specified in Section 9-112.	Application fee only
Seasonal Sales Vendor	Must comply with requirements specified in Section 9-114.	Application and plan review fee only.

Number of Permits:

Downtown	Identified by the City – see attached maps. Locations to be assigned by an annual lottery to be drawn the 1 st Commission Meeting in September.	3
South Beach	Identified by the City – see attached maps. Locations to be assigned by an annual lottery to be drawn the 1 st Commission Meeting in September.	4
Other Commercial Zoned Districts	Locations to be determined by request of private property owner. Site plans and location must be approved by the Planning Department.	10
Other	Locations to be determined by the request of either a private property owner or a mobile vendor operator for use of public lands. If requesting use of public lands, the request must be submitted to the City Commission for review and approval.	3
Itinerant Retail Produce Merchant	Locations to be determined by the request of private property owner.	No limit
Seasonal Sales Vendor	Locations to be determined by the request of private property owner. Site plans and location must be approved by the Planning Department.	No limit

Map A – Linear Park approved vendor locations



SB1 – West entrance to Linear Park, no closer than 15' to entrance way.

SB2 – Mid-Linear Park near monument sign, across from 701 Seaway Dr. (Smithsonian Marine Station).

Map B – South Beach Park



SB3 – East side of S. Ocean Drive, in roadside public parking spot for South Beach Park, preferably the 1st spot north of entrance.

Map C – Jaycee Park



SB4 – East side of S. Ocean Drive, in roadside public parking spot directly across from Jaycee Park.
Preferably the 1st spot north of the crosswalk.

Map D – Court House Locations



DT1 – Federal Court House – West side of US Hwy 1, south of main entrance

DT2 – County Court House – East side of S. 2nd Street, near main entrance walkway

Map E – Manatee Center / Marina Area



DT3 – Manatee Center / Marina – East side of Indian River Drive, south of the Manatee Center and north of the marina.

FYI ONLY - SEPARATE ORDINANCE

Chapter or Section	Description	Class
Sec. 4-615 -375	Sea Turtle Lighting	II
Sec. 5-73	House numbers required	I
<u>Sec. 5-368</u>	<u>Property maintenance</u>	<u>II</u>
Sec. 5-370	Exterior property and landscaping	I
Sec. 5-371	Exterior areas	I
Sec. 8.5	Minimum occupancy standards for residential dwellings	III
Ch. 9	Occupational License <u>Business tax receipts</u> – not otherwise specified	II
Sec. 9- 8079	<u>Street Mobile</u> vendors; permit required	<u>III</u>
Sec. 9- 9682	<u>Seasonal vendors; permit required</u> <u>Exhibition of vendor permit</u>	I
Sec. 9—Division 3	<u>Mobile vending</u>	<u>II</u>
Sec. 9-335	Garage sales regulations	I
Sec. 11-10	Storage of scraps and waste	II
Sec. 11-11	Storage of commodity in vehicle	II
Sec. 11-24	Destruction of public property	I
Sec. 11-26	Distribution of handbills	I
Sec. 11-30	Refrigerators and Iceboxes; safety regulations	III
Sec. 11-39	Exhibiting obscene pictures or papers	II
Ch. 15	Signs	II
Sec. 16-22	Littering / dumping prohibited	II
<u>Sec. 16-25</u>	<u>Responsibility for containers</u>	<u>I</u>
Sec. 16-27	Bulk trash removal; residential	II
Sec. 16-46	Nuisances on property – not otherwise specified	III
Sec. 16-46 / 48(1)(5)	Nuisance as an Object – outside storage	I
Sec. 16-46 / 48(10)(d)	Nuisance as an Object – disabled vehicles	I
Sec. 16-46 / 48(11)	Nuisance as an Object – outside storage of indoor furniture	I
Sec. 17-33	Maintenance of Stormwater <u>Storm water</u> Facilities	III
Sec. 17-96	Stormwater <u>Storm water</u> Discharges Prohibited	III
Sec. 20-5	Use of water during drought	I
Sec. 21-54	Using vessel as place of business	II
Ch. 22	Zoning violations – not otherwise specified	II
Sec. 22-60	Parking commercial vehicles in residential areas	III
Sec. 22-71(b)	Arcade / Amusement Centers – design standards	I
Sec. 22-79	Compliance with conditions of approval	III
Sec. 22-187(11)	Screening of refuse collection areas	I
Sec. 22.192	Tree removal permit required	I

City Commission Conference Agenda

Agenda Item # 4. B.

Meeting Date: 05/12/2014

Re: City Manager's Performance Evaluation

Submitted For: Robert Bradshaw, City Manager

SUBJECT:

City Manager's Performance Evaluation

Attachments

Robert J. Bradshaw Employment Agreement

Robert J. Bradshaw Performance Evaluation Form

Form Review

Inbox

City Manager

Form Started By: Jennifer Robinson

Reviewed By

Date

Started On: 04/28/2014 11:16 AM

CITY OF FORT PIERCE, FLORIDA

ROBERT J. BRADSHAW
CITY MANAGER

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 24th day of September 2012, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to "**CITY**" and **ROBERT J. BRADSHAW**, hereafter referred to as "**BRADSHAW**".

WHEREAS, CITY desires to secure the services of **BRADSHAW** as City Manager for a minimum of two (2) years from the Effective Date of this agreement and **BRADSHAW** desires to accept such position; and

WHEREAS, CITY and **BRADSHAW** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **BRADSHAW** has agreed.

NOW, THEREFORE, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **BRADSHAW** agree with each other as follows:

1. Employment.

BRADSHAW will render full time professional services to **CITY** in the capacity of City Manager of the **CITY** for the initial term of two (2) years, commencing November 1, 2012 (the "Effective Date"), through October 31, 2014. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **BRADSHAW** agrees to sever ties with his existing employer, and report for work, and the duties and employment of **BRADSHAW** as City Manager shall commence the Effective Date.

BRADSHAW shall devote all of his time, attention, knowledge and skill, solely and exclusively to the business and interest of the City of Fort Pierce, and the public which it

serves. **BRADSHAW** will at all times faithfully, industriously, and diligently perform to the best of his ability all duties that may be required of him by virtue of his position as City Manager, including the performance of all duties set forth in the City Charter, Ordinances, Resolutions and other City policies, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. In performing such duties, **BRADSHAW** further agrees to be subject to the ICMA Code of Ethics, and to otherwise devote full time and attention to his work as City Manager. Nothing herein shall prohibit **BRADSHAW** from maintaining membership in or participating in private social or civic endeavors that do not interfere or detract from his performance of the terms of this Agreement. In the event **BRADSHAW** makes formal application for full-time employment elsewhere while serving as City Manager, he shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as City Manager, **CITY** agrees to pay **BRADSHAW** an annual base salary of ONE-HUNDRED TWENTY-EIGHT THOUSAND DOLLARS (\$128,000.00) per annum, payable in bi-weekly installments, or such higher figure as may be negotiated after a mandatory six-month evaluation of **BRADSHAW's** performance by the City Commission. Base annual salary adjustments, including cost of living increases, for each subsequent year during the term of this Agreement shall be negotiated between the parties on an annual basis.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **BRADSHAW's** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

3. Performance Evaluations.

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **BRADSHAW's**

performance as City Manager. These performance evaluations shall occur during the calendar month of May of each year, and the matter of the performance evaluation shall be agendaed by the City Manager, to be discussed by the City Commission, at the first City Manager Conference Agenda in May of each year of this Agreement. These performance reviews shall consider continuing management objectives and responsibilities as well as achievement of key specific objectives as mutually agreed upon by City Commission and **BRADSHAW**.

Should it be determined that **BRADSHAW** was successful in his overall performance, and if the Commission, in its sole discretion, determines that the fiscal condition of the **CITY** is sufficient, the City Commission will consider **BRADSHAW's** compensation and benefits, and endeavor to maintain them at a level commensurate with his peers in the city management profession in similarly situated Florida cities and the rate of general inflation in the economy.

Benefits.

In addition to annual compensation specified above, the **CITY** agrees to provide **BRADSHAW** with the following benefits:

(a) **BRADSHAW** shall be entitled to receive the same vacation, sick leave, and holiday time as defined in the City of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) Paid attendance at the ICMA annual conference at a rate agreed upon by the City Commission and **BRADSHAW**.

(c) Lease or car allowance at \$350.00 per month, or such other rate agreed upon by the City Commission.

(d) Membership dues to professional associations and societies and to such service organizations and clubs of which **BRADSHAW** is a member, subject to the approval of the City Commission.

(e) Comprehensive health and major medical insurance equal to that which is provided to other City employees.

(f) Retirement benefits as provided to City Employees; provided, however, if

BRADSHAW elects not to participate as a member under the **CITY's** retirement plan, the **CITY** shall contribute a sum to his ICMA deferred compensation plan (or other plan designed by **BRADSHAW**) equal to the same percentage contribution, up to the maximum allowed by law, as the **CITY** would have contributed to **BRADSHAW's** retirement under the **CITY's** plan.

5. **Relocation Expenses.**

The **CITY** will pay **BRADSHAW** the sum of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00) for the expenses of moving **BRADSHAW, BRADSHAW's** family, and **BRADSHAW's** personal property from **BRADSHAW's** current residence to the **CITY**, including packing, moving, truck rental, storage costs, unpacking, and insurance charges, and miscellaneous charges incurred or expended by him in effecting this move, said sum to also be intended to cover temporary housing for **BRADSHAW** and his family within the **CITY** for the period of time between his initial reporting for work on or before the Effective Date and the date he secures permanent housing.

6. **Termination.**

A. At all times during the term of this Agreement, **BRADSHAW** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause. For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **BRADSHAW** as City Manager, **BRADSHAW** shall have the right to declare that such amendments constitute termination; or

(c) If **BRADSHAW** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

7. **Severance.** Except as provided in this Agreement, severance will be paid to **BRADSHAW** when employment is terminated as defined in Paragraph 6 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **BRADSHAW** his then annual base salary for Ninety (90) consecutive days thereafter, and the **CITY** shall also maintain **BRADSHAW's** life insurance and major medical insurance coverage paid up and in effect during such period. **BRADSHAW** shall also be compensated for all accrued sick leave and vacation time payable upon termination of employment as provided in the Personnel Rules and Regulations. During any time severance is being paid, **BRADSHAW** shall not be required to perform any duties for the City or come to the City.

The severance provisions set forth herein shall not apply and the City shall not be obligated to pay the Ninety (90) days severance in the event **BRADSHAW** is terminated for cause. "Cause" shall be defined as either conviction of any felony or any misdemeanor involving moral turpitude, commission of any act of fraud involving or affecting the City, willful failure to perform the duties of City Manager, or material breach by **BRADSHAW** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice, then, in that event, CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

8. **Attendance at Meetings.** The **CITY** agrees to permit **BRADSHAW** to be absent from the **CITY** during working days to attend professional meetings and to attend to such outside professional duties in the city management field as have been mutually agreed upon between him and the City Commission. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and shall not be considered vacation time. The **CITY** shall reimburse **BRADSHAW** for all reasonable expenses incurred by him incident to attendance at approved professional meetings; provided, however, that such reimbursement is appropriate and within the limits of the City's budget.

8. **Best Efforts of Employee.**

BRADSHAW agrees that he will at all times faithfully, industriously and to the best of his ability, experience and talents, perform all the duties which may be required of and from him pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **BRADSHAW** further agrees that he will continue his education and training so that he will keep up with or exceed education requirements of his position. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

9. **Disability.**

If **BRADSHAW** is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **BRADSHAW** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

10. **Residency.**

BRADSHAW shall, at all times, maintain permanent residency within the City of Fort Pierce, Florida, during his term as City Manager.

11. **Employee At-Will.**

BRADSHAW is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

12. **Liability Claims.**

The **CITY** shall defend and save harmless **BRADSHAW**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission

occurring in or arising out of the good faith performance of **BRADSHAW's** duties as City Manager of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **BRADSHAW's** employment or services or for claims for punitive damages. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **BRADSHAW's** employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **BRADSHAW** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

13. **Voluntary Resignation.** In the event **BRADSHAW** voluntarily resigns his position with the **CITY**, **BRADSHAW** shall provide a minimum ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified in Paragraph 5(c) above, **BRADSHAW** shall not be entitled to nor shall the **CITY** be liable to pay severance if **BRADSHAW** resigns.

14. **General Provisions.** The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective immediately upon execution, and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or

written, between the parties with respect to the subject matter hereof.

(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **BRADSHAW**, his administrators, executors, legatees, heirs, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

CITY OF FORT PIERCE, FLORIDA

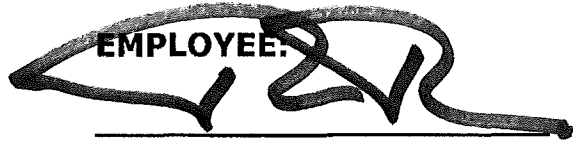
By: _____


Robert J. Benton, Mayor

ATTEST:

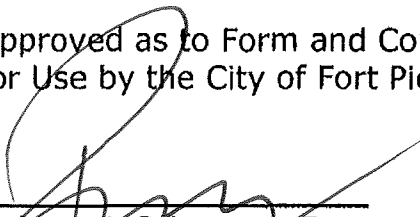


Cassandra Steele, City Clerk

EMPLOYEE: 

Robert J. Bradshaw

Approved as to Form and Correctness
for Use by the City of Fort Pierce:


Robert V. Schwerer, Esq.
City Attorney

EMPLOYEE PERFORMANCE EVALUATIONS
MANAGEMENT MID-MANAGEMENT NON-BARGAINING
GENERAL INSTRUCTIONS

1. **PURPOSE OF PERFORMANCE EVALUATION:** To pinpoint strengths and weaknesses, and review past goals and objectives and corresponding accomplishments so as to identify areas where performance can be improved for the benefits of both the employee and the Department /Division and to formulate a practical improvement program of specific challenges.
2. Rate the employee on characteristics pertinent of job performance. Carefully evaluate each of the characteristics separately, based on recurring day-to-day performance since the last review and not on recent or isolated exceptional events. For each characteristic, rate the employee poor, fair, average, good, or excellent using these definitions, and check the appropriate box.

POOR:	Definitely below acceptable standards, performance of job requirements is consistently deficient.
FAIR:	Improvement is needed to meet acceptable standards; performance of job requirement is inconsistent.
AVERAGE:	Meets acceptable standards; performance of job requirement is consistent.
GOOD:	Above acceptable standards; performance of job usually exceeds job requirements.
EXCELLENT:	Outstanding, above acceptable standards; performance consistently exceeds job requirements.

3. Two common mistakes in ratings are: (1) A tendency to rate nearly everyone as “average: on every characteristic instead of being more critical in judgment. The evaluation should use the end of the scale as well as the middle. (2) The “halo effect”, i.e., a tendency to rate the same individual “excellent” on every characteristic or “poor” on every characteristic based on the overall picture one has of the person being evaluated. However, each person has strong and weak points and these should be indicated on the rating scales.
4. The supervisor should discuss the incumbent’s strong points as well as limitations with a view toward improving the employee’s performance.

EMPLOYEE**PERFORMANCE****EVALUATION****MANAGEMENT – MID-MANAGEMENT – NON-BARGAINING****EMPLOYEE****INFORMATION:** NAME: Robert J. Bradshaw DATE : May 1, 2014CLASSIFICATION City Manager Dept: City ManagerPERIOD COVERED: (Month/Year) FROM: 05/01/13 TO : 04/31/14PURPOSE OF REPORT: PROBATIONARY { } **ANNUAL {X}** MID-TERM { } SPECIAL { }

POOR FAIR AVERAGE GOOD EXC.

	POOR	FAIR	AVERAGE	GOOD	EXC.
WORK PERFORMANCE:					
KNOWLEDGE: Understanding of Fundamentals, skill, methods and procedures required in present job					
PLANNING: Development of methods and work habits to efficiently perform overall work load.					
APPLICATION: Establishment of a team effort toward departmental goals and objectives.					
ACCURACY: Absence of mistakes and errors in job performance.					
THOROUGHNESS: Attention to details. Completes work assignments in a timely manner.					
QUALITY: Overall quality of work.					
QUANTITY: Overall quantity of work.					
MANAGEMENT PERFORMANCE:					
ORGANIZATION: Ability to organize employees, department and operations. Maintain discipline.					
PERSONNEL SELECTION: Identify job-related Characteristics in prospective discipline.					
TRAINING: Development of personnel training methods in department.					
FOLLOW-UP: Ability to follow-up on assignments, instructions, and schedules.					

Page 2
SUPERVISORY/
MANAGEMENT
PERFORMANCE:

Poor Fair Average Good Exc.

ECONOMY: Ability to control Cost – optimum utilization of resources.					
SAFETY: Orientation toward safety and health standards.					
LEADERSHIP: Establishment of a team effort toward departmental goals and objectives.					
COMMUNICATION: Ensuring that Personnel adequately informed about departmental issues concerns.					
FACTORS AFFECTING JOB PERFORMANCE:					
ADAPTABILITY: Alteration of activities, plans, etc, to accommodate new situations.					
ATTITUDE: Shows interest, enthusiasm and cooperation to achieve common goals.					
ATTENDANCE: Comes to Work on time and does not abuse leave.					
COOPERATION: Working effectively with others to achieve common goals.					
CREATIVENESS: Improvement of methods and procedures by new and innovative ideas.					
EXPRESSION: Written presentation of ideas					
EXPRESSION: Oral presentation of ideas					
INITIATIVE: Self-confident, enthusiastic performance with a minimum of instruction.					
JUDGMENT: Sound judgment and opinion by careful study of available facts and options.					
RELIABILITY: Dependability instills full confidence.					

**OVERALL EVALUATION
IN PRESENT POSITION:**

The supervisor should discuss the incumbent's strong points as well as limitation with a view toward improving the employee's performance.

EMPLOYEE'S STRONGEST AREA ON CONTRIBUTION TO THE JOB:

EMPLOYEE'S WEAKNESS:

DATE _____ RATING SUPERVISOR _____

OVERALL EVALUATION: POOR { } FAIR { } AVERAGE { } GOOD { } EXCELLENT { }

DIVISION DIRECTOR/DEPARTMENT HEAD COMMENTS: _____

DATE _____ SIGNATURE _____

EMPLOYEE'S COMMENTS: _____

MY SIGNATURE DOES NOT NECESSARILY MEAN THAT I AGREE WITH THE RATING. IT DOES, HOWEVER, SIGNIFY REVIEW OF ITS CONTENTS AND ALSO THE OPPORTUNITY TO DISCUSS ANY QUESTION I MIGHT HAVE WITH THE RATING AUTHORITY.

DATE _____ SIGNATURE _____

Is probationary employee recommended for regular employment? YES _____ NO _____

Is employee recommended for extended probation? YES _____ NO _____

City Commission Conference Agenda

Agenda Item # 4. C.

Meeting Date: 05/12/2014

Re: City Clerk's Performance Evaluation

Submitted For: Robert Bradshaw, City Manager

SUBJECT:

City Clerk's Performance Evaluation

Attachments

Linda W. Cox Employment Agreement

Linda W. Cox Performance Evaluation Form

Form Review

Inbox

City Manager

Form Started By: Jennifer Robinson

Reviewed By

Date

Started On: 04/28/2014 11:19 AM

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Fort Pierce Mayor & Commissioners
FROM: Robert V. Schwerer, Esq., City Attorney
SUBJECT: City Clerk Employment Agreement
DATE: August 28, 2013

Attached is the final draft of the City Clerk Employment Agreement which is being submitted to you for your consideration. The salient provisions of the agreement are:

1. Initial term of three (3) years commencing October 1, with a requirement the City Clerk obtain her Certified Municipal Clerk (CMC) certification within this time period.
2. Annual base salary of seventy five (\$75,000) thousand dollars.
3. Performance evaluation at six (6) months (calendar month of April) and annually thereafter.
4. Standard benefits including car allowance of \$350.00 per month, health and major medical insurance, and retirement benefits applicable to new hires.
5. Termination at will.
6. Severance pay equivalent to four (4) consecutive weeks.
7. Residency requirement within two (2) years.

The contract provisions have been negotiated and discussed with Mrs. Cox and she is agreeable to the terms set out in the agreement.

s/ *Robert V. Schwerer*

Robert V. Schwerer, Esq.
City Attorney

Enclosure
RVS/cf

cc: Robert J. Bradshaw, City Manager
Anne Satterlee, Interim City Clerk

CITY OF FORT PIERCE, FLORIDA

**LINDA W. COX
CITY CLERK**

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 4th day of September 2013, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to “**CITY**” and **LINDA W. COX**, hereafter referred to as “**COX**”.

WHEREAS, **CITY** desires to secure the services of **COX** as City Clerk for an initial period of three (3) years from the Effective Date of this agreement and **COX** desires to accept such position; and

WHEREAS, **CITY** and **COX** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **COX** has agreed.

NOW, THEREFORE, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **COX** agree with each other as follows:

1. Employment.

COX will render full time professional services to **CITY** in the capacity of City Clerk of the **CITY** for the initial term of three (3) years, commencing October 1, 2013 (the “Effective Date”), through September 30 2016. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **COX** agrees to sever ties with her existing employer, and report for work, and the duties and employment of **COX** as City Clerk shall commence the Effective Date.

COX shall devote all of her time, attention, knowledge and skill, solely and exclusively to the business and interest of the City of Fort Pierce, and the public which it serves. **COX** will at all times faithfully, industriously, and diligently perform to the best of her ability all duties that may be required of her by virtue of her position as City Clerk, including the performance of all duties set forth in the City Charter, Ordinances, Resolutions and other City policies, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. Nothing herein shall prohibit **COX** from maintaining membership in or participating in private social or civic endeavors that do not interfere or detract from her performance of the terms of this Agreement. In the event **COX** makes formal application for full-time employment elsewhere while serving as City Clerk, she shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as City Clerk, **CITY** agrees to pay **COX** an annual base salary of **SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00)** per annum, payable in bi-weekly installments.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **COX's** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

3. Performance Evaluations.

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **COX's** performance as City Clerk. These performance evaluations shall occur during the calendar month of April of each year, and shall be in such form and content and procedure as the City Commission shall in its discretion

determine. These performance reviews shall consider **COX's** overall performance and efficiency in her duties and job description as City Clerk, and shall also be used to monitor **COX's** compliance with attaining her Certified Municipal Clerk (CMC) certification within the time period set forth hereafter.

It is a specific condition of this agreement that **COX** shall have obtained her Certified Municipal Clerk (CMC) certification no later than thirty-six (36) months from the Effective Date of this Agreement. In the event **COX** fails to obtain such CMC certification within the time period specified herein, or if at any time **COX** fails to diligently and continuously pursue such CMC certification process during the term of this Agreement, the City Commission may in its sole discretion terminate this Agreement upon thirty (30) days written notice to **COX** and without liability to **COX** for the payment of any severance pay that may be provided for in Paragraph 6 of this Agreement.

4. Benefits.

In addition to annual compensation specified above, the **CITY** agrees to provide **COX** with the following benefits:

(a) **COX** shall be entitled to receive the same vacation, sick leave, and holiday time as defined in the City of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) Lease or car allowance at \$350.00 per month, or such other rate agreed upon by the City Commission.

(c) Membership dues to professional associations and societies directly relating to her position as City Clerk, subject to the approval of the City Commission.

(d) Comprehensive health and major medical insurance equal to that which is provided to other City employees.

(e) Retirement benefits as provided to City Employees, and specifically, such benefits applicable to new hires under current ordinances or rules and regulations or as subsequently amended.

5. Termination.

At all times during the term of this Agreement, **COX** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause. For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **COX** as City Clerk, **COX** shall have the right to declare that such amendments constitute termination; or

(c) If **COX** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

6. Severance.

Except as provided in this Agreement, severance will be paid to **COX** when employment is terminated as defined in Paragraph 5 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **COX** her then annual base salary for four (4) consecutive weeks thereafter, and the **CITY** shall also maintain **COX's** life insurance and major medical insurance coverage paid up and in effect during such period. **COX** shall also be compensated for all accrued sick leave and vacation time payable upon termination of employment as provided in the Personnel Rules and Regulations. During any time severance is being paid, **COX** shall not be required to perform any duties for the City or

come to the City.

The severance provisions set forth herein shall not apply and the City shall not be obligated to pay the four (4) weeks severance in the event **COX** is terminated for cause. "Cause" shall be defined as either conviction of any felony or any misdemeanor involving moral turpitude, commission of any act of fraud involving or affecting the City, willful failure to perform the duties of City Clerk, or material breach by **COX** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice, then, in that event, CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

7. Best Efforts of Employee.

COX agrees that she will at all times faithfully, industriously and to the best of her ability, experience and talents, perform all the duties which may be required of and from her pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **COX** further agrees that she will continue her education and training so that she will keep up with or exceed education requirements of her position, and specifically, to use her best and continuous efforts to obtain her City Clerk certification which shall be a mandatory term and condition of her employment under this Agreement. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

8. Disability.

If **COX** is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working

day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **COX** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

9. Residency.

Commencing two (2) years from the Effective Date of this Agreement, and at all times thereafter, **COX** shall, maintain permanent residency within the City of Fort Pierce during her term as City Clerk.

10. Employee At-Will.

COX is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

11. Liability Claims.

The **CITY** shall defend and save harmless **COX**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission occurring in or arising out of the good faith performance of **COX**'s duties as City Clerk of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **COX**'s employment or services or for claims for punitive damages. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **COX**'s employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **COX** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

12. Voluntary Resignation.

In the event **COX** voluntarily resigns her position with the **CITY**, **COX** shall provide a

minimum ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified in Paragraph 5(c) above, **COX** shall not be entitled to nor shall the **CITY** be liable to pay severance if **COX** resigns.

13. General Provisions.

The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective immediately upon execution, and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or written, between the parties with respect to the subject matter hereof.

(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.


(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to

be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **COX**, her administrators, executors, legatees, heirs, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

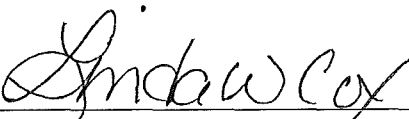
CITY OF FORT PIERCE, FLORIDA

By: 
Linda Hudson, Mayor

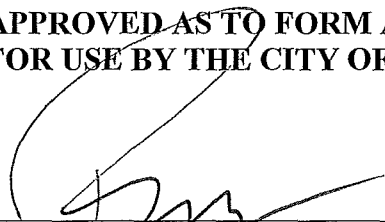
ATTEST:


Anne Satterlee, Interim City Clerk

EMPLOYEE:

By: 
Linda W. Cox

**APPROVED AS TO FORM AND CORRECTNESS
FOR USE BY THE CITY OF FORT PIERCE:**


Robert V. Schwerer, Esq.
City Attorney

EMPLOYEE PERFORMANCE EVALUATIONS

**MANAGEMENT, MID-MANAGEMENT NON-BARGAINING
GENERAL INSTRUCTIONS**

1. **PURPOSE OF PERFORMANCE EVALUATION**: To pinpoint strengths and weaknesses, and review past goals and objectives and corresponding accomplishments so as to identify areas where performance can be improved for the benefits of both the employee, and the Department /Division and to formulate a practical improvement program of specific challenges.
2. Rate the employee on characteristics pertinent of job performance. Carefully evaluate each of the characteristics separately, based on recurring day-to-day performance since the last review and not on recent or isolated exceptional events. For each characteristic, rate the employee poor, fair, average, good, or excellent using these definitions, and check the appropriate box.

POOR:	Definitely below acceptable standards, performance of job requirements is consistently deficient.
FAIR:	Improvement is needed to meet acceptable standards; performance of job requirement is inconsistent.
AVERAGE:	Meets acceptable standards; performance of job requirement is consistent.
GOOD:	Above acceptable standards; performance of job usually exceeds job requirements.
EXCELLENT:	Outstanding, above acceptable standards; performance consistently exceeds job requirements.

3. Two common mistakes in ratings are: (1) A tendency to rate nearly everyone as “average: on every characteristic instead of being more critical in judgment. The evaluation should use the end of the scale as well as the middle. (2) The “halo effect”, i.e., a tendency to rate the same individual “excellent” on every characteristic or “poor” on every characteristic based on the overall picture one has of the person being evaluated. However, each person has strong and weak points and these should be indicated on the rating scales.
4. The supervisor should discuss the incumbent’s strong points as well as limitations with a view toward improving the employee’s performance.

EMPLOYEE**PERFORMANCE****EVALUATION****MANAGEMENT – MID-MANAGEMENT – NON-BARGAINING****EMPLOYEE**
INFORMATION: NAME: Linda Cox DATE : _____

 CLASSIFICATION City Clerk DEPARTMENT _____

 PERIOD COVERED: (Month/Year) FROM: 10/1/13 TO 4/1/14

 PURPOSE OF REPORT: **PROBATIONARY {X}** ANNUAL { } MID-TERM { } SPECIAL { }

POOR FAIR AVERAGE GOOD EXC.

	POOR	FAIR	AVERAGE	GOOD	EXC.
WORK PERFORMANCE:					
KNOWLEDGE: Understanding of Fundamentals, skill, methods and procedures required in present job					
PLANNING: Development of methods, methods and work habits to efficiently perform overall work load.					
APPLICATION: Establishment of a team effort toward departmental goals and objectives.					
ACCURACY: Absence of mistakes and errors in job performance.					
THOROUGHNESS: Attention to details. Completes work assignments in a timely manner.					
QUALITY: Overall quality of work.					
QUANTITY: Overall quantity of work.					
MANAGEMENT PERFORMANCE:					
ORGANIZATION: Ability to organize employees, department and operations. Maintain discipline.					
PERSONNEL SELECTION: Identify job-related Characteristics in prospective discipline.					
TRAINING: Development of personnel training methods in department.					
FOLLOW-UP: Ability to follow-up on assignments, instructions, and schedules.					

Page 2
**SUPERVISORY/
MANAGEMENT
PERFORMANCE:**

Poor Fair Average Good Exc.

ECONOMY: Ability to control Cost – optimum utilization of resources.					
SAFETY: Orientation toward safety and health standards.					
LEADERSHIP: Establishment of a team effort toward departmental goals and objectives.					
COMMUNICATION: Ensuring that Personnel adequately informed about departmental issues concerns.					
FACTORS AFFECTING JOB PERFORMANCE:					
ADAPTABILITY: Alteration of activities, plans, etc, to accommodate new situations.					
ATTITUDE: Shows interest, enthusiasm and cooperation to achieve common goals.					
ATTENDANCE: Comes to Work on time and does not abuse leave.					
COOPERATION: Working effectively with others to achieve common goals.					
CREATIVENESS; Improvement of methods and procedures by new and innovative ideas.					
EXPRESSION: Written presentation of ideas					
EXPRESSION: Oral presentation of ideas					
INITIATIVE: Self-confident, enthusiastic performance with a minimum of instruction.					
JUDGMENT: Sound judgment and opinion by careful study of available facts and options.					
RELIABILITY: Dependability instills full confidence.					

**OVERALL EVALUATION
IN PRESENT POSITION:**

The supervisor should discuss the incumbent's strong points as well as limitation with a view toward improving the employee's performance.

EMPLOYEE'S STRONGEST AREA ON CONTRIBUTION TO THE JOB:

EMPLOYEE'S WEAKNESS:

DATE _____ RATING SUPERVISOR _____

OVERALL EVALUATION: POOR { } FAIR { } AVERAGE { } GOOD { } EXCELLENT { }

DIVISION DIRECTOR/DEPARTMENT HEAD COMMENTS: _____

DATE _____ SIGNATURE _____

EMPLOYEE'S COMMENTS: _____

MY SIGNATURE DOES NOT NECESSARILY MEAN THAT I AGREE WITH THE RATING. IT DOES, HOWEVER, SIGNIFY REVIEW OF ITS CONTENTS AND ALSO THE OPPORTUNITY TO DISCUSS ANY QUESTION I MIGHT HAVE WITH THE RATING AUTHORITY.

DATE _____ SIGNATURE _____

Is probationary employee recommended for regular employment? YES _____ NO _____

Is employee recommended for extended probation? YES _____ NO _____

City Commission Conference Agenda

Agenda Item # 4. D.

Meeting Date: 05/12/2014

Re: City Attorney's Performance Evaluation

Submitted For: Robert Bradshaw, City Manager

SUBJECT:

Discussion of a City Attorney's Performance Evaluation

Attachments

Resolution No. 04-38, Appointing Robert V. Schwerer as City Attorney

Form Review

Inbox

City Manager

Form Started By: Jennifer Robinson

Reviewed By

Date

Started On: 04/28/2014 11:20 AM

RESOLUTION NO. 04-38

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **ROBERT V. SCHWERER** TO SERVE AS **CITY ATTORNEY** EFFECTIVE JANUARY 1, 2005.

WHEREAS, John T. Brennan was appointed as City Attorney for the City of Fort Pierce, Florida, effective July 7, 1973, pursuant to Resolution No. 73-70; and

WHEREAS, Robert V. Schwerer became Assistant City Attorney in 1981 and has increasingly, particularly within the last several years, served as the principal legal advisor to, and counselor for, the City of Fort Pierce by assuming various duties and responsibilities previously performed by John T. Brennan, who has reduced his activity in such office accordingly; and

WHEREAS, the City Commission is desirous of effecting the formal transition of Robert V. Schwerer to serve as City Attorney, to be effective January 1, 2005, and to also have supervisory capacity over the City Attorney's office commencing on the date hereof.

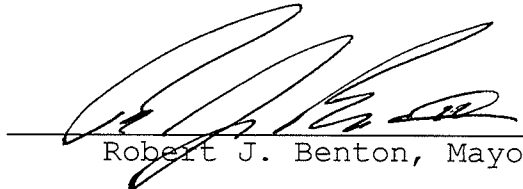
NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fort Pierce, Florida, that attorney Robert V. Schwerer be and he is hereby appointed City Attorney for the City of Fort Pierce, Florida, effective January 1, 2005, to serve at the will of the City Commission, and to further exercise supervisory capacity over the City Attorney's office commencing on the date hereof, and that in such capacity Robert V. Schwerer shall act as the legal advisor to, and counselor for the City and all of its officers in matters relating to their official duties, and to perform services and counseling as City Attorney as promulgated and established by the charter, ordinances and resolutions of the City of Fort Pierce, Florida.

IN WITNESS WHEREOF, this Resolution has been duly adopted this 15th day of November, 2004.

ATTEST:


Cassandra Steele, City Clerk

(CITY SEAL)


Robert J. Benton, Mayor