



Agenda Item # AJEG

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR FIRST READING AND APPROVAL OF ORDINANCE NO. 1006, AMENDING CHAPTER 17. OFFENSES AND MISCELLANEOUS PROVISIONS. TO ADD A NEW SECTION 17-15. PALM BEACH COUNTY SOLICITATION AND DISTRIBUTION ON PUBLIC ROADS ORDINANCE. IN ORDER FOR THE VILLAGE TO ELECT FOR SAID ORDINANCE TO APPLY TO ALL PUBLIC ROADS WITHIN THE VILLAGE'S BOUNDARIES THAT ARE OPEN TO MOTOR VEHICLE TRAFFIC. BY VILLAGE MANAGER RAY LIGGINS.

Issue:

On June 23, 2015, the Palm Beach County Board of County Commissioners adopted Ordinance No. 2015-025, establishing regulations concerning the solicitation, distribution and sale of any merchandise, goods, property or services, and the solicitation for charitable purposes, on all public roads within the unincorporated areas of the County. The County determined that such activities endangered the health, safety and welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing or other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities. The County's regulations were codified in Chapter 18, Article I, Section 18-7 of the Palm Beach County Code of Ordinances.

Ordinance No. 2015-025 provides that it shall apply to all public roads that are open to motor vehicle traffic within the unincorporated area of Palm Beach County, including State Roads, interstate ramps and County Roads, and to all municipalities within Palm Beach County that elect to have the provisions of the Ordinance apply within their respective jurisdictions.

The definition of "road" includes roads, streets, roadbeds, ramps, medians, traffic islands and all other ways open to travel by operators of motorized vehicles. The term excludes private roads that are not open to motor vehicle traffic.

Initiator:	Village Manager	Agenda Date	Village Council
Village Manager	Approval	9-17-2020	Action

Specifically, Ordinance No. 2015-025 prohibits the following activities:

1. No person shall be upon or go upon any Road for the purpose of displaying information of any kind;
2. No person shall be upon or go upon any Road for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind;
3. These prohibitions do not apply to traffic control signage or personnel or maintenance and construction personnel engaged to perform authorized activities on Roads.

For improved efficiency and public safety, the Village desires to elect into the County's solicitation and distribution ordinance, and have said ordinance apply within the Village's jurisdictional boundaries. Ordinance No. 2015-025 shall be enforced within the Village pursuant to Palm Beach County's countywide jurisdiction as provided in Section 1.3 of the Palm Beach County Charter.

Recommended Action:

Upon Council review, staff recommends a motion to approve Ordinance No. 1006 on first reading.

Initiator:	Village Manager	Agenda Date	Village Council
Village Manager	Approval	9-17-2020	Action

ORDINANCE NO. 1006

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 17. OFFENSES AND MISCELLANEOUS PROVISIONS. AT ARTICLE I. IN GENERAL. TO ADD A NEW SECTION 17-15. PALM BEACH COUNTY SOLICITATION AND DISTRIBUTION ON PUBLIC ROADS ORDINANCE. IN ORDER FOR THE VILLAGE OF ROYAL PALM BEACH TO ELECT FOR SAID ORDINANCE TO APPLY TO ALL PUBLIC ROADS WITHIN THE VILLAGE'S BOUNDARIES THAT ARE OPEN TO MOTOR VEHICLE TRAFFIC; FURTHER PROVIDING THAT SECTIONS 17-16 THROUGH 17-20 SHALL BE RESERVED FOR FUTURE VILLAGE PURPOSES; FURTHER PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 17. OFFENSES AND MISCELLANEOUS PROVISIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, on June 23, 2015, the Palm Beach County Board of County Commissioners adopted Ordinance No. 2015-025, establishing regulations concerning solicitation and distribution on public roads, which was codified in Chapter 18, Article I, Section 18-7 of the Palm Beach County Code of Ordinances; and

WHEREAS, Ordinance No. 2015-025 provides that it shall apply to all public roads that are open to motor vehicle traffic within the unincorporated area of Palm Beach County, including State Roads, interstate ramps and County Roads, and to all municipalities within Palm Beach County that elect to have the provisions of the Ordinance apply within their respective jurisdictions; and

WHEREAS, for improved efficiency and public safety, the Village desires to elect into the County's solicitation and distribution ordinance, and have said ordinance apply within the Village's jurisdictional boundaries; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances in adopting these new regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

Section 1: Chapter 17. OFFENSES AND MISCELLANEOUS PROVISIONS. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article I. In General. to add a new Sec. 17-15. Palm Beach County solicitation and distribution on public roads ordinance. in order for the Village of Royal Palm Beach to elect for said ordinance to apply to all public roads within the Village's boundaries that are open to motor vehicle traffic; further providing that Secs. 17-16 through 17-20 shall be reserved for future Village purposes; and further providing that Secs. 17-15 through 17-20. shall hereafter read as follows:

Sec. 17-15. – Palm Beach County solicitation and distribution on public roads ordinance.

The Village of Royal Palm Beach hereby elects for the Palm Beach County Solicitation and Distribution on Public Roads Ordinance, Ordinance No. 2015-025, as amended from time to time, to apply to all public roads within the Village's jurisdictional boundaries that are open to motor vehicle traffic. Palm Beach County's solicitation and distribution regulations are codified at Chapter 18, Article I, Section 18-7 of the Palm Beach County Code of Ordinances, as amended from time to time. The Palm Beach County Solicitation and Distribution on Public Roads Ordinance shall be enforced pursuant to Palm Beach County's countywide jurisdiction as provided in Sec. 1.3 of the Palm Beach County Charter.

Sec. ~~17-15~~ 17-16—17-20. - Reserved.

Section 2: Each and every other Section and Sub-section of Chapter 17. OFFENSES AND MISCELLANEOUS PROVISIONS. shall remain in full force and effect as previously enacted.

Section 3: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this 17th day of September, 2020.

SECOND AND FINAL READING this 15th day of October, 2020.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK

ORDINANCE NO. 2015 - 025

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE PALM BEACH COUNTY SOLICITATION AND DISTRIBUTION ON PUBLIC ROADS ORDINANCE; PROVIDING FOR TITLE; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS AND DETERMINATIONS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01(1)(m), Florida Statutes, authorizes the Board of County Commissioners of Palm Beach County (hereinafter “County”) to regulate roads within Palm Beach County; and

WHEREAS, Section 125.01(1)(w), Florida Statutes, authorizes the County to perform acts that are in the common interest of the people of Palm Beach County, and to exercise all powers and privileges not specifically prohibited by law; and

WHEREAS, both State and County transportation agencies design public roadways for the safe and efficient movement of motor vehicles and pedestrians on such roadways; and

WHEREAS, the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, hereinafter “Florida Greenbook”, does not include provisions for any kind of transaction to take place between occupants of motor vehicles and pedestrians sitting or standing close to the travel lanes of public roads; and

WHEREAS, the Florida Greenbook requires that planning and design of new streets and highways include provisions that minimize vehicle and pedestrian conflicts and recommends that pedestrian pathways be placed as far from roadway as practical because of the inherently dangerous nature of vehicles and pedestrians in close proximity to each other; and

WHEREAS, medians are part of the road and are designed to separate opposing traffic, channel and direct traffic and provide a vehicle refuge area for an errant vehicle; and

WHEREAS, due to the possibility that an errant vehicle may proceed into the median, and to afford the maximum visibility for traveling public, the Florida Greenbook requires that in order to locate objects, such as landscaping, signage and poles in medians, clear zone and site distance standards must be met; and

WHEREAS, State and local policies require that workers on roads and medians establish and maintain certain safety procedures to warn drivers of the presence of workers, direct vehicles to use caution and to direct vehicles away from areas where workers are present; and

WHEREAS, in response to law enforcement agencies concerns regarding the number of law enforcement officers injured or killed in the course of conducting routine traffic stops adjacent to roadways, the Florida Legislature enacted Florida statute 316.126, known as the “Move Over Act”; and

WHEREAS, a pedestrian standing on a median in Palm Beach County was struck and killed when a vehicle crossed the median curb; and

WHEREAS, County seeks to provide for the safety of its citizens by regulating the use of public roads and medians within Palm Beach County; and

WHEREAS, the Florida Legislature has determined that the failure to prohibit certain activities such as the free distribution or sale of any merchandise, goods, property or services; the display or solicitation for free distribution or sale of any merchandise, goods, property or services; or solicitation for charitable purposes from being conducted on the right-of-way of state transportation facilities endangers the health, safety, and general welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities; and

WHEREAS, the County finds that persons displaying information of any kind, distributing materials or goods, or soliciting business or charitable contributions on roads and medians is hazardous to public safety and impedes the normal, orderly, and safe flow of traffic; and

WHEREAS, the County finds that passage of this Ordinance will further the interest of the health, safety and general welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. TITLE:

This Ordinance shall be entitled the Palm Beach County Solicitation and Distribution on Public Roads Ordinance.

Section 2. INTENT:

It is the intent of this Ordinance to protect the health, safety and general welfare of the citizens of Palm Beach County, to assure the free, orderly, uninterrupted movement of motorized vehicles on public roads within unincorporated Palm Beach County and to provide for safety in the interest of pedestrians and occupants of motorized vehicles located on public roads within unincorporated Palm Beach County. This Ordinance is not intended to control traffic, as that term is defined in Chapter 316, Florida Statutes. This Ordinance is intended to apply evenhandedly to all persons who engage in the activities proscribed herein, regardless of their message. This Ordinance is intended to be narrowly tailored to serve the significant government interest of public safety, and to leave open ample alternative channels of displaying information, distributing goods and materials, and soliciting business and charitable contributions.

Section 3. DEFINITIONS:

“Road” shall include roads, streets, roadbeds, ramps, medians, traffic islands and all other ways open to travel by operators of motorized vehicles within unincorporated Palm Beach County. This definition excludes private roads and roads that are not open to motor vehicle travel.

Section 4. FINDINGS AND DETERMINATIONS:

The County hereby finds and determines that allowing the interaction of pedestrians and motor vehicles in close proximity is inherently dangerous on State and County Roads and persons engaging in displaying information of any kind, distributing, materials or goods, or soliciting business or charitable contribution on Roads is hazardous to public safety, both for occupants of vehicles located on public Roads and for persons engaging in such display of information, distribution of material or goods and solicitation of business or charitable contribution.

The County further hereby finds and determines that the prohibitions set forth in this Ordinance are narrowly tailored to serve the significant interest of promoting and protecting the public health, safety and welfare of the citizens of Palm Beach County, and that said prohibitions leave open ample alternative channels of communication.

Section 5. PROHIBITIONS:

(1) No person shall be upon or go upon any Road for the purpose of displaying information of any kind.

(2) No person shall be upon or go upon any Road for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind.

(3) The language in this section is not intended to apply to traffic control signage or personnel or maintenance and construction personnel engaged to perform authorized activities on Roads.

Section 6. APPLICABILITY:

The provisions of this Ordinance shall embrace all public Roads that are open to motor vehicle traffic within the unincorporated area of Palm Beach County, including State Roads, interstate ramps and County Roads and to all municipalities within Palm Beach County that elect to have the provisions of this ordinance apply within their respective jurisdictions.

Section 7. PENALTIES:

(1) Pursuant to Section 125.69(1), Florida Statutes, any person convicted of violating the provisions of this Ordinance shall be punished by a fine not to exceed \$500, by imprisonment not to exceed 60 days, or by such fine and imprisonment.

(2) In addition to the penalties provided by subsection (1) of this Section, any violation of this Ordinance shall be subject to appropriate civil action in a court of appropriate jurisdiction.

Section 8. SEVERABILITY:

It is declared to be the intent of the County, that if any section, subsection, paragraph, sentence, clause or provision of this Ordinance be held invalid, the remainder of this Ordinance shall not be affected.

Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish

such and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 10. CAPTIONS:

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

Section 11. EFFECTIVE DATE:


Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 23rd day of June, 2015.

SHARON R. BOCK, CLERK

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

By: 
Deputy Clerk

By: 
Shelley Vana, Mayor
Mary Lou Berger Vice Mayor



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 25 day of _____ June _____, 2015.