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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** June 12, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution rescinding Administrative Order 8-5, permission to conduct private business on public property, and approving Implementing Order 8-5, Permission to Conduct Private Business on Public Property to clarify that agreements for the exclusive use of County Property for a term greater than one (1) month require Board approval

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.



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R. A. Cuevas, Jr.  
County Attorney

RAC/cp



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:**

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No.

**Please note any items checked.**

- "3-Day Rule" for committees applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Ordinance creating a new board requires detailed County Manager's report for public hearing**
- No committee review**
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve**
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved \_\_\_\_\_ Mayor Agenda Item No.  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RESCINDING ADMINISTRATIVE ORDER 8-5, PERMISSION TO CONDUCT PRIVATE BUSINESS ON PUBLIC PROPERTY, AND APPROVING IMPLEMENTING ORDER 8-5, PERMISSION TO CONDUCT PRIVATE BUSINESS ON PUBLIC PROPERTY TO CLARIFY THAT AGREEMENTS FOR THE EXCLUSIVE USE OF COUNTY PROPERTY FOR A TERM GREATER THAN ONE (1) MONTH REQUIRE BOARD APPROVAL

**WHEREAS**, this Board had previously approved Administrative Order 8-5 titled “Permission to Conduct Private Business on Public Property” and it was last amended in 1999; and

**WHEREAS**, the intent of Administrative Order 8-5 was to set forth an administrative process whereby the County Manager or his/her designee could grant mainly non-exclusive permits to individuals seeking to conduct private business on County property; and

**WHEREAS**, indeed, Administrative Order 8-5 expressly states that it does not apply to leases and concession agreements; and

**WHEREAS**, this Board seeks to clarify that agreements for the exclusive use of County property which have a term greater than one (1) month shall require approval by the Board; and

**WHEREAS**, this Board desires to rescind Administrative Order 8-5 and enact Implementing Order 3-38 to re-establish the provisions of Administrative Order 8-5 except as set forth above,

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA** this Board hereby rescinds Administrative Order 8-5, Permission to Conduct Private Business on Public Property, and approves Implementing Order

8-5, Permission to Conduct Private Business on Public Property, in substantially the form attached hereto and made a part hereof, to clarify that agreements for the exclusive use of County property for a term greater than one (1) month require Board approval.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

- |                                     |                      |
|-------------------------------------|----------------------|
| Joe A. Martinez, Chairman           |                      |
| Audrey M. Edmonson, Vice Chairwoman |                      |
| Bruno A. Barreiro                   | Lynda Bell           |
| Esteban L. Bovo, Jr.                | Jose "Pepe" Diaz     |
| Sally A. Heyman                     | Barbara J. Jordan    |
| Jean Monestime                      | Dennis C. Moss       |
| Rebeca Sosa                         | Sen. Javier D. Souto |
| Xavier L. Suarez                    |                      |

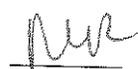
The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of June, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Monica Rizo

## **Implementing Order**

**Implementing Order No.:** IO 8-5

**Title:** Permission to Conduct Private Business on Public Property

**Ordered:** 7/3/2012

**Effective Date:** 7/13/2012

**AUTHORITY:**

Sections 1.01 and 2.02(A) of the Miami-Dade County Charter and Section 21-29.1 of the Miami-Dade County Code.

**POLICY:**

It is the policy of Miami-Dade County, as set forth in the Miami-Dade County Code, that no person, firm, corporation or other legal entity shall engage in any private business, commercial activity, or to undertake to provide any service for compensation, or to advertise or display merchandise, or to transact any business for profit, or to solicit business, on any property or facilities owned or operated by Miami-Dade County without first obtaining a permit, concession, lease, or other authorization in writing approved or authorized by Board of County Commissioners.

**PURPOSE:**

The purpose of this Implementing Order is to provide for a specific administrative process whereby permits to conduct private business on County property may be applied for and approved by the County Mayor or Mayor's designee. Concessions, leases and other types of contractual agreements are normally through a competitive process and their issuance is not addressed in this Implementing Order. This Implementing Order also does not address agreement or permits for the exclusive use of County property for a term greater than one (1) month in duration. The permit process outlined herein is not intended in any way to diminish the County's long-established competitive bidding process.

**PROCEDURE:**

Persons or firms desiring to conduct private business on County property shall make application to the department director who is responsible for the property of interest. If the applicant is unclear as to the responsible department or if the property falls under the jurisdiction of more than one department, the request should be made directly to the County Mayor or Mayor's designee.

Department directors shall be responsible for preparing and distributing appropriate application forms to interested persons and firms; said forms, requesting at a minimum, the information below:

- If an organization or firm, the name of the individual with authority to apply on behalf of the firm or organization
- Mailing address
- Phone Number
- Description of intended use, type of business or scope of operation
- County facility/property requested for proposed activity
- Period of requested use, including dates, days of the week and hours of the day
- Not-for-profit or for-profit status of organization. If not-for-profit, state the intended uses of the proceeds from the permitted activity
- Completed and executed disclosure form
- Estimated costs for County services:
  - o Rental Charge
  - o Utilities
  - o Maintenance/Clean-up
  - o Security
  - o Administrative Support
  - o Other (including lost revenue)
- Description of any restrictions on the manner of use of County facility/property
- Signed statement acknowledging that the applicant has obtained all required licenses, permits and insurance as required by law, code, etc., and will indemnify and hold the County harmless for any liability arising out of negligence on the part of the permit holder (contact the County's Risk Management Division, for advice and assistance, if necessary).

A completed copy of the above information and the department director's recommendation to the County Mayor or Mayor's designee, except for permits issued pursuant to a blanket-type approval.

**APPROVALS:**

Each request shall be considered in terms of 1) the benefits and advantages accruing to Miami-Dade County; 2) the compatibility of said business with the normal operations and purpose of the property; 3) the nature and the magnitude of the activity and whether a concession, lease or other authorization would be more appropriate; and 4) the desirability of the proposed activity as it relates and contributes to the economic and social well-being of the community. Under no circumstances, however, is the County obligated to issue a permit.

Upon receipt of a person's, organization's or firm's application, the department director shall enter a recommendation and forward a copy of the department's completed application form to the County Mayor or Mayor's designee. Approved permits or rejected applications will be returned to the department director who shall notify the permit applicant of the final action. Any permits for the exclusive use of County property for a term greater than one (1) month shall require the prior approval of the Board of County Commissioners.

**PERMITS:**

Permits, if for the non-exclusive use of County property shall be issued for a specific time period not to exceed one year in duration, or if for the exclusive use of County property shall be issued

for a specific time period not to exceed one (1) month in duration, are all non-transferable, and may be revoked at any time at the discretion of the department director. Each permit-holder shall keep a copy of the approved permit at each business site. A master file of all permits shall be maintained by the County Mayor.

**BLANKET PERMITS:**

To facilitate the issuance of permits at events hosted by the County in which a number of vendors may be involved, departments may request authorization from the County Mayor or Mayor's designee to directly issue vendor permits for those events. The request for authorization shall be by memorandum and sample permit form identifying and detailing the event, dates, estimated number of types of vendors, and the terms and conditions that will apply to the vendors at the event. A listing of the vendors issued permits is to be sent to the County Mayor or Mayor's designee upon termination of the event. All permits shall expire at the termination of each event and may not carry forward to future events.

**EXTENSIONS:**

Permits for the non-exclusive use of County property, other than those specifically exempted in the section below, may be renewed once, upon approval by County Mayor or Mayor's designee. If a person or firm wishes to continue to conduct private business on County property after the renewal period has expired, approval by the Board of County Commissioners is required. The County will follow competitive procedures prior to awarding any concession or lease, where applicable.

**COST RECOVERY:**

It is the County's policy to recover all costs associated with the private use of County property. Examples of said costs include property rental charges, utilities, maintenance, security, and administrative overhead. Lost revenue may also be considered associated costs. In addition, the County may require, as a condition of granting a permit, a share of the anticipated revenues of the permitted activity.

The waiver of any or all costs accruing to the County from the use of County property shall be the sole prerogative of the board of County Commissioners.

**EXCEPTIONS:**

If the permit is for 14 or fewer consecutive days per year, or 15 or fewer consecutive weekends per year, or other similar configuration of days or weekends, it shall be considered to have been issued for a "limited time period" and shall be renewable without limit at the discretion of the County Mayor or Mayor's designee.

In situations where the County routinely issues permits to all legitimate applicants wishing to conduct business at a specific location where it is clearly evident that the services and products are being provided competitively, the County Mayor or Mayor's designee may, at its discretion, renew said permits indefinitely without requesting bids and proposals. Examples of such permits include the permission given to various vendors to provide goods and services to the airlines and shipping lines that use County facilities.

Other permits which may be renewed without limit at the discretion of the County Mayor or Mayor's designee include:

1. Permits issued to persons or firms engaged in fundraising activities which are specifically organized for the sole purpose of promoting community interest and welfare; or
2. Other governmental organizations or state political subdivisions; or
3. Not-for-profit youth, adult and senior, cultural, conservation and parks and recreation program service providers in instances where a programming partnership is not appropriate or applicable; or
4. Entities maintaining County property, including grove maintenance and harvesting.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.