

ORDINANCE NO. 0-2008- 14

AMENDING ORDINANCE NO. 0-2007-31; AN ORDINANCE DEFINING OUTDOOR MISCELLANEOUS SALES, GARAGE, PORCH, & YARD SALE & SEASONAL ITEMS; REQUIRING A PERMIT AND IMPOSING A FEE; SETTING FREQUENCY AND TIME PERIOD CONSTRAINTS; SETTING REQUIREMENTS; OUTLINING AN APPLICATION PROCEDURE; PROHIBITING SALE WITHOUT A PERMIT; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR REPEALING OF CONFLICTING ORDINANCE CLAUSE; A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

***BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF THE CITY OF PHARR, TEXAS, THAT:***

SECTION 1: DEFINITIONS

- A. Outdoor or miscellaneous sales are defined to mean the sale or offering for sales of food or merchandise, whether new or used, from any commercial location within the City of Pharr other than at commercially licensed and permitted business' in the City of Pharr.
- B. Garage, Porch or Yard Sale is defined to mean: The "occasional sale" of (secondhand goods) used merchandise or personal property from any occupied residence in any residential zone. It is not intended to create a commercial outlet for new or newly acquired merchandise and personal property to be sold from a residential location.
- C. Secondhand Goods means: Used household or other personal property of a resident of Pharr.
- D. Occasional Sales means: Per Texas Tax Code, Section 151.304 - A garage porch or yard sale qualifies as an "occasional sale" and articles thus sold are exempt from sales taxation only if they were originally bought and in fact used by a household member. Furthermore, section 151.304 of the Texas Tax Code does not exempt from sales taxation a garage, porch or yard sale beyond the first two (2) in any twelve 12-month period, thus requiring a tax certificate and collection of sales taxes for transmission to the State Comptroller.
- E. Single Items Sales are defined to mean: Any one (1) type, class or genre of item to be sold from any legally licensed commercial location.
- F. Merchandise covered under outdoor sales includes but is not limited to:
 - 1. Trees, Shrubs, Grass or other Landscape Products;
 - 2. Clothes, Toys, Car Equipment, Tools or any other Merchandise;
 - 3. Garage, Porch or Yard Sales;
 - 4. Seasonal Items;
 - 5. Bar-B-Que Food fundraisers (Non-profit Organizations only);
 - 6. Any other products sold outdoor which is interpreted by the Planning Department as needed to the permitted under this Ordinance.

SECTION 2: PERMIT REQUIRED: FEE IMPOSED

Garage, Porch or Yard Sales Permit: The owner or occupant of a single, two, or multi-family dwelling unit in any residential zoning classification, before conducting a garage, porch or yard sale, shall first obtain a permit from the Community Planning and Development Department at least three (3) business days prior to the sale. The cost of such permit shall be (\$10.00) Ten-Dollars per permit.

Single Item Sales Permit: It shall be unlawful to display, sale or offer for sale any new or used goods, merchandise or seasonal item(s) without first obtaining a permit from the Community Planning and Development Department. Single Items for sale under THIS section ONLY shall be the same as defined in Section 1, C but shall be limited to selling ONLY ONE type, class or genre of item (i.e. Easter sales can be limited to Easter eggs (cascarones) only, not Easter eggs (cascarones) and bunnies or Easter baskets, etc.. If more than one type, class or genre of item is to be sold then applicant shall comply with the "Outdoor/Miscellaneous Sale" section. Single sales shall be limited to commercial or industrial zoned areas of the city. The cost of such permit shall be (\$25.00) Twenty-Five Dollars per permit. This type of permit excludes Christmas Tree vendors.

Bar-B-Que Fundraiser Sales Permit: It shall be unlawful to display, sale or offer for sale any products from a bar-b-que fundraiser without first obtaining a permit from the Community Planning and Development Department. Bar-B-Que fundraisers shall be limited to commercial or industrial zoned areas only. There shall be no charge for such permit, however the applicant will be mandated to obtain a health inspection and permit from the City of Pharr Health Division.

Outdoor/Miscellaneous Sales Permit: It shall be unlawful to display, sale or offer for sale any new or used goods, materials or merchandise without first obtaining a permit from the Community Planning and Development Department. The Outdoor/Miscellaneous Sales permit shall be issued for commercial or industrial zoned areas only and shall cover any goods, materials or merchandise not covered under the previous (3) three permits. The cost of such permit shall be (\$250.00) Two-Hundred and Fifty Dollars per permit.

SECTION 3: FREQUENCY OF PERMITS AND TIME PERIOD RESTRICTIONS

Garage, Porch or Yard Sale: The owner or occupant of such property wishing to conduct a garage, porch or yard sale, shall be limited to **(2) two permits per calendar year, per lot and each permit shall cover not more than (3) three continuous calendar days and be limited to 6 a.m. to 10 p.m.**

Single Sale Items: Permits for any one vendor shall be limited to (5) five per calendar year for a period not to exceed (31) thirty-one days. Items may be sold from 7 a.m. to 10 p.m. or at the discretion of the property owner, if it is more restrictive.

Bar-B-Que Fundraiser(s): Permits for any one applicant or organization shall be limited to (5) five per calendar year for a period of (1) one day and not to exceed (3) three days. Fundraisers may be conducted from 5 a.m. to 8 p.m. or at the discretion of the property owner, if it is more restrictive.

Outdoor/Miscellaneous Items: Permits for any one vendor shall be limited to (5) five per calendar year for a period not to exceed (31) thirty-one days. Permits will be issued with an effective date of the 1st of the month thru the last day of the month. Permits requested after the 15th day of the month will not be pro-rate charged.

SECTION 4: REQUIREMENTS

1. No items may be sold or displayed on any city or state public street, public right of way, corner clip easement, sidewalk, alley or any other public property.
2. No items may be sold or displayed on any unimproved lot or parcel.
3. The display or sale of merchandise shall not result in the elimination of the number of off-street parking spaces required for such location or business under the City's Zoning ordinance.
4. The permit issued shall be non-transferable and shall be valid only for the dates and locations specified on the permit.
5. The permit shall be displayed in a conspicuous place for the entire duration of the sale.
6. The sale of food with the exception of fundraisers is prohibited.
7. The sale of live animals is prohibited.
8. All locations where a permit is applied for shall be in the proper zone district for such type of permit and have an existing curb cut for access from a public street.
9. All locations where a permit is applied for shall have sufficient paved parking for the purpose of the activity.
10. All locations where a permit is applied for shall have restroom facilities available for customer and vendor use.

SECTION 5: PERMIT APPLICATION PROCEDURE

Any person or organization wishing to conduct any sale under this ordinance (excluding garage, porch or yard sales) shall file a written application with the Community Planning and Development Department at least three days prior to the event. Such application shall contain the following:

1. Full name, address and phone number of applicant, vendor or organization applying.
2. Full property description of the location where the event will be held. Full property description includes the property's street address and full legal description.
3. A detailed site plan illustrating the location of paved parking, restrooms, buildings and entrances.
4. A copy of a valid State of Texas sales tax certificate or proof of tax exemption.
5. Permit fee, if applicable.

SECTION 6: SALE WITHOUT A PERMIT PROHIBITED

It shall be unlawful for any vendor on any premises to conduct any sale covered by this ordinance without first having obtained a permit.

SECTION 7: PENALTY

Any person, organization or entity that violates this ordinance shall have the following penalties imposed:

Garage, porch or yard sales: Upon verification by Code Enforcement Officials, a fine of double the permit fee shall be imposed in the applicant's next water bill cycle.

All other permits covered by this ordinance: Upon conviction, a fine of not less than double the permit fee or more than one thousand dollars (\$1,000.00) per day per violation may be imposed.

SECTION 8: REPEALING CLAUSE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

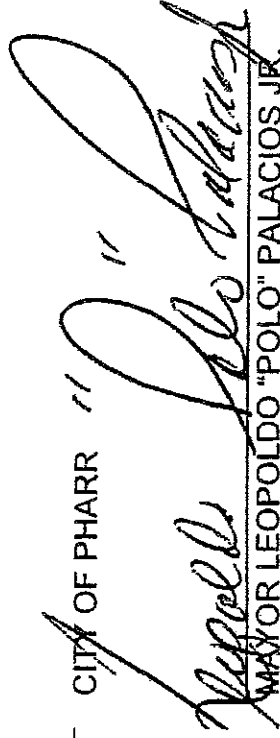
SECTION 9: SEVERABILITY CLAUSE

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part thereof.

SECTION 10: EFFECTIVE DATE

This ordinance shall take effect upon receiving final approval by the governing body following three (3) readings of the Board of Commissioners.

PASSED, APPROVED AND ADOPTED ON FIRST READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS on this the _____ CITY OF PHARR " " "
March, 2008.

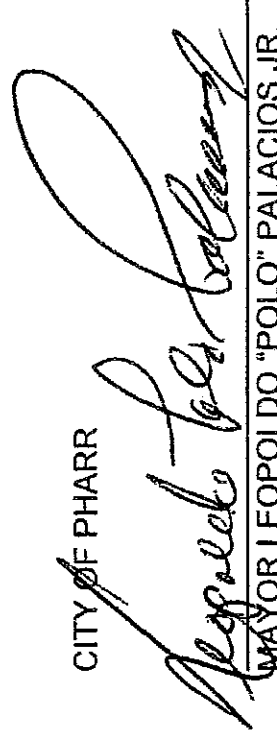

MAYOR LEOPOLDO "POLO" PALACIOS JR.

ATTEST:

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CLERK

AIDA V. MONTOYA, CI

CITY OF PHARR

MAYOR LEOPOLDO "POLO" PALACIOS JR.

PASSED, APPROVED AND ADOPTED ON SECOND READING BY THE BOARD OF
COMMISSIONERS OF THE CITY OF PHARR, TEXAS on this the 1st day of
April __ 2008.

ATTEST:

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by L.J. J.1 / C OjJ(T7J
AIDA V. MONTOYA, CITY CLERK}

PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS on this the 15th day of April 2008.

CITY OF PHARR



MAYER LEOPOLDO "POLO" PALACIOS JR.

ATTEST:

by f?* / JLJ* n'
AIDA V. MONTOYA, CITY CLERK