

ORDINANCE NO. 2007-23

AN ORDINANCE REPEALING ORDINANCE NO. 2000-13, DEFINING OUTDOOR SALES REQUIRING A PERMIT TO CONDUCT OUTDOOR SALES DEFINING ALLOWABLE ZONING DISTRICTS FOR SUCH SALES, REQUIRING A PERMIT TO CONDUCT SUCH SALES; ESTABLISHING YARD SALES AS A SPECIAL CATEGORY OF OUTDOOR SALES, SETTING OUT REQUIREMENTS FOR SUCH SALES AND REQUIRING REGISTRATION OF YARD SALES; MAKING IT UNLAWFUL TO CONDUCT SALES WITHOUT A PERMIT OR REGISTRATION; PROVIDING FOR A PENALTY CLAUSE, PROVIDING FOR REPEALING OF CONFLICTING ORDINANCES, A SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MERCEDES, TEXAS THAT;

SECTION 1. DEFINITIONS

- A. **Outdoor sales** are defined to mean the sale or offering for sale by the property owner or occupant of food or merchandise, whether new or used, from any location within the City of Mercedes other than at commercially licensed and permitted business locations and permitted peddlers.
- B. **Merchandise** covered under outdoor sales includes but is not limited to:
- a. Fruits;
 - b. Vegetables;
 - c. Trees, Shrubs, Grass or other Landscape products;
 - d. Roasted Corns, Bar-B-Q Food, Hot Dogs, Hamburgers or any other prepared foods;
 - e. Snow Cones, Ice Cream, Soft Drinks, or any other beverages;
 - f. Clothes, Toys, Car Equipment, Tools or any other Merchandise;
 - g. Special events such as sidewalk sales which are incidental to the main business shall be exempt from this Ordinance. These special sales shall not exceed two (2) consecutive days.
 - h. Any other products sold outdoor which is interpreted by the Planning Director as needed to be permitted under this Ordinance;
- C. **Incidental uses** are defined as any items sold within the establishment that is sold as part of a promotional event or sidewalk sale.
- D. **Yard Sales** are defined as the offering for sale of personal and/or household property belonging to or in the possession of the person living at the property and conducting the sale. These sales shall include “yard sale”, “patio sale”, “estate sale”, “rummage sale” or other similar casual sale of tangible personal and/or household property, which is advertised by any means whereby the public at large is or can be made aware of such sale. Such sales are not intended to be a business or sell new items except incidentally.

SECTION II. PERMIT REQUIRED

The owner of a property or occupant, before conducting an outdoor sale, shall file an application at least three (3) days prior to the event with the Planning Director of the City of Mercedes to obtain a permit. The cost of the permit shall be THIRTY AND NO/100 (\$30.00) DOLLARS.

A yard sale shall be registered with the Planning Department by the property owner prior to the sale taking place. Applicant will be advised of the requirements regarding yard sales frequency and signage. No fee will be charged for this service, but failure to do so can result in the forfeiture of additional allowable sales per year at the address.

SECTION III. OUTDOOR SALES REQUIREMENTS

The owner or occupant of the property who is granted an outdoor sales permit shall abide by the following conditions:

- A. For any one location, outdoor sales shall be limited to one (1) day.
- B. For any one location, outdoor sales shall be limited to four (4) permits per calendar year.
- C. The hours of operation shall not commence before 8:00 A.M. nor extend beyond 7:00 P.M.
- D. No alcoholic beverages shall be sold at or during any outdoor sales, unless the establishment is permitted by the State of Texas and City of Mercedes.
- E. The permit shall be non-transferable and shall be valid only for the date specified on the permit, and
- F. This permit shall be displayed in a conspicuous place for the entire duration of the sale.
- G. Applicant must provide a tax identification certificate.
- H. Applicant must provide a detailed site plan illustrating paved parking landscaping restrooms, and any other information necessary for the Planning Department to issue a permit.

SECTION IV. NON PROFIT OR COMMUNITY ORGANIZATIONS OUTDOOR SALES REQUIREMENTS

- A. Non-profit or community organizations shall submit an application to the Planning Director of the City of Mercedes at least three (3) days prior to the event for the sale of any food items.
 1. A tax identification certificate will not be required.
 2. The *organization* may be granted no more that four (4) permits per calendar year.
 3. All other provisions of Article III shall apply.

SECTION V. YARD SALES REQUIREMENTS

1. Yard sales are authorized only in compliance with this section.
2. No more than four (4) yard sales shall be conducted at the same address in any calendar year and no resident shall conduct more than four (4) yard sales at any location within a calendar year.
3. No yard sales shall exceed four (4) consecutive calendar days in duration with at least five (5) days elapsing between one sale and the next.
4. The following persons shall be exempt from the provisions of this ordinance:
 - a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
 - b. Persons acting in accordance with their powers and duties as public officials.
 - c. Persons selling or advertising for sale an item or items of personal property which is/are specifically named or described in the advertisement and where specific items do not exceed five in number.
5. All signage used to advertise the yard sale must be placed outside the right-of-way and not blocking traffic views or pedestrian walkways. Signs may not be placed more than three (3) days prior to the sale and must be removed within one (1) day of the completion of the sale.
6. Yard sales are not intended to businesses at a residence, but purely incidental in nature and not excessively disruptive to the neighboring residences.
7. Each yard sale must be registered with the Planning Department prior to sale taking place.

SECTION VI. SALES WITHOUT PERMIT OR REGISTRATION PROHIBITED

It shall be unlawful for the owner/occupant of such premises or conductor of such sale to conduct an outdoor sale without having first obtained a permit. It shall also be unlawful for a resident to conduct a yard sales without registration prior to the sale.

SECTION VII. SALES IN CERTAIN AREAS PROHIBITED

Outdoor sales are prohibited in any areas except those zoned “Local Retail (L)”, “A-Business”, “B-Business”, “C-Business”, “A-Industrial”, or “B-Industrial)central business district, general business district and heavy commercial district.

Yard sales are allowable within residential zones under the conditions listed in Section V.

SECTION VIII. PENALTY

Anyone who violates this Ordinance shall upon conviction thereof be fined in any amount not less than TEN AND NO/100 (\$10.00) DOLLARS nor more than FIVE HUNDRED AND NO/100 (\$500.00) DOLLARS per day.

SECTION IX. REPEALING CLAUSE

Ordinance No. 2000-13 is hereby repealed.

SECTION X. SEVERABILITY CLAUSE

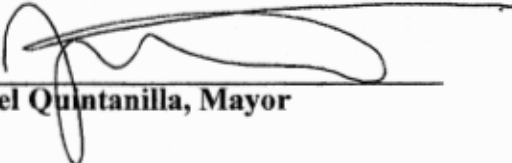
The invalidity or any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part thereof.

SECTION XI. PUBLICATION, EFFECTIVE DATE

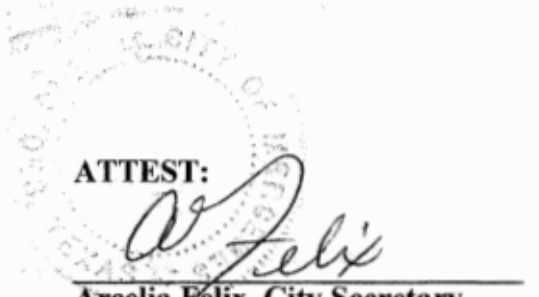
This Ordinance shall be published after its passage and approval and shall take effect, and be in force from and after ten (10) days following such publication in the official newspaper.

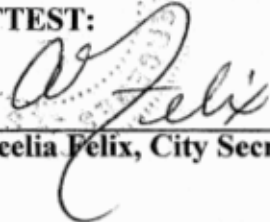
PASSED, APPROVED AND ADOPTED, ON FIRST READING THIS THE 6TH DAY OF NOVEMBER, 2007.

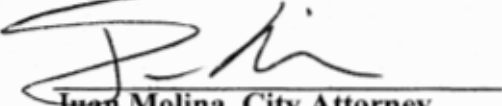
PASSED, APPROVED AND ADOPTED, ON SECOND READING THIS THE 20TH DAY OF NOVEMBER, 2007.



Joel Quintanilla, Mayor



ATTEST:

Arcelia Felix, City Secretary

APPROVED AS TO FORM:

Juan Molina, City Attorney