

ORDINANCE NO. 2011-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, CHAPTER 15. OFFENSES, MISCELLANEOUS PROVISIONS, BY ADDING SECTION 15.41.1 – GARAGE/YARD SALES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA AS FOLLOWS:

Section 1. That the Code of Ordinances of the City of Phenix City, Alabama, Chapter 15 Offenses, Miscellaneous Provisions is hereby amended by the addition of a new section to read as follows:

Sec. 15-41.1. Garage/Yard Sales.

(a) **Defined.**

For the purpose of this article, the term “garage/yard sale” shall mean and include all sales entitled “garage sale”, “lawn sale”, “attic sale”, “rummage sale”, or any other similar casual sale of tangible personal property whereby there is a display and offer for sale of any goods, wares or merchandise, on the premises of any residential lot within the city limits of the city, which goods, wares, or merchandise are household furnishings or personal possession of the persons conducting the sale and residing at the premises.

(b) **Property acquired for resale not to be offered for sale at garage/yard sale.**

The offer for sale by means of a “garage/yard sale” of property which has been specifically acquired for resale, or the consignment of which has been accepted for display and offer for sale at a “garage/yard sale” is specifically prohibited.

(c) **Duration.**

It shall be unlawful for any person to hold a garage/yard sale of longer duration than three (3) consecutive days.

(d) **Limited number per calendar year.**

It shall be unlawful for any person to hold or conduct more than (2) two garage/yard sales within the same calendar year. Provided, however, that under no circumstances shall the same residential lot be used for more than a total of 2 (two) garage/yard sales within the same calendar year.

(e) **Permit – Generally.**

(i) Required. It shall be unlawful for any person to conduct garage/yard sale in the city without first filing with the License

Clerk, the information hereinafter specified and obtaining from such clerk a permit to do so, to be known as "garage/yard sale permit". There shall be no fee charged for the permit to a person for conducting the yard sale.

- (ii) Display: Each permit issued under this article must be prominently displayed on the premises upon which the garage/yard sale is conducted through the entire period of the permitted sale.
- (iii) Inclement Weather: If the applicant cannot conduct the permitted yard sale due to inclement weather, the permit may be withdrawn by request of the applicant and verification that no yard sale occurred by code enforcement and will not count against the location/applicant for the yearly total.

(f) Same. Information required.

The information to be filed with the license clerk, pursuant to the section shall be as follows:

1. Name of each person conducting the sale.
2. Name of owner of the property on which the sale is to be conducted and consent of owner, if applicant is other than owner.
3. Location at which sale is to be conducted.
4. Number of days of sale and the hours that sale will be conducted.
5. Date, nature of any past sale.
6. Relationship or connection applicant may have had with any other person conducting the sale and the date or dates of such sale.
7. Whether or not applicant has been issued any other vendor's license by a local, state or federal agency.
8. Sworn statement of affirmation by the person signing that the information there is full and true and known to that person to be so.

(g) Exceptions to provisions.

The provisions of this article shall not apply to or affect the following persons or sale.

- 1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- 2) Persons acting in accordance with their powers and duties as public officials.
- 3) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number.

- 4) Churches having yard sales to benefit the church, but not benefit any private party.
- 5) Parking lots of businesses where yard sales are required to have itinerant peddler license per Ordinance 2007-25.

(h) **Violation; penalties**

Any person conducting any garage /yard sale without obtaining the proper permit or who shall violate any of the other terms and regulations of this article shall be punished as for a Class C Misdemeanor, and upon conviction may pay a fine of not less than \$50.00 nor more than \$500.00.

This ordinance shall take effect upon passage. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

If any part of this ordinance is declared unconstitutional, it should not automatically void the remaining sections.

PASSED, APPROVED AND ADOPTED this 19th day of April, 2011.

/s/ H. S. Coulter
MAYOR

/s/ Jimmy Wetzel

/s/ Max Wilkes

/s/ Michelle E. Walker

/s/ Arthur L. Sumbry
MEMBERS OF THE CITY COUNCIL OF
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:

/s/ Charlotte L. Sierra
CITY CLERK