

PUTNAM COUNTY ORDINANCE NO. 2002- _____

AN ORDINANCE RELATING TO THE REGULATION OF TEMPORARY USES OF LAND WITHIN THE UNINCORPORATED AREAS OF PUTNAM COUNTY; DECLARING INTENT; PROVIDING FOR EXEMPTIONS; PROVIDING FOR METHODS OF ENFORCEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Putnam County Board of County Commissioners is authorized and empowered to provide by law for the regulation of temporary uses of land; and

WHEREAS, the temporary use of land can and does affect the public health, comfort, convenience, safety, welfare and prosperity of the residents of the unincorporated areas of Putnam County; and

WHEREAS, the necessity, in the public interest, for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the unincorporated areas of Putnam County and the persons therein; and

WHEREAS, the provisions and prohibitions hereinafter contained shall be integrated and made a part of Article 2 of the Putnam County Land Development Code, once Article 2 is presented to and adopted by the Board of County Commissioners.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PUTNAM COUNTY FLORIDA THAT:

Section 1 - Generally: Certain temporary sales are allowed as temporary uses in zoning districts as set forth in the Table 1 below, and are subject to the permitting requirements and supplemental regulations provided below.

TABLE 1 -- TEMPORARY SALES TABLE		
Temporary Sales	Zoning District	Supplemental Regulations
Outdoor Promotional Sales	C-2*, C-3, C-4	Sec. 6
Sale of Produce, Locally-Grown	A, AE, C-1, C-2, C-3	Sec. 7
Sale of Produce, Not Locally Grown, and Seasonal Goods	A, C-2, C-3, C-4	Sec. 8
Special Event Sales	C-2, C-3, C-4, Public Property	Sec. 9
Yard Sale	Residential Properties in All Districts	Sec. 10

* See section 6 below.

Section 2 - Permits Required: Unless expressly exempt by this the ordinance, a Temporary Use

Permit must be obtained from the County Planner in the Planning, Zoning and Building Department or his or her designee, prior to establishment of a temporary use.

Section 3 - Issuance of Temporary Use Permits.

- a. The County Planner, or his or her designee, may issue a Temporary Use Permit for temporary sales within the zoning districts indicated in Table 1, provided the following conditions and requirements are met:
 1. The application shall be accompanied by a site plan showing access, parking, signage, and other necessary facilities, an affidavit of written permission by the property owner of record when the applicant is not the owner, copy of the recorded deed, and applicable fees as provided in a resolution adopted by the Board of County Commissioners.
 2. Prior to granting the Temporary Use Permit, the application for a permit under this Section may be examined and approved by the appropriate departments of the County to ensure the protection of the public health, safety, and general welfare. In addition to normal concerns of each such department, particular attention shall be given to traffic flow and control, automobile and pedestrian safety, and the effect that such use and activity will have on surrounding uses, particularly where the adjoining use is residential. The temporary sale shall not create a traffic hazard, or other hazard to the public. The County Planner, his or her designee, may place appropriate conditions upon the permit to ensure the protection of the public health, safety, and general welfare. If there is clear and convincing evidence that no conditions can be attached to the permit that will ensure the public safety, the County Planner, his or her designee, may deny the Temporary Use Permit. The applicant shall provide all required information on an application provided by the Planning, Zoning and Building Department in order to be considered for a Temporary Use Permit.
 3. The sales period shall not exceed the limits established in for each type of sale described in the sections below.
 4. Any party granted a permit under this subsection shall also comply with all other applicable federal, state, or local regulatory or statutory requirements.
 5. The applicant must provide proof of occupational license or demonstrate that such a license is not required.
 6. The applicant must provide proof Health Department and handicapped requirements for bathrooms are met.
 7. The applicant must provide a Florida sales tax identification number or exemption certificate.
 8. When in the opinion of the County Planner it is deemed necessary, the applicant may be required to post a bond or otherwise provide adequate assurance that the site of the temporary activity will be returned to its original or an improved state when the selling activity has ceased.

- b. The conditions of the permit shall be stated in the permit documents, and shall include, at minimum, the type of use allowed under the permit, the hours of operation, the duration of the use and a site plan on 8.5” by 11” paper depicting the location of the use, access, parking, signage, and other necessary facilities.
- c. The permit documents shall be kept at the site of the temporary use and immediately made available upon request a Putnam County Code Enforcement Officer or Putnam County Sheriff. Failure to produce the permit documents upon request shall be deemed a violation of this ordinance subject to enforcement action under Section 5.
- d. Any decision of the County Planner or other administrative official with reference to the provisions of this subsection may be appealed to the Zoning Board of Adjustment in the manner prescribed in the County's Zoning Ordinance.

Section 4 - Signs: Signs for temporary sales authorized by a temporary use permit issued under this ordinance shall be limited to two (2) signs located within the property for which the permit is issued, and shall not exceed twenty-four (24) square feet in surface area for each sign. All temporary use signs shall otherwise meet all applicable standards of the County's sign regulations. Signs shall not be placed in any road right-of-way and shall not be placed so as to create a traffic hazard of any kind. Signs shall be removed when the permit expires. Failure to adhere to the requirements of this Section, including the timely removal of the signs, shall be deemed a violation subject to enforcement action under Section 5 below.

Section 5 – Violations and Enforcement:

- a. It shall be unlawful for any person to hinder or prevent the performance of any act or duty authorized or required by this Ordinance. Violation of any provision of this Ordinance is a civil infraction with a maximum civil penalty of \$500. A Code Enforcement Officer or a Putnam County Sheriff's, finding probable cause that a person has committed an act in violation of this Ordinance, may issue that person a citation. Any person charged under this section who does not wish to contest the citation shall pay, within 30 days of the date of receiving the citation, the penalty and costs applicable to a Class IV violation set forth in Administrative Order No. 97-002 dated February 25, 1997, as the same may be amended from time to time (the “Administrative Order”), what is currently a total of \$57.00, either by mail or in person to the Clerk of the County Court. If the person cited follows the above procedure, he or she shall be deemed to have admitted the infraction and to have waived the right to a hearing.

(1) Any person who wishes to contest the citation must, within 30 days of the date of receiving the citation, appear in person at the office of the Clerk of County Court and enter a not guilty plea. A hearing date will be set by the Court and the Clerk shall mail a Notice of Hearing. The County Judge, after the hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the County Judge may impose a penalty not to exceed \$500.00 and may assess costs pursuant to the Administrative Order.

(2) Failure to pay the penalty or to timely contest the citation shall result in an Order to

Show Cause being issued by the Court. Said Order to Show Cause shall require the offender to appear before the County Judge on a certain date to show cause why he should not be held in contempt of court for failure to respond. The Court may fine the offender up to Five Hundred Dollars (\$500.00) and may assess costs pursuant to the Administrative Order.

(3) As provided in Section 162.21(6), Florida Statutes, any person who willfully refuses to sign and accept a citation shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, Fla. Stat.

- b. A property owner that allows a temporary use to operate on his or her property shall be deemed to have violated this ordinance when the temporary user operates in violation of this ordinance and be issued a written notice of violation from the Codes Enforcement Officer.
- c. A violation by the property owner shall be subject to a civil penalty of up to \$500 pursuant to enforcement action before the Codes Enforcement Board in accordance with Chapter 162, Florida Statutes, and the County's Code Enforcement Ordinance.

Section 6 - Outdoor Promotional Sales: Outdoor promotional sales shall be read to include all types of temporary sales of goods or services that are not considered sales of produce, special event sales, yard sales, fund raisers or on-site temporary promotional sales by lawful, permanent business. In addition to the general criteria and conditions of this ordinance, a temporary use permit for outdoor promotional sales shall be subject to the following:

- a. The duration of the permit shall be limited to seventy-two hours.
- b. No more than four (4) temporary use permits per location shall be issued in any given calendar year.
- c. With regard to temporary uses in C-2, the proposed temporary use must otherwise be permitted by right or special exception as a permanent use in the C-2 zoning category.
- d. On-site temporary promotional sales by a lawful, permanent business are exempt from permitting requirements; however, such on-site sales shall not exceed a duration of 72 hours; shall not take place in the public right-of-way; shall not impede the normal flow of vehicular and customer traffic for the existing stationary use so as to create a traffic hazard, or other hazard to the public; and shall comply with the County's sign regulations.

Section 7 - Sale of Produce—Locally Grown: Temporary sale of locally grown produce is allowed without a temporary use permit when the produce grown on farms within Putnam County sold. Such produce may only be sold during the growing season in Putnam County for such produce.

Section 8 - Sale of Produce, Not Locally Grown, and Seasonal Goods: Temporary sale of produce, not locally grown and seasonal goods may be allowed by temporary use permit subject to the following:

- a. The duration of the temporary use permit shall be limited to forty-five (45) days.

- b. No more than two (2) temporary use permits per applicant per location shall be issued in any given twelve (12) month period.

Section 9 - Special Events Sales: A special event sale is a temporary sale held in conjunction with a sporting event, parade, festival or other such event. Special events sales may be allowed by temporary use permit. The duration of the permit shall not exceed the period approved for the associated special event.

Section 10 - Yard Sale: A yard sale is a sale of household merchandise by the property owner and includes the term garage sale. A yard sale may be allowed without a temporary use permit subject to the following:

- a. The sale must take place on a property used for residential purposes.
- b. No more than two sales within any twelve-month period may take place on a given residential property.
- c. The duration of a sale shall not exceed 72 hours.

Section 11 – Fund Raising. If the temporary use is for the sole purpose of raising funds to support a community service organization or public charity supported by such an organization, the use may take place on the property normally used for community services without need of a permit. Such a temporary use for fund raising may also take place on any commercially zoned property without need of a permit, subject to the following conditions:

- a. The temporary use must take place in an area that will not impede the normal flow of vehicular and customer traffic for the existing stationary use so as to create a traffic hazard, or other hazard to the public.
- b. The organization has the permission of the landowner or the owner/operator of the existing stationary use.
- c. The duration of a sale shall not exceed 72 hours. Except that (1) a fund raiser that is associated with holiday seasonal sales (i.e. Christmas trees at Christmas or pumpkins at Halloween) shall be allowed for duration of forty-five (45) days ending the day following the applicable holiday; or (2) a fund raiser that takes place inside the building envelope of the stationary commercial use shall not be subject to a specified duration.

Community service organizations, as used herein, shall be read to mean not-for-profit clubs or organizations that are registered and approved as 501(c)(3) corporations by the Internal Revenue Service and organizations affiliated with a local school.

Section 12 - Conflict and Severability:

Should this Ordinance conflict with any other ordinance of Putnam County or any other applicable law, the more restrictive shall apply. Should any section, subsection or provision of this Ordinance be declared unconstitutional or invalid, such decision shall not affect the validity of the

Ordinance as a whole, or any part thereof other than the parts declared to be unconstitutional or invalid.

Section 13 - Effective Date:

This Ordinance shall become effective immediately upon receipt of official acknowledgment of filing by the Secretary of State.

DONE, ORDERED AND ADOPTED by the Putnam County Board of County Commissioners this _____ day of _____, 2002.

**BOARD OF COUNTY COMMISSIONERS
PUTNAM COUNTY, FLORIDA**

ATTEST:

By _____
Brad Purcell, Chairman

**Tim Smith
Clerk of Courts**