

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2023-231

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2019-143 REGULATING GARAGE SALES WITHIN THE CITY.

WHEREAS, the City of Sandy Oaks, Texas ("City") is a Type A General Law municipality organized and incorporated under the laws of the State of Texas; and

WHEREAS, section 51.001 of the Local Government Code authorizes the governing body of a municipality to adopt, publish, amend, or repeal an ordinance, rule, or police regulation that: (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, section 51.012 of the Local Government Code provides a Type A general law municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

WHEREAS, the City Council of the City recognizes the unique qualities of the City's residential areas result in an attractive example of civic pride to homeowners, home renters and home buyers alike and finds the increasing number of garage sales throughout the City detrimentally impacts many of its neighborhoods and has warranted this regulation; and

WHEREAS, holding frequent garage sales within the City is inconsistent with residential uses and occupancy, and creates unnecessary noise, traffic and disturbance to the neighborhood and the residents thereof; and

WHEREAS, it is desirable to regulate such sales activity within the City so as to preserve the benefits of residential areas and protect the public health, safety and welfare;

WHEREAS, garage sales should be reasonably regulated, subject to certain permitted exceptions, to protect the public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:

SECTION 1. PREAMBLES. All of the above and foregoing recitals are found to be true and correct and made a part of this ordinance for all purposes.

SECTION 2. DEFINITIONS. As used in this ordinance, the following words and phrases have the meaning provided in this section.

- (a) *Charitable/nonprofit organization* means any organization qualifying as nonprofit under Section 501(c) of the Federal Income Tax Code or the Texas Nonprofit Corporation Act.
- (b) *City Administrator* means the City Administrator or the Interim City Administrator of the City and his or her designee. In absence of a City Administrator, City Administrator means the Mayor or his or her designee.
- (c) *City-wide garage sale* means a garage sale open to all citizens selling personal property at a collective location.
- (d) *Garage sale* means a sale that is conducted, or that is permitted or allowed to be conducted, by the owner or occupant of an apartment, duplex, house or other structure designed for human habitation and located in a residential area where any goods or merchandise is displayed outdoors and the public is invited by signs, advertising, or in any other manner to come for the purpose of purchasing goods, wares, or merchandise. Garage sale means and includes all sales entitled garage sale, lawn sale, attic sale, yard sale, rummage sale, or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.
- (e) *Garage sale operator* means any person with a permit issued by the City to operate a garage sale.
- (f) *Occasional sale* means an occasional sale as defined in Texas Tax Code section 151.304, as amended.
- (g) *Person* means and include individuals, entities, partnerships, voluntary associations and corporations.
- (h) *Personal property* means property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. Merchandise purchased for resale at a garage sale or obtained by consignment for sale at a garage sale is prohibited.
- (i) *Residence* means any single-family structure or multi-family complex which may be owned, rented or leased.
- (j) *Residential area* means any lot, tract or parcel of land within the City that: (i) was laid out and platted for a dwelling; (ii) has a dwelling located on the lot, tract or parcel; (iii) is occupied and used as a residence; or (iv) has not been used or occupied at any time prior to the date of this ordinance for any retail, commercial or industrial use, and that has not been designated by the City as being within an industrial area.
- (k) *Right-of-Way* means a strip of land occupied or intended to be occupied by a publicly owned and maintained street, that is used, set aside, dedicated, reserved or platted as street or highway, including that part or portion between the travel lanes of the street and the property line of the abutting property.

SECTION 3. GARAGE SALE OPERATOR'S PERMIT.

- (a) It shall be a violation of this ordinance for any person to operate or participate in the operation of a garage sale without first obtaining the proper permit from the City Administrator.
- (b) An application for a garage sale permit shall be made to the City Administrator before the last business day before the sale date.

SECTION 4. APPLICATION FOR A PERMIT.

- (a) An application for a garage sale permit shall be made upon forms provided by the City Administrator.
- (b) The application shall contain all information necessary to fully advise the City Administrator of the date(s), location (street address), hours of operation of the garage sale and any other information that may be reasonably required by the City Administrator.
- (c) Only the owner or lessee of the residential property upon which the garage sale is being conducted may obtain such permit.
- (d) Before such permit is issued, the applicant shall provide proof of address (driver's license, utility bills or other identification) and any other pertinent information as may be reasonably required by the City Administrator. Upon verification and compliance with provisions of this ordinance, and payment of the fee, if applicable, the applicant may be issued a permit for a garage sale by the City.
- (e) By making application for such garage sale permit, accepting said permit and conducting such sale, the owner or lessee of the property to whom such permit is granted, authorizes any code enforcement officer or law enforcement officer of the City to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this ordinance

SECTION 5. PERMIT INFORMATION.

- (a) Each permit issued shall bear the name of the permit holder, the street address of the residence where the sale will be located, the date(s) and hours when the garage sale will be held and any other information deemed necessary by the City Administrator.
- (b) The permit must be clearly displayed and visible for a distance of six (6) feet from the curb line or nearest edge of paved portion of the street or right-of-way or be immediately available for inspection at the sale location.

SECTION 6. MAXIMUM NUMBER OF GARAGE SALES; TERM OF PERMIT; REPLACEMENT PERMIT FOR INCLEMENT WEATHER.

- (a) All permits covered by this ordinance continue in full force from the date specified on the permit.
- (b) Each residence making an occasional sale as a garage sale is allowed two (2) garage sales per 12-month period, not to exceed one (1) garage sale per month. The City may allow additional garage sales to an applicant for a garage sale permit, not to exceed one (1) garage sale per month, if the applicant provides proof of a sales and use tax permit obtained from the Texas Comptroller. Each garage sale shall not exceed three (3) consecutive days. A garage sale shall not begin before 8:00 a.m. nor last beyond 6:00 p.m. on any day.
- (c) Should inclement weather unreasonably hinder the operation of the garage sale during the time authorized by the permit, the City Administrator may issue a replacement permit allowing the completion of the authorized time provided that:
 - (1) The garage sale operator requests the replacement permit within one week from the initial permit's date of issuance; and

- (2) The replacement is valid for the completion of the initial permit's allotted time within thirty (30) days from the replacement permit's date of issuance; and
- (3) Only one replacement permit shall be issued for any garage sale permit regardless of subsequent weather conditions or circumstances; and
- (4) No more than one replacement permit shall be issued per calendar year per address.

SECTION 7. PERMIT NONTRANSFERABLE. No permit covered by this ordinance shall be transferable, nor shall a permit holder allow his name to be used by any other party for the purposes of operating a garage sale.

SECTION 8. SIGNS AND REMOVAL OF SIGNS ADVERTISING GARAGE SALES. All signs and placement of signs advertising or notifying the public of a garage sale shall comply with the City's ordinance regulating signs. A garage sale operator shall remove any sign advertising or notifying the public of a garage sale within 48 hours after the expiration of the garage sale permit.

SECTION 9. DISPLAY OF SALE ITEMS. Personal property shall be exhibited or displayed on the private property where the residence is located, not closer than five (5) feet to the front or side property lines and cannot be placed in the public right-of-way.

SECTION 10. SALE OF FOOD ITEMS. Food items shall not be sold under authority of a garage sale permit such sale must be conducted in compliance with the City's Health and Safety ordinance and ordinance related to vendors, solicitors, and peddlers.

SECTION 11. EXCEPTION FOR CHURCHES, CHARITABLE, NONPROFIT ORGANIZATIONS, CITY-WIDE AND CITY SPONSORED EVENTS.

- (a) A church, charitable, or nonprofit organization is not restricted to the number of garage sales per calendar year provided that the sale is conducted on the church or organization property and that a member of the church or organization, authorized to represent it, registers as a church, charitable or nonprofit organization with the City to obtain a permit for each calendar year. A church, charitable, or nonprofit organization must comply with all other requirements of this ordinance.
- (b) City-wide or City-sponsored garage sales are not restricted to the number of garage sales held in a calendar year and the garage sale operator need not obtain a permit for the garage sale. A garage sale operator in a City-wide or City-sponsored garage sale must comply with all other requirements of this ordinance.

SECTION 12. PENALTIES FOR VIOLATION.

- (a) It shall be a violation of this ordinance for any person to operate, participate in or recklessly to allow to be operated upon property owned or controlled by that person a garage sale in a manner not in compliance with the provisions of this article. Each day a violation is committed or permitted to continue shall constitute a separate offense.

- (b) It shall be unlawful for any garage sale operator to fail to remove any advertising sign upon expiration of the garage sale permit. A violation of this subsection shall be punishable by a fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.

SECTION 13. SEVERABILITY. If any clause or provision of this ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the ordinance, which shall continue to have full force and effect.

SECTION 14. PUBLICATION. The City Clerk is hereby authorized and directed to publish this Ordinance, or a caption that summarizes the purpose of this Ordinance and the penalty for violating this Ordinance in the manner and for the length of time prescribed by law.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

PASSED AND APPROVED the 9th day of November 2023.

CITY OF SANDY OAKS, TEXAS



Michael Martinez, Jr., Mayor

ATTEST:



Katherine Yelton, City Secretary