

ORDINANCE NO. 2009-532
REQUIRING PERMITS FOR GARAGE SALES AND PLACING LIMITATIONS ON THEIR FREQUENCY

AN ORDINANCE OF THE CITY OF GOLIAD, TEXAS, REQUIRING A PERMIT FOR THE OPERATION OF A GARAGE SALE, PROVIDING FOR PROCEDURES FOR OBTAINING A PERMIT, ESTABLISHING REQUIREMENTS AND RESTRICTIONS ON OPERATION OF GARAGE SALES, SETTING FEES, PROVIDING A REPEALER CLAUSE, PROVIDING FOR PENALTIES, PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Council recognizes that a City's residential areas are a source of civic pride to homeowners, home renters and home buyers alike; and

WHEREAS, as a matter of public policy the City Council aims to preserve, enhance and perpetuate the economic value and the residential character of the city's neighborhoods in part by regulating garage sales, and that such preservation promotes and protects the health, safety, comfort, economic investment, and general welfare of the people living in Goliad.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLIAD, TEXAS, that the following regulations are hereby established within the City of Goliad.

SECTION 1.0

Purpose: This ordinance specifically seeks to achieve the following goals:

- To protect residential areas from the permanent encroachment of commercial uses;
- To limit the proliferation of unsightly signs and signage structures;
- To protect the aesthetic qualities of neighborhoods;
- To ensure the harmonious and orderly operation of garage sales in residential areas; and;
- To provide a means to assist garage sale permittees in the promoting of their sales.

SECTION 2.0

Definitions: The following words, terms and phrases, when used in this Ordinance shall have the meaning defined as follows, except where the context clearly indicates a different meaning:

- 1) **Garage sale:** An organized sale for the purpose of disposing of tangible personal property that is open or advertised to the public, conducted from or at a residence (single-family, duplex or apartment) or within any area zoned residential, and includes the sale of more than five (5) specific items of tangible personal property.
- 2) **Residence:** Any single-family structure or multi-family complex, which may be owned, rented or leased.
- 3) **Garage sale operator:** Any person with a permit issued by the city to operate a garage sale.
- 4) **Person:** Includes individuals, partnerships, voluntary associations and corporations.
- 5) **Personal property:** 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.

- 6) **Charitable/nonprofit organization:** An organization qualifying as nonprofit under Section 501(c) of the Federal Income Tax Code of the Texas Nonprofit Corporation Act.

SECTION 3.0

Permit Required

- 1) It shall be unlawful for any person to advertise, operate or participate in the operation of a garage sale without first obtaining the proper permit from City Hall.
- 2) New personal property or merchandise purchased for resale or obtained by consignment for sale may not be sold at a garage sale.
- 3) All permits covered by this article shall continue in full force from the date specified on the permit. Each garage sale shall not exceed three (3) consecutive days.
- 4) The city shall issue one (1) permit for each garage sale. Permits may be issued to a residence no more than three times per calendar year. Subsequent garage sale permits may not be issued sooner than sixty (60) days after the first.
- 5) No permit covered by this article 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.
- 6) An applicant having a valid permit may operate a garage sale between the hours of 7:00 a.m. and 6:00 p.m.
- 7) Food items shall not be sold under authority of a garage sale permit.

SECTION 4.0

Application for Permit

- 1) An application for a garage sale operator's permit shall be made upon forms provided by City Hall.
- 2) The application shall contain 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.
- 3) Only the owner or lessee of the residential property upon which the garage sale is being conducted may obtain such permit.
- 4) Before issuance of a permit, 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. Upon verification and compliance with provisions of this article, and payment of the proper fee, the applicant will be issued a permit for a garage sale by the city.
- 5) 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 officer of the City of Goliad to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this article.
- 6) An applicant shall pay an operator's fee of \$1.00 for each permit issued.

- 7) An applicant may obtain a permit between the hours of 8 a.m. and 5 p.m. Monday through Friday.
- 8) Outdoor advertising and informational signage for permitted garage sales shall be limited to the criteria in 'SECTION FOUR: Display of Signs' Each sign displayed in public must contain the permit number and permit date(s).

SECTION 5.0

Display of Signs

- 1) No signs shall be exhibited more than one (1) day prior to the sale, and shall be removed upon expiration of the garage sale permit. The person or persons exercising ownership or leasehold rights over property on which a garage sale is held or advertised to be held shall be presumed to have placed and exhibited the sign advertising the garage sale that identifies the person's address or location at which the garage sale is to be held. This presumption may be rebutted by evidence to the contrary.
- 2) One garage sale sign with the permit number affixed on its face shall be displayed on the applicant's property visible no more than four (4) feet from the curb-line or nearest edge of the paved portion of the nearest street or right-of-way.
- 3) Garage sale signs may not be posted on city property, or on private property without the express permission of the property owner. Garage sale signs shall not be mounted upon or attached to any utility pole, traffic sign or street sign or other public device or structure. Signs must be securely staked or otherwise secured. Garage sale signs may not be placed in the right of way of any highway, street, alley or railroad. Signs may not project over such right of ways.
- 4) A garage sale operator shall remove all signs within 24 hours after expiration of the garage sale permit. Violators of this section are subject to a fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.
- 5) Signs giving notice of or advertising garage sales shall not exceed four square feet (2'x2') in face area. They may not be illuminated.

SECTION 6.0

Exception for Churches and Charitable Nonprofit organizations

- 1) Any church, charitable or nonprofit organization may hold a maximum of six (6) garage sales per year, provided:
- 2) The church or organization does not hold more than one (1) garage sale per month.
- 3) The sale must be conducted on the church or organization's property.
- 4) A member of the church or organization, authorized to represent it, must register with the City. No fee will be charged for registration.
- 5) None of the net earnings of a garage sale shall inure to a shareholder or other individual.

Section 6.0

Severability Clause: That if any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstances is adjudged or held invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

Section 7.0

Repealing Clause: All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 8.0

Effective Date: This Ordinance shall be effective the 1st day of January, 2010.

DULY PASSED AND ADOPTED UPON MOTION OF COUNCILMEMBER Zavesky SECONDED BY COUNCILMEMBER Bochat THAT THE ORDINANCE BE ADOPTED ON FIRST READING. AYES: Zavesky, Bochat, Mullenix and Powell NAYES: None. MOTION CARRIED THIS 15th DAY OF December, 2009.


Jay Harvey, Mayor

ATTEST:


CJ Snipes, City Administrator

APPROVED AS TO FORM:


Terry Baiamonte
CITY ATTORNEY