Ordinance No. 5-1/A

An Ordinance of The City of Oak Ridge, Texas,
Adopting Regulations Regarding Garage Sales;
Establishing Definitions; Establishing Requirements
And Regulations; Providing for Registration;
Establishing a Penalty; Providing a Severability
Clause; Providing a Repealer Clause; and Providing
For Said Ordinance to take Immediate Effect.

WHEREAS, Section 51.001 of the Texas Local Government Code authorizes a Municipality to adopt ordinances for the good government, peace or order of the municipality; and

WHEREAS, the City Council recognizes the importance of championing great neighborhoods throughout the City of Oak Ridge; and

whereas, the proliferation of commercial sales on residential properties on a regular basis threatens to detrimentally impact the investments homeowners have made in their residential properties and their individual neighborhoods; and

WHEREAS, the City Council finds that placing reasonable limits and restrictions on garage sales is necessary to protect residential areas from permanent encroachment by commercial uses; and

WHEREAS, the City Council finds that these regulations will provide for the orderly operation of garage sales while protecting the aesthetic qualities of its neighborhoods;

NOW, THEREFORE, BE IT ORDAINED BT THE CITY COUNCIL OF THE CITY OF OAK RIDGE, TEXAS, THAT:

SECTION I. FINDINGS INCORPORATED

1.01 Title

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

1.02 Purpose

The purpose of this Ordinance is to protect the residential character and nature of the many diverse neighborhoods throughout the City of Oak Ridge, Texas. The City Council recognizes the importance of championing great neighborhoods. The City Council desires to protect residential areas within the City limits from the encroachment of commercial uses. The intent of adopting these garage sale regulations is to promote and protect the health, safety, comfort, economic investment, quiet enjoyment, and general welfare of the people residing within the City of Oak Ridge.

1.03 Applicability

The requirements of this Ordinance shall apply to all garage sales conducted or advertised within the City of Oak Ridge, Texas.

SECTIONII ADOPTION

2.01 Definitions

Garage sale means all general sales, open or advertised to the public, conducted from or on a residential premises (single-family, duplex, or multi-family), in any zoning use district, for the purpose of disposing of tangible personal property. Said sale includes situations in which more than five (5) specific items of tangible personal property are displayed for sale. For purposes of this Section, a private invitation only event for the sale of tangible personal property within a residence shall not constitute a garage sale.

Individual location means a residential structure or structures with a unique physical address recognized by the City of Oak Ridge. For the purposes of this Section, an individual location may be a single-family detached dwelling, a single-family attached dwelling, a townhouse dwelling, or one-half of a duplex dwelling. An individual location shall not include a multi-family dwelling or a live/work dwelling.

Person includes an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, limited liability company, estate, trust, public or private organization.

Calendar year means that period of time from January 1 through December 31 of any year.

Chief Building Official means the official appointed by the administration or City Council and charged with the responsibility of enforcing this ordinance.

Dwelling means any building, or portion thereof, designed or used exclusively for residential occupancy or which is occupied, controlled or used by any person as defined in this section.

Garage Sale means any sale of goods, wares and merchandise in or on any dwelling or private residential premises or in or on any commercial premises other than one zoned therefore and for which a current valid commercial store license has been issued.

Person means any person, individually, or any group of persons collectively or any association organized for benevolent, charitable, religious or cultural purposes not for business or profit.

SECTION III

PERMITS AND REGULATIONS

Section 3.01 Permit Required

- A. It shall be unlawful for any person to operate, participate in, or allow the operation of a garage sale without first obtaining the proper garage sale permit from the authorized department.
- B. Upon approval of an application pursuant to Section 3.05, the authorized department shall issue one (1) permit for each garage sale; provided, however, that the individual location proposed for the garage sale has not exceeded the maximum number of garage sales allowed per year.
- C. A customer or potential customer shall not be held liable if attending an unpermitted garage sale; provided that they are not otherwise participating in the garage sale.
- D. Individual apartment addresses shall not be eligible for a garage sale permit. A garage sale permit may be issued to an entire apartment complex, but not to individual apartments, units, or buildings.

Section 3.02 <u>Maximum Number of Garage Sales</u>

No more than three (3) garage sale permits shall be issued for a specific individual location within a twelve (12) month period.

Section 3.03 Permit Nontransferable

A garage sale permit may not be transferred to another person or individual location address.

Section 3.04 Term of Permit

All garage sale permits shall continue in full force and effect for the dates and times specified on the permit. No garage sale shall exceed three (3) consecutive days.

Section 3.05 <u>Application for Permit</u>

- A. An application to conduct a garage sale shall be made upon a form provided by the authorized city department.
- B. The application shall contain all the information necessary for the authorized department to be advised of the date(s), location, hours of operation of the garage sale, and any other information that may be reasonably required to process the application.
- C. A garage sale permit may only be obtained by the legal owner or lessee of the residential property upon which the garage sale is proposed to be conducted. If the residential property upon which the garage sale is proposed is legally conveyed or leased to another person during the calendar year, the new owner or lessee of the residential property shall, upon approval of an application for a garage sale permit, be authorized to conduct up to **three (3)** garage sales for the remainder of the year. The sale or lease of a residential property shall not be used to circumvent the limits placed herein on the number of permitted garage sales on a specific residential property.
- D. The application may require the applicant to provide proof of address (driver's license, utility statement, or other approved identification) and any other pertinent information as may be reasonably required by the authorized department. The applicant shall submit the application to the authorized city department. An application for a garage sale permit authorizing an apartment complex to conduct a multi-family garage sale must be submitted by an authorized person responsible for managing the apartment complex.

An application shall be approved or denied within five (5) days of receipt by the authorized department. The denial of a garage sale permit may be appealed to the director of the authorized department by submitting an appeal in writing no later than ten (10) days after the denial of the garage sale application. A decision by the director on any garage sale permit appeal shall be made within thirty (30) days of receipt of the appeal.

Section 3.06 Possession of Permit

Each garage sale permit issued shall bear the street address of the residence where the sale is located, together with the date(s) and hours when the garage sale will be conducted. A person conducting a garage sale must keep a validly issued garage sale permit on the premises and present said permit for inspection upon request.

Section 3.07 <u>Temporary On-Premise Garage Sale Sign</u>

Only one (1) on-premise sign advertising the garage sale shall be allowed and shall be located at the property where the sale is being conducted. Said sign must be removed following the expiration of the garage sale permit. Said sign must be staked into the ground, may not be attached to utility poles or public street sign posts, and may not be placed within the public right-of-way, or State right-of-way. Said sign may not exceed 4-feet in height and 8 square feet in area in accordance with the temporary sign standards.

This section only applies to on-premise signs.

Section 3.07 A Temporary Off-Site Garage Sale Sign

Only one (1) off-premise sign advertising the garage sale may be placed on private property only which is developed and occupied, subject to the permission from the owner of the property on which the sign is to be placed.

Section 3.08 Hours of Operation

No garage sale shall begin before 7 o'clock in the morning, nor continue after 7 o'clock in the evening.

Section 3.09 No Additional Authority to Sell Food Products

A garage sale permit does not grant any additional authority to sell food products or prepared food items that would require a mobile food vending or other food establishment permit to sell. Nothing in this section shall be construed to conflict with the exemptions for cottage food production operations in Chapter 437 of the Texas Health and Safety Code, as amended.

Section 3.10 <u>Display of Sale Items</u>

No personal property exhibited or displayed for sale shall be placed within five (5) feet of the public right-of-way.

SectionIV

PENALTY CLAUSE

Section 4.01 <u>Violation of Regulations and Penalty</u>

- A. It shall be unlawful for a person to operate, participate in, or to allow to be operated a garage sale in a manner not in compliance with the provisions of this Section.
- B. It shall be unlawful for a person who is operating, participating in, or allowing the operation of a garage sale to fail to remove any advertising sign (both on-premise or off-premise) upon expiration of a valid garage sale permit.
- C. It shall be unlawful for a person who is operating, participating in, or allowing the operation of a garage sale to violate any other provision of this Chapter relating to garage sales.
- D. It shall be unlawful for a person to sell, offer for sale, or display for sale more than two identical items at a garage sale. For purposes of this Chapter, the meaning of "identical items" shall include matching articles of clothing in different sizes or identical housewares in different colors. Items typically sold in sets (such as tableware) are allowed; provided, however, that whole sets are not offered for sale in multiples exceeding two.
- E. It shall be unlawful for a person, under the pretense of conducting a garage sale, to engage in commercial activity on any residential property. For the purposes of this Chapter, a person is legally presumed to be engaging in commercial activity if he or she does any of the following:
 - 1. Displays new items of tangible personal property for sale. For purposes of this Chapter, items for sale are presumed to be new if they are displayed in their original wrapping or packaging, still have price tags or stickers affixed to them, or otherwise appear to be of such character that they appear to have never been used or operated.

- 2. Displays for sale items of tangible personal property in volumes exceeding the regular expected number of such personal property items present at a single-family dwelling. For example, more than two refrigerators, freezers, washing-machines, etc.
- 3. Uses a commercial motor vehicle or large van or truck (i.e. rental moving truck) to transport large quantities of items to a residential property for the purpose of displaying for sale.
- F. Any person, corporation, association, or entity who violates any of the provisions of this Ordinance commits an offense that is considered a Class C misdemeanor and shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Each day that a violation of this Section is committed or permitted to continue shall constitute a separate offense.
- G. There shall be no requirement of a culpable mental state for an offense under this Section.

Section 4.02 Enforcement

This Ordinance may be enforced by any officer or employee of the authorized department or any other officer or employee of the City as may be designated by the City Council to enforce the provisions of this Ordinance.

Section V Severability Clause

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section VI Repealer Clause

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section VII Effective Date

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Oak Ridge, Texas, on this the 23rd day of October, 2023.

Al Rubin, Mayor City of Oak Ridge

ATTEST:

Judy Crow, City Secretary

City of Oak Ridge