

Ordinance No. 18-011

An ordinance creating the “Garage Sales” Chapter of the Code of the City of Arlington, Texas, 1987; providing regulations for garage sales; establishing requirements for permits allowing a limited number of garage sales to be conducted at a specific location per year; providing for a fine of up to \$500.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date

WHEREAS, the City Council recognizes the importance of championing great neighborhoods throughout the City of Arlington; 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 BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Garage Sales” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby established and shall read as follows:

ARTICLE I**GENERAL PROVISIONS****Section 1.01 Title**

This Chapter of the Code of the City of Arlington is hereby designated and shall be known and referred to as the “Garage Sales” Chapter of the City Code of Ordinances.

Section 1.02 Purpose

The purpose of this chapter is to protect the residential character and nature of the many diverse neighborhoods throughout the City of Arlington, 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 Arlington.

Section 1.03 Applicability

The requirements of this chapter shall apply to all garage sales conducted or advertised within the City of Arlington, Texas.

ARTICLE II

DEFINITIONS

Section 2.01 Definitions

Authorized department includes the department designated by the City Manager to administer the provisions of this Chapter.

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 Chapter, 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 Arlington. For the purposes of this Chapter, 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. Each of the dwelling units referenced herein shall have the same meanings as defined in Section 12.3.1.A of the Unified Development Code.

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

ARTICLE 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 Maximum Number of Garage Sales

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 Application for Permit

- 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.
- E. 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 Temporary On-Premise Garage Sale Sign

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. Said sign may not exceed 4-feet in height and 8 square feet in area in accordance with the temporary sign standards in Section 7.10.1 of the Unified Development Code.

This section only applies to on-premise signs. Off-premise signs are subject to the provisions of Section 7.4.1 of the Unified Development Code.

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 Display of Sale Items

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

ARTICLE IV

ENFORCEMENT

Section 4.01 Violation of Regulations and Penalty

- 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 Chapter.
- 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 Chapter 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 Chapter.

Section 4.02 Enforcement

This Chapter 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 Manager to enforce the provisions of this Chapter.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred Dollars and No Cents (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.


7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

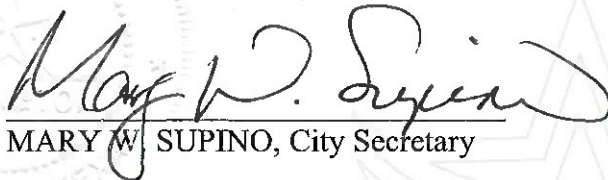
This ordinance shall become effective ten (10) days after first publication.

PRESENTED AND GIVEN FIRST READING on the 30th day of January, 2018, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 13th day of February, 2018, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



W. JEFF WILLIAMS, Mayor

ATTEST:



MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY: 

ARLINGTON™