

ORDINANCE NO. 5111

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS, AMENDING CHAPTER 82 – SALES, ARTICLE II – ‘GARAGE, PORCH AND YARD SALES’ OF THE CITY OF MISSION’S CODE OF ORDINANCES, TO INCLUDE CLUBHOUSE/RECREATION HALL SALES PERMIT, RUMMAGE SALES PERMIT, TENT SALES PERMIT, AND ESTATE SALES PERMIT; TO PROVIDE FOR A CUMULATIVE PROVISION; TO PROVIDE FOR A SEVERABILITY PROVISION; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND TO HAVE THE APPLICABLE PROVISIONS OF THIS ORDINANCE CODIFIED IN THE CITY OF MISSION’S CODE OF ORDINANCES

WHEREAS, The City of Mission, Texas has existing regulations governing the private operation of garage sales, porch sales, and yard sales through its permit processes; and,

WHEREAS, The City of Mission, Texas desires needed improvement to these permit sales regulations to meet the changing needs of a growing populace; and,

WHEREAS, There appears to be an ever-evolving concern regarding the collective sale of sundry items within a residential community’s clubhouse/recreation hall; inclusive of similar concerns regarding estate sales, rummage sales, and tent sales of varying incidence and depth; and,

WHEREAS, It is in the City of Mission’s best interests to amend the applicable sections of the Code of Ordinances to better monitor, control, and regulate such sales in order to effect a tighter structure of such sales operations that may inherently disturb the joy and peace desired of Mission’s surrounding residential neighborhoods; and,

WHEREAS, There also needs to be a need to improve operations of tent sales in commercial areas to maximize controlled safety measures, thus realizing a pleasant sales experience to both the operator and patron.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSION, COUNTY OF HIDALGO, STATE OF TEXAS, THAT THE FOLLOWING AMENDMENTS BE HEREBY APPROVED:

**ARTICLE II. – GARAGE, PORCH, YARD, CLUBHOUSE/RECREATION HALL, RUMMAGE, TENT, AND ESTATE SALES**

Sec. 82-31. - Purpose and intent of article.

- (a) As a matter of public policy, the City Council aims to preserve, enhance and perpetuate the economic value and the residential character of ~~its the city's~~ neighborhoods in part by **properly** regulating garage sales, **clubhouse/recreation hall sales, rummage sales, tent sales, and estate sales**. Such preservation promotes and protects the health, safety, comfort, **tranquility**, economic investment, and general welfare of the ~~people~~ **citizens residing living** in Mission, **as well as visiting patrons**.
- (b) More specifically, ~~this garage sale, permits issued for~~ clubhouse/recreation hall sales, and estate sales ~~article is~~ **are** intended to achieve the following goals:
  - (1) To protect residential areas from ~~the semi-permanent~~ **occasional** encroachment of commercial uses which induces an incidental influx of traffic and increased on-street parking;
  - (2) To protect and magnify the aesthetic **and peaceful** qualities **desired** of **all residential** neighborhoods;
  - (3) To ensure the harmonious and orderly operation of garage sales in residential areas; and
  - (4) To ensure the harmonious and orderly operation of tent sales in commercial areas.

Section 82-32 – “Definitions”, is hereby amended by adding the following

**Clubhouse/Recreation Hall Park Sale:** A clubhouse/recreation hall park sale is usually a sale of personal items where multiple property owners **and/or tenants** collectively organize to offer their private items to have a joint sale at their clubhouse or recreation hall.

**Estate Sale:** An estate sale or estate liquidation is a sale or auction to dispose of a substantial portion of the materials owned by a person who is (recently) deceased or who must dispose of their personal property to facilitate a move.

**Rummage Sale:** A sale of miscellaneous secondhand articles, typically held to raise funds for a charity, a non-profit cause, and/or a special event or purpose.

**Tent Sale:** Any retail sales operation conducted on a commercially zoned property that either partially or entirely is outside within in a temporary structure such as a tent.

Section 82-35 ~~Garage~~ Sales operators’ permit be amended as follows.

- (A) Garage sale operators’ permit. It shall be unlawful for any person or church or institutional organization to operate or participate in the operation of a ~~garage sale of~~ **sundry items** without first obtaining the proper permit from the City of Mission. Since more time for perusing numerous displayed items is expected at a church or institutional ~~garage sales event~~, the church or institutional organization must make their restroom facilities available as needed, **and such restroom facilities shall be functional, and properly equipped with necessary paper towels, and other necessities throughout the duration of said sales event. If logistics or security is a concern for the applicant, a portable restroom may be considered as a viable option so long as it is clean, sanitized, and properly equipped with typical restroom necessities.**
- (B) **Clubhouse/Recreation Hall Park Sale Permit, Estate Sale, Rummage Sale, & Tent Sales.** It shall be unlawful for any person, business owner/operator, auctioneer or clubhouse Homeowner’s Association, to participate in the operation of any clubhouse/recreation hall park sale, estate sale, rummage sale or tent sale without first obtaining the proper permit from the City of Mission.

Section 82-36 Term of garage sale permit to be amended as follows.

All permits covered by this article shall continue in full force from the date specified on the permit. Each **residential** garage sale shall be valid for either four consecutive days, or two consecutive two-day weekends (any two-day combination of Friday, Saturday or Sunday).

- Clubhouse/Recreation Hall Park Sale.....1-day sale only and must submit a list of all property owners that will participate and their addresses.**
- Rummage Sale.....Must submit a bone fide letter for permit approval prior to the event.**
- Tent Sale.....1 day, but no more than a 3 day sale; must obtain signed letters from ALL property owners & tenants agreeing to use the commercial parking lot for the sale; no such permit shall be issued if there is insufficient parking due to the size of the temporary structure and any incidental staging area.**
- Estate Sale.....2 day sale; proper documentation shall be provided as part of the permit application process to sustain that said estate sale is a legitimate event.**

Section 82-37 Maximum number of garage sales to be amended as follows.

The City of Mission shall issue one permit for each **residential** garage sale. Each location shall be allowed four garage sales per calendar year not to exceed one garage sale per three-month interval.

**Clubhouse/Recreation Hall Park Sale & Tent Sale shall be valid for one day, but no more than a three day sale. Each location shall be allowed 2 sales permits per calendar year, not to exceed one Tent Sale per six-month interval.**

Sec. 82-38. - Permits issued in violation of this article.

Any garage, clubhouse/recreation hall, rummage, tent, and estate sale permit discovered to have been incorrectly and/or inadvertently issued shall be null and void; **whereafter the City shall immediately alert the applicant/operator of such permit cancellation with instruction on securing a refund of any paid fees; such 'notice' shall be documented by staff on the day/time of the conversation (inclusive of any electronic 'notice').** Such needful cancellation of a permit may not preclude the applicant/operator from applying anew to secure a bona fide and valid sales permit. ~~A voided garage sale permit shall not constitute validity for the operator to conduct a garage sale whereafter no garage sale shall be deemed authorized until a garage sale permit shall be validly issued.~~

Sec. 82-39. - Application for a Sales Permit.

- (a) An application for a ~~garage~~ sales permit shall be fully completed upon forms provided by the City of Mission.
- (b) The application will contain all reasonable information necessary to fully advise the City of Mission of the date(s), location (street address), hours of **sales' operation, etc.** ~~of the garage, sale and any other information that may be reasonably required.~~
- (c) Only a legal occupant of the residential property upon which the garage, **clubhouse/recreation hall, rummage and estate** sale will be conducted may obtain such permit. In the case of a church or institutional ~~garage rummage~~ sale permit, **signed** correspondence on church letterhead with an original signature from a church authority or authority of the institutional organization citing the ~~need~~ **desire** to secure said permit shall be provided **in a timely manner** to assure legitimacy of consideration. **Once confirmed and verified,** the church or institutional organization may ~~be able to~~ apply to the City Manager's office for the garage sales permit. **In the case of a clubhouse/recreation hall sales permit, correspondence on the developments' letterhead with an original signature and name of all vendors and all participants' addresses shall be provided to assure legitimacy of consideration. In the case of the tent sale permit, signed correspondence with original signatures from ALL property owners and tenants agreeing to use the parking lot for such a sales event shall be timely provided; on such a tent sale permit, staff shall assure that sufficient off-street parking shall still remain available excluding the area where the temporary shelter (tent) shall be located.**
- (d) Before such permit shall be issued, the application 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 of Mission. Upon verification and full compliance with the provisions contained herein, and payment of the proper fee, a ~~garage~~ sales permit will be issued. ~~by the City of Mission.~~
- (e) ~~By making application for such garage sales permit, accepting said permit and conducting such sale,~~ The owner or lessee of the property to whom such a sales permit is granted ~~authorizes-realizes and agrees~~ that a **certified Code Enforcement Officer** of the City of Mission **shall have the inherent right** to enter upon the property during reasonable hours for the purpose of determining that such sale is being fully conducted in accordance with the provisions of this Article.

Sec. 82-40. - Permit number and garage sales permit information.

- (a) Each **sales** permit issued shall bear the street address of the residence where the sale will be located, the date(s) when the garage sale will be held, and any other **reasonable** information deemed necessary by the City of Mission.
- (b) The **sales** permit must be clearly displayed and visible **from a general** distance of six feet from the **streets'** curblin or nearest edge of paved portion of the street or right-of-way; **and shall** ~~or~~ be immediately available for inspection at the **approved** garage-sale location.

Section 85-41 Fees to be amended as follows

No **residential sales** permit shall be issued unless the **resident** applicant has first paid the garage sale operator's fee of \$10.00 for each permit obtained.

No sales permit shall be issued unless the applicant has first paid the Clubhouse/Recreation Hall – rummage - tent sale operators' fee of \$50.00; and the Estate operators' sales fee shall be \$75.00.

Sec. 82-44. - Penalties for violation of Article.

- (a) It shall be unlawful for any person to operate, participate in, or recklessly allow to be operated upon ~~their property owned or property controlled by that person, a sales event or institution 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. The City of Mission reserves the right to immediately revoke ~~any issued sales permit a garage, sale permit upon documentation of the violation of if any of the more substantial regulations contained herein are violated.~~ **However, It is noted and understood that a church or institution may sell "new or seemingly new" items due to its non-profit status. If a garage, clubhouse/recreation hall, rummage, tent, and estate sales permit is so needfully revoked, there will be no reimbursement of paid fees, unless determined otherwise by the City Manager; dependent on the plethora of varying circumstances. Any such reimbursement, be it partial or full, shall be properly documented on the sales permits' file.**
- (b) Unless otherwise specified, each violation of any provision of this Article shall be punishable by a fine not to exceed \$25.00 for the first two convictions, and not to exceed \$100.00 for each conviction thereafter. Every calendar year shall **result in a 'reset penalty fine to zero' process; there shall be no rollover fines or cumulative fines that shall ever be extended to any subsequent calendar year.** ~~default the fine process to its inception; i.e., \$25.00 initial fines followed by the \$100.00 fine for each conviction thereafter.~~
- (c) ~~Failure of the responsible operator of a sales permit a garage, sale operator to remove any and all advertising signs upon expiration of said the garage-sale permit shall be punishable by a fine not to exceed \$25.00 per sign/per day for each day past the approved deadline. for removing signs.~~
1. Should the provisions, sections, and/or regulatory measures be in conflict with any existing regulations, it is declared that the intended terms of this ordinance shall govern.
  2. If any part or parts of this Ordinance are found to be invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect.
  3. This ordinance shall be effective upon publication of the caption of this ordinance which shall be published by the City Secretary in a newspaper of general circulation in the City of Mission according to legislative protocol.
  4. Upon approval, the City Secretary is hereby instructed to send a signed copy of this ordinance to the City of Mission's codifying agent so that the regulatory terms and amendments approved hereby are properly reflected on the City of Mission's Code of Ordinances.

**READ, DISCUSSED, AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS,** in accordance with the provisions of Chapter 551 of the Texas Government Code, at a Regular Meeting called and publicly held at the City of Mission's City Hall, on this the 22<sup>nd</sup> day of November, In The Year of Our Lord, 2021.

CITY OF MISSION, TEXAS

  
Armando O'Caña, Mayor

ATTEST:

  
Anna Carrillo, City Secretary



APPROVED AS TO FORM:

  
CITY ATTORNEY