

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2012-1949**

**GARAGE SALE REGULATIONS**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES, APPENDIX A, COMPREHENSIVE ZONING ORDINANCE, SECTION 10, ENTITLED “USES OF LAND AND BUILDINGS,” SECTION 10-300, ENTITLED “DEFINITIONS AND EXPLANATIONS APPLICABLE TO USE SCHEDULE,” BY DELETING DEFINITION (16) “OCCASIONAL SALES (GARAGE SALES, INCLUDING PATIO AND ESTATE SALES)” IN ITS ENTIRETY; BY ADDING NEW DEFINITIONS FOR “INDIVIDUAL GARAGE SALE;” “COMMUNITY GARAGE SALE;” AND “GROUP GARAGE SALE;” AND ADDING A NEW SECTION 10D, ENTITLED “GARAGE SALES;” ESTABLISHING REGULATIONS FOR GARAGE SALES; SECTIONS 10D-100 TO 10D-700; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

**WHEREAS,** Appendix A, Section 24-101(4) of the Code of Ordinances of the City of The Colony, Texas, provides the following, “A public hearing shall be held by the governing body before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City of The Colony stating the time and place of such hearing which time shall not be earlier than fifteen (15) days from the date of publication;” and

**WHEREAS,** the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Appendix A, Section 10 of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Uses of Land and Buildings,” is hereby amended by deleting from Section 10-300, entitled “Definitions and explanations applicable to use schedule,” definition “(16) Occasional Sales (garage sales, including patio and estate sales)” in its entirety.

**SECTION 3.** That Appendix A, Section 10D, Sections 10D-100 to 10D-700, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Garage Sales,” is hereby created in its entirety, which shall read as follows:

**“SECTION 10D. GARAGE SALES.**

**Sec. 10D-100. Purpose.**

Individual or Community Garage sales shall be permitted in all residential districts and in areas of Planned Developments where residential land uses are allowed. Garage sales hosted by Nonprofit Organizations, as described in Section 10D-500 may take place in any zoning district within The Colony. It shall be deemed unlawful and a nuisance for any person to maintain or conduct a garage sale in violation of these provisions.

**Sec. 10D-200. General Requirements.**

- (a) *Permit required.* A garage sale permit is required when conducting a garage sale or any similar casual sale of personal property, which is advertised by any means to the public. Only individuals who are residents of the City of The Colony may apply for a garage sale permit. Upon receipt of the completed permit application, the Development Services Department will issue the permit with a specific permit number for said garage sale. This permit application shall be on view during the course of the garage sale. There is no charge for the permit.
- (b) *Location of garage sale on premises.* Garage sale items may be displayed for sale only in the following areas:
  - (1) For single family or single family attached dwellings, the front or back yard, garage, patio area, under a carport covering, driveway, or inside a residence may be used;
  - (2) For multiple family and other land uses, the parking lot, under a carport cover, garage, or inside a building may be used;
  - (3) Garage sale items shall not be located within the public right-of-way; and

- (4) All garage sale items shall be placed at least seven (7) feet from the back of the curb or alley and at least five (5) feet from each side property line.

**Sec. 10D-300. Individual Garage Sales.**

The following regulations apply to garage sales hosted by individuals at their residence:

- (a) Only residents of the City of The Colony may apply for an individual garage sale permits.
- (b) An individual garage sale permit shall be issued by property address, not applicant name.
- (c) No more than two (2) individual garage sales shall be permitted to any specific property address each calendar year.
- (d) There is no charge for an individual garage sale permit, which may be picked up at City Hall. The garage sale permit shall be displayed on the property during the sale hours and the permit stickers shall be displayed on any signage advertising the garage sale.
- (e) Only tangible personal property is allowed to be sold at garage sales. Tangible personal property shall be sold only on the premises of owner or lessee of the property where the sale is conducted and said owner or lessee must be the legal owner of such tangible personal property at the time of such sale. No property acquired solely for the purpose of resale shall be sold at an individual garage sale. No owner or lessee shall habitually engage in the business of selling such tangible personal property at retail.

**Sec. 10D-400. Community Garage Sales.**

A Property Owners Association or other recognized neighborhood group shall be permitted to have a community garage sale and in connection therewith shall abide by and be subject to the provisions set forth in (a), and (b) of Section 10D. The following regulations apply to community garage sales:

- (a) For purpose of determining the number of garage sales conducted annually on a property, the holding of a community garage sale shall not be considered a garage sale conducted on an individual residential property which is located within to the jurisdiction of the Property Owners Association or other recognized neighborhood group.
- (b) Except as otherwise provided for in this Section, all community garage sales shall be subject to the same terms and conditions applicable to an individual garage sale for a residential property including that no more than two (2) community garage sales may occur each calendar year. Community garage sales do not count against the two (2)

garage sales an individual may have on their single family or single family attached property.

- (c) *Limit on number of garage sales.* A maximum of two (2) community garage sales during a calendar year may be conducted by a Property Owners Association or other recognized neighborhood group. Each garage sale may not exceed three (3) consecutive days in duration and there shall be at least thirty (30) days between each separate garage sale.
- (d) There is no charge for a community garage sale permit, which may be picked up at City Hall. The garage sale permit shall be displayed on the property during the sale hours and the permit stickers shall be displayed on any signage advertising the garage sale.

**Sec. 10D-500. Charitable, Religious, Educational, Fraternal, Governmental or Nonprofit Organizations.**

The following regulations shall apply to charitable, religious, educational, fraternal, governmental, or nonprofit organizations (not-for-profit organizations):

- (a) Not-for-profit organizations may conduct a group garage sale on the not-for-profit organization's property or on other properties with written permission, regardless of zoning.
- (b) If a not-for-profit organization desires to conduct a group garage sale on property not its own or on property that is owned by a member of the organization, the not-for-profit organization must present to the City a letter from the owner or manager of the property on which the group garage sale is taking place authorizing the not-for-profit organization to conduct the sale on said property. The letter must include the name of the not-for-profit organization sponsoring the group garage sale, the dates the sale is to take place and must be signed by the property owner allowing the sale.
- (c) *Limit on number of garage sales.* A maximum of two (2) group garage sales during a calendar year may be conducted by a Charitable, Religious, Educational, Fraternal, Governmental or Nonprofit Organization. Each garage sale may not exceed three (3) consecutive days in duration and there shall be at least thirty (30) days between each separate garage sale.
- (d) *Fee.* If a "special event" permit is obtained, the group garage sale sign permit is included within that fee. In lieu of a "special event" permit, the fee for a not-for-profit organization's group garage sale permit shall be listed in the Development Services Fee Schedule. The group garage sale sign permit may be picked up at City Hall. The group garage sale permit shall be displayed on the property during the sale hours and the permit stickers shall be displayed on any signage advertising the garage sale.

- (e) A group garage sale permit sponsored by a nonprofit organization will be counted as a sale against the maximum number of garage sales allowed annually for that organization, not against the commercial property allowing the sale to occur on their site.

**Sec. 10D-600. Cancellations/Inclement Weather.**

The following regulations pertain to the cancellation of a garage sale:

- (a) Subject to subsection Sec., 10D-300(c), Sec. 10D-400(c) and Sec. 10D-500(c) of this Section, if inclement weather occurs on any part of three (3) days of a scheduled garage sale, resulting in cancellation of the garage sale in its entirety each such day, the garage sale shall not count toward the maximum number of garage sales permitted within one (1) calendar year.
- (b) If the conditions of subsection (a) apply, the permittee must contact the Development Services Department on the next business day following cancellation due to inclement weather to reschedule the date of the garage sale. If the permittee fails to do so, the garage sale shall be counted toward the maximum number of garage sales allowed per calendar year.
- (c) Garage sales will only be rescheduled due to inclement weather. (No exceptions.)

**Sec. 10D-700. Garage Sale Signage.**

All signs must be in compliance with the sign ordinance, Chapter 6, Article XI, Section 6-261(d)."

**SECTION 4.** That the definition of "Occasional sales (garage sales, including patio and estate sales)" contained in Appendix A, Section 10-300, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, is hereby deleted in its entirety.

**SECTION 5.** That Appendix A, Section 10-300, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled "Definitions," hereby adds the following entries:

*Individual Garage Sale.* An occasional sale occurring at the residence of an individual, whereby tangible personal property is sold for the monetary benefit of the property owner or resident.

*Community Garage Sale.* An occasional sale occurring at the residences of several individuals within one (1) subdivision or in one (1) general geographic area, where the residents work together to share advertising and other costs; and whereby tangible personal property is sold for the monetary benefit of the property owners or residents individually.

*Group Garage Sale.* An occasional sale generally occurring at a commercial site, generally considered a “special event,” whereby a not-for-profit group or organization sells tangible personal property for the purpose of fund-raising.

**SECTION 6.** If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 7.** That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 8.** Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

**SECTION 9.** This Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 3rd day of April, 2012.**

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/s/Joe McCourry, Mayor

**ATTEST:**

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/s/Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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/s/Jeff Moore, City Attorney