

CITY OF FOREST HILL

ORDINANCE NO. 2010-02-002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS, AMENDING CHAPTER 34, BUSINESS REGULATIONS, OF THE CITY'S CODE OF ORDINANCES RELATIVE TO THE REGULATION OF GARAGE SALES; ESTABLISHING DEFINITIONS; ESTABLISHING PERMIT AND APPLICATION REQUIREMENTS; ESTABLISHING GENERAL AND MISCELLANEOUS REQUIREMENTS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, additional garage sale regulations are located in the Section X of the City's Zoning Ordinance No. 820; and

WHEREAS, the City Council has determined that the garage sale regulations should be removed from the Zoning Ordinance for purposes of efficient operation of the City's permitting and code compliance process and shall do so by and through the appropriate public meeting process repealing Chapter X, Section 10.900, Sale of Household Effects and Personal Belongings, set forth in Ordinance No. 820; and

WHEREAS, the City Council of the City of Forest Hill, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Forest Hill, Texas ("Forest Hill") to adopt this ordinance regulating the conducting of garage sales within the City of Forest Hill; and

WHEREAS, the City Council of the City of Forest Hill, Texas has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City that the Code of Ordinances provisions relative to the regulation of garage sales, be established as hereinafter stated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS THAT:

SECTION 1: LEGISLATIVE FINDINGS: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2: Chapter 34, "Business Regulations" of the City of Forest Hill Code of Ordinances is hereby amended to hereinafter read as follows:

Chapter 34

Business Regulations

Article V. Garage Sales

Sec. 34-200

Garage Sales. No resident of Forest Hill shall conduct a garage sale in the city except in accordance with the rules, regulations, and restrictions in this article.

Sec. 34-201

Definitions. The following words, terms, or phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. Garage Sale: the sale of tangible personal property or used or unwanted household items which is conducted on the premises of a residentially owned property and held completely within the confines of the garage, yard, patio, or driveway of said premise. The term "garage sale" may include but is not limited to the following terms: yard sale, estate sale, moving sale, patio sale, rummage sale, occasional sale, temporary sale, and other similar terms.
- b. Household items: property which is used, acquired, and/or maintained in the normal course of living in or maintaining a residence.
- c. Prohibited items: new merchandise which was acquired solely for the purpose of resale or obtained on consignment; this is to include the selling of prepared food or food items.

Sec. 34-202

Permit Required and Application.

- a. A permit shall be required to conduct a garage sale. The permit shall only be issued to the property owner and/or the occupant of the premises once a written application has been submitted to the Permit Department. The permit shall be posted during the entire course of the garage sale.
- b. Any person who desires to conduct a garage sale shall make a written application to the permit department and shall contain the following information:
 1. Name of the applicant
 2. Address the garage sale is to be conducted
 3. The beginning and ending dates of the garage sale

4. The hours of operation the garage sale shall be conducted
5. List names and addresses of other participants in garage sale
6. Proposed "rain-out" dates for another garage sale should the permitted garage sale be cancelled due to inclement weather.
7. An affirmative statement that the items to be sold at the garage sale are personal property owned by the applicant and was not acquired for the purpose of resale.

Sec. 34-203

Regulations on garage sales.

- a. Number and duration of sales. No more than four (4) garage sales shall be permitted at any one (1) location or address during a 12 month calendar year starting January 1 to December 31. No sale shall last more than three (3) consecutive days. All sales must start and end on the days listed on the written application.
- b. Deferment of garage sale. Only one (1) garage sale per year may be deferred to the next weekend of the scheduled sale per the application at the discretion of the applicant with written notification to the permit department.
- c. Number of garage sale participants. No more than two (2) extra persons may participate in the garage sale with the applicant. At the time of application, the applicant must list the names and addresses of the persons participating in the garage sale with the applicant. All persons involved in the garage sale, the applicant as well as the other participants must be a person who does not hold himself out as engaging in, or does not habitually engage in, the business of selling such property at retail.
- d. Inclement weather. Should rain or inclement weather affect two (2) or more of the dates on the garage sale application then a new permit shall be issued for the rain-out dates on the initial garage sale permit at no cost to the applicant. A rain-out permit will only be issued for the dates selected by the applicant at the time the original garage sale permit was issued.
- e. Garage sale signs. Only three (3) signs advertising the sale are allowed per garage sale and the following regulations must be adhered to:

1. All signs to be used for a garage sale shall be those signs issued by the City at the time of permitting. One (1) sign shall be issued with the permit. Up to two (2) additional signs may be purchased for an additional charge as approved in the fee schedule. No other garage sale signs shall be permitted.
2. Signs shall have the permit number clearly and legibly marked on each sign in one (1) inch lettering.
3. One (1) on-premises sign and two (2) off-premises signs are allowed per garage sale.
4. Such signs may not be placed so as to impair the corner visibility of intersections of streets, driveways and alleys pursuant to Section 112-4(2) of the sign ordinance.
5. Such signs shall not be placed within the public right-of-way.
6. Such signs shall not be placed on public property including but not limited to parks, public facilities and public open spaces.
7. The sign area shall not exceed six (6) square feet.
8. The height of such signs shall not exceed three feet (3').
9. All such signs must be placed on private property only, with written consent of the property owner.
10. Only one (1) sign for every fifty feet (50') of lineal frontage of private property shall be permitted.
11. Such signs shall not be affixed to utility poles, official signs, or vehicles parked on a city street.
12. Signs may be placed twenty-four (24) hours prior to the commencement of the sale and must be removed within twenty-four (24) hours after the conclusion of the sale.
13. Any and all garage sale signs not in compliance with the rules, regulations, and restrictions of this section shall be subject to removal and/or fine.

Sec. 34-204

Miscellaneous regulations for garage sales.

- a. Citywide garage sales. During the weekend of the Forest Hill citywide garage sale, each property must apply for a permit in writing and obtain a permit at no cost to the applicant. Choosing to participate in the citywide garage

sale does not lessen the number of allowable garage sales per year.

- b. Churches conducting garage sales. The congregation for churches in residentially zoned portions of the city may conduct two (2) garage sales per calendar year provided that all the rules, regulations, and restrictions in this article are adhered to.
- c. Properties not in residentially zoned districts. Any property that is not in a residentially zoned district may not conduct a garage sale at any time. Residentially zoned districts are to include single family residential, two family residential, and multi-family residential districts only.
- d. Right to refuse permit. Should any person be cited or warned for violations of this article two (2) or more times during any twelve (12) month period, the City may refuse to issue that individual a permit to conduct a garage sale anytime during the subsequent twelve (12) month period whether or not said person resides at the same property where the violation occurred.

SECTION 3: SEVERABILITY. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be 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 4: REPEAL OF CONFLICTING ORDINANCES. All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of Forest Hill, Texas are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith, except for the City's Zoning Ordinance unless repealed or amended consistent with state law and city ordinance.

SECTION 5: PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which the Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 6: EFFECTIVE DATE. This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Forest Hill, Texas on this 2nd day of February, 2010.

APPROVED:

James Gosey, Mayor

ATTEST:

Debra Maness, City Secretary

APPROVED AS TO FORM:

Alicia Johnson, Interim City Attorney