

TODAY'S DATE: _____

OYSTER CREEK GARAGE SALE APPLICATION

Applicant's Name: _____

Applicant's Address: _____

Applicant's Telephone Number: _____

The name, address, and telephone number of each person who will provide items for sale:

Address where the garage sale will be held: _____

The name, address, and telephone number of each owner or occupant of the premises where the garage sale will be held:

Date & Time the garage sale will begin: _____

Date & Time the garage sale will end: _____

I hereby certify that I have been provided with a copy of the City of Oyster Creek ordinance #650 on garage sales, and hereby agree to abide by those rules and regulations in ordinance #650.

Signature of Applicant

Date

OFFICE USE ONLY

Driver's License# _____

Amount Paid \$ _____

Receipt# _____

Cash _____ Check# _____ By: _____

Money Order # _____

City Agent: _____

ORDINANCE NO. 650

AN ORDINANCE OF THE CITY OF OYSTER CREEK, TEXAS, AMENDING THE ZONING ORDINANCE FOR THE PURPOSE OF REGULATING GARAGE SALES; PROVIDING DEFINITIONS, REQUIRING A GARAGE SALE PERMIT AND A \$5.00 FEE; REGULATING THE MERCHANDISE, FREQUENCY, AND DURATION OF GARAGE SALES; REGULATING CLEANUP AFTER A GARAGE SALE; PROVIDING THAT VIOLATORS ARE LIABLE TO THE CITY FOR FAILING TO CLEAN UP AFTER A GARAGE SALE; REGULATING SIGNS FOR GARAGE SALES; PROVIDING FOR CHARITABLE VARIANCES; PROVIDING A PENALTY OF UP TO \$500.00 PER VIOLATION, AND PROVIDING THAT EACH DAY OR PORTION OF A DAY THAT A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; AND PROVIDING A SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OYSTER CREEK, TEXAS:

Section One.

The City Council hereby finds as follows:

- a. A violation of this ordinance is a nuisance.
- b. A garage sale conducted in violation of this ordinance is a nuisance.
- c. This ordinance promotes the public health, safety, and welfare.
- d. This ordinance is authorized as a regulation of nuisances under Chapter 217 of the Texas Local Government Code, a zoning regulation under Chapter 211 of the Texas Local Government Code, and under all applicable law.

Section Two.

Section 27 of the Oyster Creek Zoning Ordinance, Appendix A to the Oyster Creek Code of Ordinances, is hereby enacted to read as follows:

Sec. 27. Garage Sales

(27.1) Definitions.

(a) "Garage Sale" herein shall mean a sale or an offer for sale of miscellaneous items to the general public, also sometimes known as a "backyard sale," "yard sale," "porch sale," or "rubbish sale," located either:

or outdoors; or

- (1) On property zoned residential, regardless whether indoors

- (2) Outdoors on property zoned other than residential.

(b) "Conduct a Garage Sale" herein shall mean to participate in any way, except as a buyer, in a Garage Sale or to own any interest in property where a Garage Sale is held, or to occupy property where a Garage Sale is held.

(c) "Occupant" of any premises shall mean any person who owns any interest in the premises or who occupies the premises, permanently or temporarily, as a tenant.

(27.2) Permit Required.

(a) No person shall conduct a Garage Sale without a valid permit from the City for that Garage Sale.

(b) An applicant for a permit hereunder shall pay the City a non-refundable fee of \$5.00 at the time the application is filed.

(c) The following information on an application form to be provided by the Code Enforcement Officer;

- (1) Applicant's name;

- (2) Applicant's address;

- (3) Applicant's telephone number;

- (4) The name, address, and telephone number of each person who will provide items for sale;

- (5) The address where the sale will be held;

- (6) The name, address, and telephone number of each owner or occupant of the premises where the sale will be held;

- (7) The times and dates when the sale will begin and end;

- (8) An acknowledgement that the applicant has received a copy of this ordinance;

- (9) The applicant's signature; and

(10) If the applicant seeks a variance for a charitable garage sale under Section 27.8, the application shall also include an affidavit, sworn by the applicant, stating the following:

- (i) The names, addresses, and telephone numbers of the persons or organizations that will benefit from the garage sale; and
- (ii) A statement that the affiant will pay at least ninety percent of the gross proceeds of the garage sale to those organizations or persons within seven days after the garage sale.

(27.3) Merchandise. No person shall sell or offer for sale at a Garage Sale any item other than used items of personal property.

(27.4) Frequency.

No person shall conduct a garage sale more frequently than once each:

- (a) Six months in a residential zone; or
- (b) Five months in any non-residential zone.

(27.5) Duration. A garage sale must end no later than seventy-two hours after it begins.

(27.6) Cleanup.

(a) Within four hours after the Garage Sale ends or is required to end, whichever is earlier, the applicant and each person conducting the Garage Sale shall remove all merchandise from public view and shall pick up all trash and debris of any nature from the Garage Sale, regardless where located. Those persons must place those items either lawfully indoors or lawfully for garbage pickup in compliance with this ordinance, the City's garbage collection ordinance, and all applicable law.

(b) No person shall place any merchandise, trash, or debris of any nature from a Garage Sale or remaining after a Garage Sale outdoors for garbage pickup, when for any reason the City's garbage collection ordinance does not require the City's garbage collection contractor to pick up those particular items, in the location where they are placed, in that quantity, and as those items are actually packaged or bundled.

(c) In addition, no person shall place the following items from a Garage Sale or Remaining after a Garage Sale outdoors for garbage pickup:

- (1) Construction and demolition waste. This means solid waste resulting from construction or demolition activities, including materials that are directly or indirectly the by-products of such activities, such as paper, cartons, gypsum board, wood products, excelsior, concrete, metal, rubber and plastic.
- (2) Hazardous waste. This means solid waste identified or listed as a hazardous waste by the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act or so classified by any federal or State of Texas statute, rule, order or regulation.
- (3) Refrigerators that are not certified as degassed.
- (4) Air conditioners that are not certified as degassed.
- (5) Batteries.
- (6) Tires.
- (7) Roofing materials.
- (8) Medical waste.
- (9) Lead based paint.
- (10) Paint thinner.
- (11) Brush and limbs in lengths longer than four feet.

(d) In addition to placing the trash and other items described in this section in a lawful container or bundles for garbage collection, the applicant and each person conducting the Garage Sale shall keep all of those items confined in those containers or bundles until the items are picked up by the garbage collectors. If any such items come out of the lawful containers or bundles for any reason, then the applicant and all persons conducting the Garage Sale must recapture and replace those items.

(e) If this section is violated, then the Code Enforcement Officer or his designees may take the action required by this section, and the applicant and each person violating this section shall jointly and severally reimburse the City for the cost of taking such action.

(27.7) Signs. No sign for a garage sale shall violate the sign ordinance of the City.

(27.8) Variances. The City Council may, in its discretion, grant a variance for a garage sale from which at least ninety percent of the gross proceeds will be paid to or for a formal or informal charitable cause within seven days after the garage sale. The variance may apply to the fee and the frequency regulations under this ordinance, but not to any other portion of this ordinance.