

ORDINANCE # 15-2007

**GARAGE and ESTATE SALE ORDINANCE**

AN ORDINANCE OF THE CITY OF MARION, TEXAS, AN ORDINANCE REGULATING THE SALE, DISPLAY, SIGNAGE ADVERTISING OF GARAGE AND ESTATE SALES, OPERATING HOURS, PERMITS AND FEES, AND MAXIMUM NUMBER OF SALES WITHIN THE CITY OF MARION, TEXAS; PROVIDING FOR A PENALTY FOR VIOLATION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE AND THE PUBLISHING OF A CAPTION OF THIS ORDINANCE IN THE OFFICIAL NEWSPAPER OF THE CITY OF MARION, TEXAS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF MARION, TEXAS DESIRES TO MAKE AN ORDINANCE THAT REGULATES GARAGE AND ESTATE SALES, AS THAT TERM IS DEFINED THEREIN, ARE FROM TIME TO TIME LEFT IN PLACES WHERE THEY ARE VISIBLE FROM A PUBLIC PLACE OR PUBLIC RIGHT-OF-WAY, THAT SAID GARAGE AND ESTATE SALES CREATES HAZARDS TO THE HEALTH AND SAFETY OF MINORS AND THAT THE SAME CONSTITUTES AN ATTRACTIVE NUISANCE AND ARE DETRIMENTAL TO THE ECONOMIC WELFARE OF THE CITY BY PRODUCING URBAN BLIGHT WHICH IS ADVERSE TO THE MAINTENANCE AND CONTINUING DEVELOPMENT OF THE CITY OF MARION, TEXAS.

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

**SECTION 1.0 SHORT TITLE**

This Ordinance may be cited as "Garage and Estate Sale Ordinance".

**SECTION 2.0 DEFINITIONS**

The following words, terms and 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:

*City* shall mean the City of Marion, Texas.

*Charitable or nonprofit organization* means any organization qualifying as nonprofit under section 501(c) of the Federal Income Tax Code or the state Nonprofit Corporation Act.

*Garage sale operator* means any person with a permit issued by the City of Marion to operate a garage sale.

*Garage sales* means all general sales, open or advertised to the public, conducted from or on a residential premises (single-family, duplex or apartment), or any location in the City of Marion for the purpose of disposing of tangible personal property. Such sales include situations in which more than five specific items of tangible personal property are to be sold.

*Personal property* means property which is owned, utilized and maintained by a person or members of his residence and acquired in the normal course of living in or maintaining a residence. Merchandise purchased for resale at a garage sale or obtained by consignment for sale at a garage sale is prohibited.

*Residence* means any single-family structure or multifamily complex which may be owned, rented or leased.

## SECTION 3.0 VIOLATIONS; PENALTIES

Any person in violation of this section is punishable by a fine not exceeding \$2,000.00. Each day any violation of this section continues shall constitute a separate offense.

## SECTION 4.0 EXCEPTIONS

Any church, charitable or nonprofit organization may hold a maximum of 12 garage sales per year, provided:

- (1) The church or organization does not hold more than one garage sale per month.
- (2) The sale must be conducted on the church or organization property.
- (3) A member of the church or organization, authorized to represent it, must register with the department of building inspection. No fee will be charged for registration.
- (4) None of the net earnings of a garage sale shall inure to a shareholder or other individual.

## **SECTION 5.0 SALE OF FOOD ITEMS**

Food items shall not be sold under authority of a garage sale permit.

## **SECTION 6.0 SIGNAGE**

(a) All signage advertising garage and estate sales and shall be subject to the following requirements:

(1) All garage and estate sale signage shall not exceed four square feet each in surface area.

(2) Garage and estate sale signage shall be limited to two on-premises signs and four off-premises signs.

(3) Off-premises, garage and estate sale signage shall not be located on any private property without the consent of the property owner. The publicly held property between the private property line and the street curb or driving surface, may be used for garage and estate sale signs in accordance with requirements for number, size and location, with the consent of the adjoining property owner.

(4) No garage or estate sale sign shall be attached to any utility pole, street sign or light, or any public sign or pole.

(5) No garage or estate sale sign shall be exhibited more than one day prior to the garage or estate sale and shall be removed within one day of the expiration of the garage sale permit.

(6) No garage or estate sale sign may be displayed without first obtaining a garage sale permit.

(7) Garage and estate sale signs must be staked firmly in the ground and must identify the location of the garage or estate sale by address. Any damage to public property as a result of the sign installation shall be the sole responsibility of the garage sale permit holder.

(b) A person who violates any provision of this subsection shall be subject to a fine not to exceed \$50.00 per day, per offense.

## **SECTION 7.0 HOURS OF OPERATION**

An applicant having a valid garage sale permit may operate a garage sale between the hours of 7:00 a.m. and 6:00 p.m.

## **SECTION 8.0 DISPLAY OF SALE ITEMS**

Personal property for sale at a garage sale shall be exhibited or displayed on the private property where the residence is located, not closer than five feet to the front or side property lines, and cannot be placed in the public right-of-way.

## **SECTION 9.0 PERMIT REQUIRED**

It shall be unlawful for any person to operate or participate in the operation of a garage sale without first obtaining the proper permit from the City of Marion.

## **SECTION 9.1 APPLICATION FOR A PERMIT**

- (a) An application for a garage sale operator's permit shall be made upon forms provided by the City of Marion.
- (b) The application will contain all information necessary to fully advise the City of Marion of the dates, location (street address), hours of operation of the garage sale and any other information that may reasonably be required by the City of Marion.
- (c) Only the owner or lessee of the residential or business property upon which the garage sale is being conducted may obtain such permit.
- (d) Before such permit shall be issued, the applicant shall provide proof of address such as a driver's license, utility bill or other identification and any other pertinent information as may reasonably be required by the City of Marion. Upon verification and compliance with this article, and payment of the proper fee, the applicant will be issued a permit for a garage sale by the City of Marion.
- (e) By making application for such garage sale permit, accepting the permit and conducting such sale, the owner or lessee of the property to whom such permit is granted authorizes any code enforcement officer to enter upon the property for the purpose of determining that such sale is being conducted in accordance with this article.

## **SECTION 9.2 MAXIMUM NUMBER**

The City of Marion shall issue one permit for each garage sale. Each residence or business is allowed four (4) garage sales per calendar year per location.

## **SECTION 9.3 PERMITS ISSUED IN VIOLATION**

Any garage sale permit issued in violation of any section of this article shall be absolutely void, and no rights whatsoever shall accrue.

## **SECTION 10.0 FEE**

No permit shall be issued unless the applicant has paid the City of Marion a garage sale operator's fee of five (\$5.00) as established by the city council.

## **SECTION 11.0 TERM**

All permits issued by the City of Marion shall continue in full force from the date specified on the permit. Each garage sale shall not exceed two consecutive days.

#### SECTION 12.0 CONTENTS: DISPLAY

- (a) Each permit issued by the City of Marion shall bear the street address of the residence where the sale will be located, the dates and hours when the garage sale will be held and any other information deemed necessary by the City of Marion.
- (b) The permit must be clearly displayed and visible for a distance of six feet from the curb line or nearest edge of the paved portion of the street or right-of-way.

#### SECTION 13.0 TRANSFERABILITY

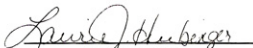
No permit issued by the City of Marion shall be transferable nor shall a permit holder allow his name to be used by any other person for the purposes of operating a garage sale.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARION TEXAS,  
on the 16<sup>th</sup> day of July, 2007.



Glenn A. Hild  
Mayor, Marion Texas

ATTEST:



Laurie Huebinger  
Marion City Secretary

