

ARTICLE XII. GARAGE SALES*

***Editor's note:** Ord. No. 67681, § 1, adopted Aug. 4, 1988, amended Ch. 16 by the addition of Art. XII, §§ 16-291--16-308. Section 3 of said Ord. No. 67681 provided as follows: "Each violation of any provision of this ordinance, except section 16-303, shall be punishable by fine up to fifty dollars (\$50.00) for the first two convictions and up to five hundred dollars (\$500.00) for each conviction thereafter. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder."

Sec. 16-291. Purpose.

The city council hereby recognizes that the City of San Antonio is made up in part of many diverse neighborhoods which are a noteworthy example of its divergent cultures and heritage. The unique qualities of the city's residential areas result in an attractive example of civic pride to homeowners, home renters and home buyers alike. The increasing number of garage sales throughout the city has detrimentally impacted many of its neighborhoods and has warranted this regulation.

As a matter of public policy the city council aims to preserve, enhance and perpetuate the economic value and the residential character of the city's neighborhoods in part by regulating garage sales. Such preservation promotes and protects the health, safety, comfort, economic investment, and general welfare of the people living in San Antonio. More specifically, this garage sale ordinance is designed to achieve the following goals:

- (1) To protect residential areas from the permanent encroachment of commercial uses;
- (2) To protect the aesthetic qualities of neighborhoods; and
- (3) To ensure the harmonious and orderly operation of garage sales in residential areas.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-292. Definitions.

As used in this article the following words and terms shall have the meanings ascribed to them in this section:

Charitable/nonprofit organization shall mean any organization qualifying as nonprofit under Section 501(c) of the Federal Income Tax Code or the Texas Nonprofit Corporation Act.

Department shall mean the neighborhood services department.

Director shall mean the director of neighborhood services or designee.

Garage sale operator shall mean any person with a permit issued by the department to operate a garage sale.

Garage sales shall mean all general sales, open or advertised to the public, conducted from or on a residential premises (single-family, duplexes or apartments), in any residential zone for the purpose of disposing of tangible personal property. Said sale includes situations in which more than five (5) specific items of tangible personal property are to be sold.

Person shall mean and include individuals, partnerships, voluntary associations and corporations.

Personal property shall mean property which is owned, utilized, and maintained by an individual or members of his or her 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 shall mean any single-family structure or multi-family complex which may be owned, rented or leased.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Sec. 16-293. Signage.

(a) All signage advertising garage sales shall be limited to two (2) on-premise signs that do not exceed four (4) feet square each in surface area.

(b) Garage sale signs shall be temporary signs in nature only. No signs shall be exhibited more than two (2) days prior to the sale, and shall be removed at the expiration of the garage sale permit. The person or persons exercising ownership or leasehold rights over property on which a garage sale is held or advertised to be held shall be presumed to have placed and exhibited the sign advertising the garage sale which identifies the person's address or location at which the garage sale is to be held. This presumption may be rebutted by evidence to the contrary.

(c) Signs must be staked on the garage sale operator's private property (not closer than five (5) feet to the front or side property lines) and cannot be attached to utility poles, streetlight standards or other public facilities.

(Ord. No. 67681, § 1, 8-4-88)

Cross references: Signs and billboards, Ch. 28.

Sec. 16-294. Zoning Ordinance applicability.

All permit requirements shall be subject to the provisions of this article as well as the Zoning Ordinance of the City of San Antonio.

(Ord. No. 67681, § 1, 8-4-88)

Cross references: Zoning, § 35-3001 et seq.

Sec. 16-295. Additional Code applicability.

All sales of food items shall be subject to the provisions of Chapter 13 of the City Code of San Antonio.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-296. Garage sale operator's permit.

It shall be a violation of this article for any person to operate or participate in the operation of a garage sale without first obtaining the proper permit from the director.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Sec. 16-297. Term of permit, replacement permit for inclement weather.

(a) All permits covered by this article shall continue in full force from the date specified on the permit. Each garage sale shall not exceed two (2) consecutive days.

(b) Should inclement weather unreasonably hinder the operation of the garage sale during the time authorized by the permit, the department shall issue a replacement permit allowing the completion of the authorized time provided that:

(1) The garage sale operator requests the replacement permit within one week from the initial permit's date of issuance; and

(2) The replacement shall be valid for the completion of the initial permit's allotted time within thirty (30) days from the replacement permit's date of issuance; and

(3) Only one replacement permit shall be issued for any garage sale permit regardless of subsequent weather conditions or circumstances.

(4) No more than one replacement permit shall be issued per calendar year per address. Replacement permits shall be issued at the development business and services center and the city's community link centers.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 100589, §§ 1, 2, 3-24-05; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Editor's note: Ord. No. 100589, § 1, adopted March 24, 2005, changed the title of § 16-297 from "Term of permit" to "Term of permit, replacement permit for inclement weather."

Sec. 16-298. Maximum number of garage sales.

The department shall issue one (1) permit for each garage sale. Each residence is allowed four (4) garage sales per calendar year per location not to exceed one (1) garage sale per quarter.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06; Ord. No. 2006-10-12-1185, § 1, 10-12-06)

Sec. 16-299. Permit nontransferable.

No permit covered by this article shall be transferable, nor shall a permit holder allow his name to be used by any other party for the purposes of operating a garage sale.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-300. Permits issued in violation of this article.

Any permit issued in violation of any provision of this article shall be absolutely void and no rights whatsoever shall accrue.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-301. Application for a permit.

(a) An application for a garage sale operator's permit shall be made upon forms provided by the director.

(b) The application will contain all information necessary to fully advise the director of the date(s), location (street address), hours of operation of the garage sale and any other information that may be reasonably required by the director.

(c) Only the owner or lessee of the residential 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 (driver's license, utility bills or other identification) and any other pertinent information as may be reasonably required by the director. Upon verification and compliance with provisions of this article, and payment of the proper fee, the applicant will be issued a permit for a garage sale by the department.

(e) By making application for such garage sale permit, accepting said permit and conducting such sale, the owner or lessee of the property to whom such permit is granted, authorizes any code enforcement officer of the City of San Antonio to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this article.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Sec. 16-302. Permit number and garage sale information.

(a) Each permit issued shall bear the street address of the residence where the sale will be located, the date(s) and hours when the garage sale will be held and any other information deemed necessary by the director.

(b) The permit must be clearly displayed and visible for a distance of six (6) feet from the curbline or nearest edge of paved portion of the street or right-of-way or be immediately available for inspection at the sale location.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 100589, § 3, 3-24-05; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Sec. 16-303. Removal of signs advertising garage sales.

A garage sale operator shall remove any advertising sign upon expiration of the garage sale permit.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03)

Sec. 16-304. Fee.

No permit shall be issued unless the applicant has first paid the director a garage sale operator's fee of sixteen dollars (\$16.00) for each permit obtained in person and sixteen dollars and fifty cents (\$16.50) for each permit issued by mail. However, payment of the fee shall not be required to obtain a permit for the fourth garage sale held by an operator at the same residence during a calendar year. The applications for such free permits shall only be made at the city's development business and servicescenter and the city's community link centers. Operators must submit the receipts showing payment of the garage sale operator's fees for their three (3) previous qualifying garage sales in order to obtain the free permit.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 72266, § 1, 9-13-90; Ord. No. 80782, § 8, 9-14-94; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-07-1007, § 1, 9-7-06; Ord. No. 2006-09-21-1122, § 1, 9-21-06; Ord. No. 2006-10-12-1185, § 1, 10-12-06)

Sec. 16-305. Hours of operations.

An applicant having a valid permit may operate a garage sale between the hours of 9:00 a.m. and 6:00 p.m.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-306. Display of sale items.

Personal property shall be exhibited or displayed on the private property where the residence is located, not closer than five (5) feet to the front or side property lines and cannot be placed in the public right-of-way.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-307. Sale of food items.

Food items shall not be sold under authority of a garage sale permit. A permit for the sale of food items may be obtained from the Metropolitan Health District and such sale must be conducted in compliance with Chapter 13 of the City Code.

(Ord. No. 67681, § 1, 8-4-88)

Sec. 16-308. Exception for churches, charitable and nonprofit organizations.

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

- (a) The church or organization does not hold more than one (1) garage sale per month.
- (b) The sale must be conducted on the church or organization property.
- (c) A member of the church or organization, authorized to represent it, must register as a church, charitable or nonprofit organization with the department. No fee will be charged for registration.
- (d) None of the net earnings of a garage sale shall inure to a shareholder or other individual.
- (e) The garage sale operator's fee set forth in section 16-304 shall not apply to the fourth garage sale held by such organizations. The applications for such free permits shall only be made at the city's development business and services center and the city's community link centers. Operators must submit the receipts showing payment of the garage sale operator's fees for their three (3) previous qualifying garage sales in order to obtain the free permit.

(Ord. No. 67681, § 1, 8-4-88; Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06; Ord. No. 2006-10-12-1185, § 1, 10-12-06)

Sec. 16-309. Penalties for violation.

- (a) It shall be a violation of this article for any person to operate, participate in or recklessly to allow to be operated upon property owned or controlled by that person 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.
- (b) Unless otherwise specified, each violation of any provision of this article shall be punishable by an administrative penalty of double the garage sale operator's fee.
- (c) It shall be unlawful for any garage sale operator to fail to remove any advertising sign upon expiration of the garage sale permit. A violation of this subsection shall be punishable by a criminal fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.

(Ord. No. 98184, § 4, 9-18-03; Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Sec. 16-310. Administrative hearing.

(a) A person charged for a violation of this article punishable by an administrative penalty may, within ten (10) days of receipt of notice of violation request a hearing with a hearing officer designated by the city manager.

(b) Failure of the person charged with a violation of this article punishable by an administrative penalty to timely request a hearing or failure to appear at a scheduled hearing shall constitute a waiver of the right to a hearing or to challenge the validity or amount of the penalty imposed.

(c) The hearing officer shall set a time and place for the hearing as soon as practicable but within thirty (30) days of the receipt of the request for hearing. The hearing officers shall have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents, such orders to be enforced by a municipal court.

(d) The hearing shall be conducted in an informal process to determine whether there is a sufficient factual and legal basis to impose the administrative penalty. The rules of evidence shall not apply, provided that the decision of the hearing officer shall in all cases be based upon substantial and reliable evidence. All parties to the hearing shall have the right to present evidence.

(e) The hearing officer shall issue a written order stating his decision. The record of witness testimony may be preserved for appellant review by the use of an audio tape recording or a videotape recording.

(f) The administrative penalty imposed under this article is due and payable upon the expiration of the period to request a hearing or upon notice of the hearing officer's decision if a hearing is requested. Failure to pay the administrative penalty shall result in no further permits being issued for the address of the violation or the person charged with the violation.

(g) A person on whom an administrative penalty is imposed may appeal the decision to the municipal court by filing an appeal petition with the municipal court clerk not later than thirty (30) days after the order is filed. The appeal hearing shall be scheduled to occur within thirty (30) days of the filing of the appeal petition. The appeal hearing before a municipal court judge shall be an administrative proceeding for the purpose of confirming or overruling the order issued by the hearing officer based upon the evidence presented to the hearing officer. The decision of the municipal court judge shall be final and shall not be appealable.

(h) Neither a notice of intent to appeal nor the filing of an appeal petition shall stay the enforcement and collection of the hearing officer's decision unless the service of the notice of appeal is preceded by the posting of a bond with the municipal court clerk in an amount set by a municipal court judge.

(Ord. No. 2006-09-21-1122, § 1, 9-21-06)

Secs. 16-311--16-320. Reserved.