

**ORDINANCE #306-2005  
(Notice Amendment Ordinance 309-2005)**

**AN ORDINANCE OF THE CITY OF VENUS, TEXAS, JOHNSON AND ELLIS COUNTIES, REQUIRING A PERMIT FOR THE OPERATION OF A GARAGE SALE, PROVIDING FOR PROCEDURES FOR OBTAINING A PERMIT, ESTABLISHING REQUIREMENTS AND RESTRICTIONS ON OPERATION OF GARAGE SALES, SETTING FEES, PROVIDING A REPEALER CLAUSE, PROVIDING FOR PENALTIES, PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS:**

**WHEREAS**, the City Council recognizes that a city's residential areas are a source of civic pride to homeowners, home renters and home buyers alike, and;

**WHEREAS**, 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, and that such preservation promotes and protects the health, safety, comfort, economic investment, and general welfare of the people living in Venus, and;

**WHEREAS**, this ordinance specifically seeks to achieve the following goals:

- To protect residential areas from the permanent encroachment of commercial uses;
- To limit the proliferation of unsightly signs and signage structures;
- To protect the aesthetic qualities of neighborhoods;
- To ensure the harmonious and orderly operation of garage sales in residential areas; and;
- To provide a means to assist garage sale permittees in the promoting of their sales.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS**, that the following regulations are hereby established within the City of Venus.

**SECTION ONE: Definitions.**

- a) *Garage sale*: An organized sale for the purpose of disposing of tangible personal property that is open or advertised to the public, conducted from or at a residence (single-family, duplex or apartment) or within any area zoned residential, and includes the sale of more than five (5) specific items of tangible personal property.
- b) *Residence*: Any single-family structure or multi-family complex, which may be owned, rented or leased.
- c) *Garage sale operator*: Any person with a permit issued by the city to operate a garage sale.

- d) *Person*: Includes individuals, partnerships, voluntary associations and corporations.
- e) *Personal property*: 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.
- f) *Charitable/nonprofit organization*: An organization qualifying as nonprofit under Section 501(c) of the Federal Income Tax Code of the Texas Nonprofit Corporation Act.

**SECTION TWO: Garage sale operator's permit.**

- a) It shall be unlawful for any person to advertise, operate or participate in the operation of a garage sale without first obtaining the proper permit from City Hall.
- b) New personal property or merchandise purchased for resale or obtained by consignment for sale may not be sold at a garage sale.
- c) All permits covered by this article shall continue in full force from the date specified on the permit. Each garage sale shall not exceed three (3) consecutive days.
- d) The city shall issue one (1) permit for each garage sale. Permits may be issued to a residence no more than twice per calendar year. A second garage sale permit may not be issued sooner than ninety (90) days after the first.
- e) 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.
- f) An applicant having a valid permit may operate a garage sale between the hours of 7:00 a.m. and 6:00 p.m.
- g) Food items shall not be sold under authority of a garage sale permit.

**SECTION THREE: Application for permit.**

- a) An application for a garage sale operator's permit shall be made upon forms provided by City Hall.
- b) The application shall contain the date(s), location (street address), hours of operation of the garage sale and any other information that may be reasonably required by the City.
- c) Only the owner or lessee of the residential property upon which the garage sale is being conducted may obtain such permit.
- d) Before issuance of a permit, 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 City. 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 city.

- 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 officer of the City of Venus to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this article.
- f) An applicant shall pay an operator's fee of \$10.00 for each permit issued.
- g) An applicant may obtain a permit between the hours of 8 a.m. and Noon, and between 1 p.m. and 5 p.m. Monday through Friday.
- h) Outdoor advertising and informational signage for permitted garage sales shall be limited to the criteria in 'SECTION FOUR: Display of Signs' Each sign displayed in public must contain the permit number and permit date(s).

**SECTION FOUR: Display of signs.**

- a) No signs shall be exhibited more than one (1) day prior to the sale, and shall be removed upon 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 that 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.
- b) One garage sale sign with the permit number affixed on its face shall be displayed on the applicant's property visible no more than six (6) feet from the curb-line or nearest edge of the paved portion of the nearest street or right-of-way.
- c) Garage sale signs may not be posted on city property, or on private property without the express permission of the property owner. Garage sale signs shall not be mounted upon or attached to any utility pole, traffic sign or street sign or other public device or structure. Signs must be securely staked or otherwise secured. Garage sale signs may not be placed in the right of way of any highway, street, alley or railroad. Signs may not project over such right of ways.
- d) A garage sale operator shall remove all signs within 24 hours after expiration of the garage sale permit. Violators of this section are subject to a fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.
- e) Signs giving notice of or advertising garage sales shall not exceed four square feet (2' x 2') in face area. They may not be illuminated.

**SECTION FIVE: Exception for churches, charitable and nonprofit organizations.**

- a) Any church, charitable or nonprofit organization may hold a maximum of twelve (12) garage sales per year, provided:
- b) The church or organization does not hold more than one (1) garage sale per month.
- c) The sale must be conducted on the church or organization's property.
- d) A member of the church or organization, authorized to represent it, must register with the City. No fee will be charged for registration.

e) None of the net earnings of a garage sale shall inure to a shareholder or other individual.

**SECTION SEVEN: Repealer Clause**

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall only be to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in the ordinance. Any cause of action accruing prior to the passage of this ordinance shall proceed under this Ordinance, if possible, and if not, shall continue as if this ordinance had not been passed or any other ordinance had not been repealed.

**SECTION EIGHT: Penalty Clause**

That any violation of the terms of this ordinance shall be deemed a misdemeanor and, upon conviction thereof, any person so violating same shall be fined a sum not exceeding Five Hundred Dollars (\$500).

**SECTION NINE: Severability Clause**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and separable and if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree or a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

**SECTION TEN: Publication Clause**

The City Secretary is hereby directed to post or publish in the official newspaper of the City, the caption, penalty clause, publication clause and effective date clause of this Ordinance in every issue for two days of the official newspaper of the City, as authorized by Section 52.011 of the Texas Local Government Code.

**SECTION ELEVEN: Effective Date**

This ordinance shall be effective after final passage and publication, as required by law.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**AMENDMENT ORDINANCE #309-2005**

**AN ORDINANCE OF THE CITY OF VENUS, TEXAS, JOHNSON AND ELLIS COUNTIES, AN ORDINANCE AMENDING GARAGE SALE ORDINANCE #306-2005 OF THE CITY OF VENUS BY REPEALING SECTION 3 PARAGRAPH f) (OPERATOR'S FEES); PROVIDING A REPEALER CLAUSE; SEVERABILITY CLAUSE; ENGROSSMENT AND ENROLLMENT CLAUSE; AND AN EFFECTIVE DATE.**

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

Section 1. Amendment 1

Ordinance #306-2005 of the City of Venus is hereby amended by repealing Section 3, Paragraph f) of said Ordinance which reads as follows:

- f) An applicant shall pay an operator's fee of \$10 for each permit issued.

Section 3 Paragraph f) of said Ordinance shall now read as follows:

- f) An applicant shall pay an operator's fee of \$5 for each permit issued.

Section 2. Realer Clause

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall only be to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in the ordinance. Any cause of action accruing prior to the passage of this ordinance shall proceed under this Ordinance, if possible, and if not, shall continue as if this ordinance had not been passed or any other ordinance had not been repealed.

Section 3. Severability Clause

It is hereby declared that the sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any section, subsection, paragraph, sentence, clause, or phrase shall be declared void, ineffective or unconstitutional by a valid judgment or final decree of a court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional section, subsection, paragraph, sentence, clause, or phrase.

Section 4. Engrossment and Enrollment Clause

The City Secretary is hereby direction to engross and enroll this Ordinance by copying the caption, penalty clause, publication clause and effective date clause in the minutes of the City Council and filing this Ordinance in the ordinance records of the City.

Section 5. Effective Date

This ordinance shall be effective after final passage.

PASSED AND APPROVED this the 10<sup>th</sup> day of October, 2005.