

Motion was made by Mark Porter, seconded by Shannon Bailey, that the following Ordinance be passed:

ORDINANCE No. 317-2019

AN ORDINANCE CREATING A CITY OF SHEPHERD GARAGE SALE ORDINANCE BY ADDING ARTICLE I OF CHAPTER 10, "LICENSES, AND MISCELLANEOUS BUSINESS REGULATIONS" TO THE CITY CODE OF ORDINANCES; PROVIDING REGULATIONS FOR THE OPERATION OF GARAGE SALES AND VIOLATIONS RELATED TO GARAGE SALES, YARD SALES, ESTATE SALES, FLEA MARKETS AND THE LIKE; PROVIDING FOR CRIMINAL PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE IF ANY PORTION HEREOF IS DEEMED TO BE INVALID; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION AS PROVIDED BY LAW.

WHEREAS, the City of Shepherd, Texas is a general-law municipality that expends great effort to protect property values, promote sales by retail businesses, and ensure that sales and use taxes are collected in the City; and

WHEREAS, the City Council desires to establish rules governing the days and hours by which the operation of garage sales, yard sales, flea markets, estate sales, and other similar sales of new and used merchandise are conducted within the City; and

WHEREAS, to promote orderly development of the City, to promote the health and safety of its residents, preserve property values, and ensure that sales taxes for retail sales in the City are properly collected, the City Council has determined that it is advisable and desirable to enact an ordinance regulating such garage sales conducted on residential properties within the City; and

WHEREAS, it is the desire of the City Council of the City of Shepherd, Texas to establish rules governing the days and hours of operation of garage sales and similar sales by passage of this Ordinance;

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

Section 1 Adoption of Recitals

The recitals set out in this Ordinance above are hereby adopted as the findings and conclusions of the City Council of Shepherd, San Jacinto County, Texas.

Section 2 Amendment to City Code of Ordinances

The City Council hereby adopts a new garage sale ordinance as described in Exhibit 1 attached hereto and incorporated herein; and Article I of Chapter 10, "Licenses, and Miscellaneous Business Regulations," of the City Code of Ordinances is hereby added to incorporate the regulations of garage sales as described in Exhibit 1 of this Ordinance.

Section 3 Criminal Penalties for Violations

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction by the Shepherd municipal court, shall be punished by a fine in an amount not to exceed fifty dollars (\$50.00) for the first offense and a fine not to exceed One Hundred Dollars (\$100) for a second offense. After two convictions for a violation of this Ordinance, a person who may be guilty of a violation of this Ordinance shall be subject to a fine not to exceed \$500.00

Section 4 Repealing Clause

Any provisions in any other city ordinances in conflict with the provisions of this Ordinance are hereby expressly repealed.

Section 5 Savings Clause

If any part of this Ordinance shall be held unconstitutional or otherwise invalid by a Court, such part shall be deemed severable and invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 6 Texas Open Meetings Clause

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required 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 7 Effective Date

This Ordinance shall become effective upon its publication as provided by law.

PASSED AND APPROVED upon a second reading on this, the 14 day of October 2019.

CITY OF SHEPHERD, TEXAS


Charles Minton, Mayor

ATTEST:


Debra Hagler, City Secretary

EXHIBIT 1

CITY OF SHEPHERD, TEXAS CODE OF ORDINANCES

CHAPTER 10

ARTICLE I. IN GENERAL

LICENSES, AND MISCELLANEOUS BUSINESS REGULATIONS

Section 10.01- DEFINITIONS.

- a) ***Garage Sale.*** A sale of items of personal property by an individual, group of family members and/or neighbors, or by members of an organization that has a tax exemption under IRS Code Section 501(c)(3) or similar tax exemption, conducted on private residential property owned by one of the sellers, or on property owned by the tax exempt organization whose members are conducting the sale, at an interval of no more than four (4) times per year and of a duration not to exceed two consecutive days. The term "garage sale" shall include "yard sale" "lawn sale", "patio sale", "plant sale", "sample sale", "rummage sale", "flea market", "estate sale", or any similar casual sale of tangible personal property, which is advertised by any means whereby the public at large is or can be made aware of such sale.
- b) ***Residential Property.*** Real property which is actually used for or is dedicated or restricted to use for single-family residential purposes.

Section 10.02- INTENT.

It is the intent of this chapter to regulate the days and hours of personal property sales in residential areas so that the residential environment of such areas is not disturbed or disrupted, and to prohibit the infringement of any business into such established areas.

Section 10.03- RESTRICTIONS ON CONDUCT OF SALE.

- a) No person other than the occupant shall conduct a garage sale on his/her residential property.
- b) No person shall sell or offer for sale at a garage sale, merchandise other than used and discarded items of personal property belonging to the occupant.
- c) The occupant may allow the occupant's neighbors to sell their items at the occupant's garage sale provided the majority of all the items to be sold are owned by the occupant.
- d) At the end of each day of a garage sale, the unsold garage sales items must be removed from public view until the following day of the garage sale.

Section 10.04- TIME PERIOD FOR GARAGE SALE.

- a) No person shall conduct a garage sale except on Thursdays through Saturdays.
- b) All garage sales shall be conducted during daylight hours and must stop operation that day at dusk.

Section 10.05- SIGNAGE.

- a) All signs used to advertise the garage sale must comply with the sign ordinance requirements of the City.
- b) No sign may be placed on the City easement between the sidewalk and the curb, on a utility pole or a stop sign in the City easement