

ORDINANCE

CITY OF PORTLAND, TENNESSEE

NO. 06-01

SECOND READING

(Only the ordinance number has changed since First Reading)

**AN ORDINANCE TO ESTABLISH REGULATIONS RELATING TO
GARAGE SALES AND YARD SALES.**

WHEREAS, the City Council of the City of Portland, Tennessee desires to protect the health, safety and welfare of the citizens of Portland by establishing regulations relating to garage sales and yard sales and to set forth other requirements related to said activities; and

NOW THEREFORE, be it ordained by the City Council of the City of Portland, Tennessee, that:

Section 1. Intent of Ordinance.

The council finds and declares that:

(1) The intrusion of non-regulated garage sales and yard sales is causing annoyance to the citizens in residential areas in the city and congestion of the streets in residential areas in the city.

(2) The provisions contained in this ordinance are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales and yard sales, so as not to disturb or disrupt the residential environment of the area.

(3) The provisions of this ordinance are designed to control the operation of garage sales and yard sales conducted in nonresidential areas where the sale is not carried on a daily basis but rather on an occasional basis.

(4) The provisions of this ordinance do not seek to control sales by individuals selling a few of their household or personal items.

(5) The provisions and prohibitions contained in this ordinance are enacted not to prevent garage sales or yard sales, but to regulate such sales for the safety and welfare of the city's citizens.

Section 2. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word “shall” is always mandatory and not merely directory.

Community Yard Sale means the inclusion of five (5) or more surrounding neighbors in combination for the sole purpose of the sale of goods, wares, merchandise, personal property of such kind as household articles, utensils, jewelry, clothing, furniture, or other articles of this kind and may be also known as a garage sale

Garage sale means and includes all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone as defined by the zoning ordinance, for the purpose of disposing of personal property, including but not limited to all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” “flea market” or “rummage” sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sales does so, on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and where all advertisement of such sale specifically names those items to be sold.

Personal Property means property which is owned, utilized and maintained by an individual or members of his residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Yard Sales. A yard sale is defined as a sale of goods, wares, merchandise, personal property of such kind as household articles, utensils, jewelry, clothing, furniture, or other articles of this kind and may be also known as a garage sale. Such a sale is usually held by a private citizen or citizens on property owned by the citizen and/or property occupied as rental property, and may be held on a space rented for the sale.

Section 3. Exemptions From Ordinance.

The provisions of this Ordinance shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the city or under the protection of the nonconforming use provisions thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises and which is not otherwise prohibited by other ordinances.

(4) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization and the goods or articles are not sold on a consignment basis.

Section 4. Penalty for Violation of Ordinance.

(a) Every article sold and every day a sale is conducted in violation of this article shall constitute a separate offense.

(b) Any person found guilty of violating the terms of this ordinance shall be subject to punishment by a fine not less than fifty dollars (\$50) per day.

Section 5. Right of Entry; Authority of Inspector.

A police officer or any other public official designated by any city ordinance to make inspections under the licensing or regulating ordinance, or to enforce the licensing or regulating ordinance, shall have the right of entry to any premises showing evidence of a garage sale for the purpose of enforcement or inspection, and may close the premises from such a sale or arrest any individual who violates the provisions of this article.

Section 6. Property Permitted to be sold.

It shall be unlawful for any person to sell or offer for sale, under authority granted by this ordinance, property other than personal property.

Section 7. Duration of Sale.

Garage sales and yard sales shall be registered with the building official as provided for in Section 12 of this Ordinance at no cost and shall be limited as follows:

- a. A period during a week not greater than three (3) consecutive days.
- b. Each property address shall be limited to three (3) yards sales annually with persons holding more than three (3) yard sales per year being subject to application for a license for the commissioner of finance and revenue under the Business Tax Act, shall be subject to sales tax, and may be required to keep an inventory of items on hand for the sale for inspection by the commissioner of finance and revenue, or his authorized agent with the following exceptions:
 - i. One additional sale is permitted, provided the occupant of a specified address is moving to another specified address.
 - ii. One additional "Community Yard Sale", as defined by this Ordinance or the annual Highway 52 Yard sale shall be permitted.
- c. The hours of operation for any such sales shall be from 6:00 AM to 6:00 PM.

Section 8. Display of Property.

Personal property offered for sale pursuant to this ordinance may be displayed within the residence in a garage or carport or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale or yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

Section 9. Signs.

(a) *Signs Permitted.* Only the following specified signs may be displayed in relation to a pending garage sale or yard sale; provided however, that such signs shall be subject to any other applicable Ordinance of the City of Portland relating to the placement of signs:

(1) Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale or yard sale is being conducted.

(2) Directional signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale or yard sale is conducted is not on a major thoroughfare and that written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(b) *Time Limitations.* No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(c) *Removal of Signs.* Signs must be removed at the conclusion of the garage sale or yard sale activities.

Section 10. Responsibility for Maintaining Order.

The individual to whom a permit is issued under this ordinance and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on the premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the police or fire department of the city in order to maintain the public health, safety and welfare.

Section 11. Parking.

All parking of vehicles at sales regulated under this ordinance shall be conducted in compliance with all applicable laws and ordinances. The police department may enforce such temporary controls as necessary to alleviate any special hazards and congestion created by any garage sale or yard sale.

Section 12. Yard and Garage Sales; Registration Required.

All persons who hold or engage in a garage sale or yard sale within the city limits of the City of Portland shall be residing at the time of the sale within the City of Portland either as a homeowner, renter of property, or both and shall register on a form provided by the Planning & Codes Department of the City of Portland which shall be approved by the building official.

Section 13. Means of Advertisement of Yard Sales; Obstructing Traffic.

It shall be unlawful for any person or persons holding or engaged in a garage sale or yard sale to cause congestion of traffic in the areas where the sale is being held. It shall be unlawful for any person or persons holding or intending to hold a garage sale or yard sale to post advertisement of the sale on telephone poles, utility poles, or in any manner anywhere except for temporary signs within the yard or space where the sale is being held or is to be held as set forth in other sections of this Ordinance. Advertising also may be given to the local news media for publication or other means of informing the public.

Section 14. Effective Date.

This Ordinance shall take effect after its final passage, the public welfare requiring it.

Passed First Reading February 6, 2006

Passed Second Reading March 6, 2006

Mayor

City Recorder