



ORDINANCE NO. 652-2018-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS, ORDERING THE AMENDMENT OF ARTICLE III. GARAGE SALES, SECTIONS 10-81 DEFINITIONS, 10-82 GARAGE SALE OPERATOR'S PERMIT, 10-83 APPLICATION FOR PERMIT, 10-84 DISPLAY OF SIGNS, 10-85 EXCEPTION FOR CHURCHES, CHARITABLE AND NON-PROFIT ORGANIZATIONS, AND ADDING NEW SECTION 10-86 WAIVER OF PERMIT AND FEE REQUIREMENT, CONFIRMING TEXAS OPEN MEETINGS ACT COMPLIANCE, PROVIDING A SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE, PROVIDING A PUBLICATION CLAUSE, PROVIDING AN EFFECTIVE DATE, AND PROVIDING A CERTIFICATION OF ADOPTION.

WHEREAS, the City of Venus, Texas ("City"), is a Type A general law city operating pursuant to the laws of the State of Texas, by and through its duly elected council members;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the welfare and safety of its inhabitants (TEXAS LOCAL GOVERNMENT CODE § 51.012);

WHEREAS, the City Council ("Council") of the City serves as the elected governing body; directly responsible for the promotion and protection of the public health, order and safety of its citizens and inhabitants;

WHEREAS, city staff and the Council frequently deal with the competing need of citizens and organizations needing to host a garage sale and the community's needs regarding traffic, parking, neighbor complaints, aesthetics and the mixing of commercial activity in residential areas;

WHEREAS, periodically city staff review the procedures, ordinance provisions and practices regarding garage sales and assess what improvements could be made;

WHEREAS, a recent review of the CITY OF VENUS CODE OF ORDINANCES, Chapter 10 – Businesses and Business Regulations, Article III. – Garage Sales, resulted in several recommendations for changes from city staff;

WHEREAS, the Council finds these recommended changes to be a valuable improvement to the existing garage sale ordinance; and

WHEREAS, the ordinances of the City are codified together in the CITY OF VENUS CODE OF ORDINANCES, hosted and managed by Municode.com and the recommended changes shall be incorporated into Chapter 10, amending the current sections and adding a new section as provided herein.

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

SECTION A. 10-81 AMENDMENT

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales, Sec. 10-81. – Definitions of the CITY OF VENUS CODE OF ORDINANCES is hereby amends the definition of “Garage sale” as follows:

Garage sale means an organized sale for the purpose of disposing of tangible personal property of more than five specific items of tangible personal property that is open or advertised to the public, conducted from or at a residence (single-family, duplex or apartment) within an area zoned residential, on the premises of a public school owned property, a church, a non-profit, or on the premises of a city-owned property (Venus Civic Center, public park, etc.). This definition includes estate sales, community garage sales, as well as private residence garage sales. This definition excludes online (hosted on the web) garage sales conducted on Facebook, Craigslist, etc.

SECTION B. 10-82 AMENDMENT

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales, Sec. 10-82. – Garage sale operator’s permit of the CITY OF VENUS CODE OF ORDINANCES is hereby amended to add two subsections as follows:

Section 10-82. – Garage sale operator’s permit.

- (h) Bad weather, rainout or substitute dates. Once a permit has been issued it will be handled on a case-by-case basis.
- (i) Multi-family properties (apartment complexes). In accordance with city ordinances, garage sales are limited to four per year and the management of the complex must apply for the permit.

SECTION C. 10-83 AMENDMENT

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales, Sec. 10-83. – Application for permit of the CITY OF VENUS CODE OF ORDINANCES is hereby amended to amend the two subsections as follows:

Section 10-83. – Application for permit.

- (g) An applicant may obtain a permit at city hall during normal business hours.
- (h) Outdoor advertising and informational signage for garage sales shall be in compliance with Chapter 20 of the CITY OF VENUS CODE OF ORDINANCES.

SECTION D. 10-84 AMENDMENT

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales, Sec. 10-84. – Display of signs of the CITY OF VENUS CODE OF ORDINANCES is hereby amended as follows:

Section 10-84. – Display of signs.

- (a) No signs shall be exhibited more than twenty-four (24) hours before the garage sale is to begin. And no signs shall be exhibited more than twenty-four (24) hours after the garage sale has ended. For purposes of determining the start and end of a garage sale, the permitted time shall rule, if permitted. In the case of no permit, 7:00 a.m. on the first day of the garage sale and 6:00 p.m. on the last day of the garage sale. Violators of this subsection are subject to a fine not to exceed fifty dollars (\$50.00) for each day of violation.
- (b) The person exercising ownership or leasehold rights over property on which a garage sale is held or advertised to be held shall be presumed to be the person to have placed, posted and/or exhibited the sign advertising the garage sale for purposes of this article.
- (c) One garage sale sign not to exceed four (4) square feet (two feet by two feet) in face area with the permit number affixed on its face may be displayed on the applicant's property at least fifteen (15) feet from the curb line or nearest edge of the paved portion of the nearest street or right-of-way.
- (d) Garage sale signs may not be posted on city property. 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 rights-of-way.

SECTION E. 10-85 AMENDMENT

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales, Sec. 10-85. – Exception for churches, charitable and nonprofit organizations of the CITY OF VENUS CODE OF ORDINANCES is hereby retitled and amended as follows:

Sec.10-85. – Churches, charitable and non-profit organizations.

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

- (1) The organization does not hold more than one (1) garage sale per month;
- (2) The garage sale is conducted on the organization's property;
- (3) A member of the organization, authorized to act on its behalf, must apply and receive a permit from the city, just as the regular process, but shall not be charged a fee for the permit; and
- (4) None of the net earnings of the garage sale shall inure to a shareholder or other individual unless a charitable benefit for a specific purpose (i.e. garage sale to benefit a family whose home burned down, a benefit to assist a family with funeral expenses of a loved one, a scholarship benefit, etc.).

SECTION F. ADDITION OF SECTION 10-86

Chapter 10 – Businesses and Business Regulations, Article III. Garage Sales of the CITY OF VENUS CODE OF ORDINANCES is hereby amended to include new section 10-86. – Waiver of permit and fee requirement as follows:

Sec. 10-86. – Antique Alley waiver of permit and fee requirement.

- (a) No permit is required and no fee is required for garage sales held twice per year during Antique Alley events on the third Friday, Saturday & Sunday of April and September.
- (b) Sign rules remain in effect during Antique Alley fee and permit waiver weekends.
- (c) Garage sales conducted during Antique Alley do not count toward the maximum number of garage sales allowed and the timing of garage sales rules provided in Section 10-82(d) of this article.

SECTION G. OPEN MEETINGS COMPLIANCE

That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the TEXAS OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE, Chapter 551.

SECTION H. SEVERABILITY

Should any section, clause, subsection, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and/or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

SECTION I. REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only 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 this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION J. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the city, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the TEXAS LOCAL GOVERNMENT CODE. The City Secretary is also hereby directed to incorporate the provisions of this ordinance into the CITY OF VENUS CODE OF ORDINANCES by submitting it to www.municode.com for incorporation and online publication.

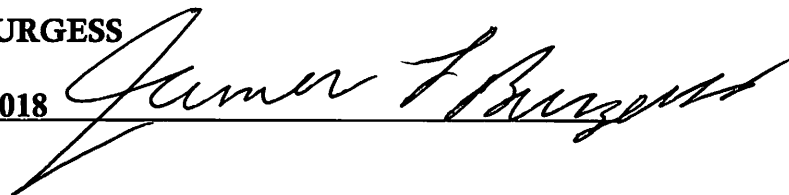
SECTION K. EFFECTIVE DATE

This ordinance shall become effective from and after its passage.

SECTION L. CERTIFICATION OF ADOPTION

APPROVED: **MAYOR JAMES L. BURGESS**

PASSED: **MONDAY, MAY 14, 2018**

A handwritten signature in black ink, appearing to read "James L. Burgess", is written over a horizontal line. The signature is cursive and extends to the right of the line.

ORDINANCE BECOMES EFFECTIVE: MONDAY, MAY 14, 2018

I, the undersigned, City Secretary do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of Venus City Council at a regular meeting duly convened on Monday, May 14, 2018.

ATTEST:



RANA GAMEL, CITY SECRETARY

APPROVED AS TO FORM:



CASS CALLAWAY, CITY ATTORNEY

