

CITY OF SEGUIN

ORDINANCE NO.

STATE OF TEXAS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 22, BUISNESSES TO CREATE A NEW BUSINESS, LICENSED ESTATE SALES, ANC CHAPTER 78, SECOND HAND GOODS; PROVIDING PENALTIES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES.

**RECITALS:**

**WHEREAS**, there are operational differences between garage and estate sales operated by homeowners and liquidation estate sales operated by businesses who specialize in such sales; and

**WHEREAS**, businesses that operate estate sales carry a sales tax permit and pay sales tax on the proceeds from the liquidation sales; and

**WHEREAS**,

**NOW THEREFOR BE IT RESOLVED** by the City Council of Seguin, Texas:

**SECTION ONE.** Article 22, Businesses, of the Seguin Code of Ordinances is hereby amended by the addition of a new Division IX, Licensed Estate Sales, to read as follows:

Article IX. Licensed Estate Sales

Sec. 22-550. Definitions

Licensed Estate Sales means a business whose major operation is to conduct a liquidation of the belongings of a family or estate generally conducted at the family residence and who maintains a current, valid sales tax permit issued by the Texas Comptroller of Public Accounts.

Sec. 22-551. Registration and Permit Required

a. Any business or person conducting Licensed Estate Sales within the corporate limits of the City is required to register annually with the City.

b. The owner or principal may register a Licensed Estate Sales business through the City's building inspections office by completion of an application form, paying the fee set forth in Appendix C, and providing proof of current sales tax permit for the business.

c. In addition to registration, each Licensed Estate Sale must apply for a permit from the department of building inspections prior to conducting a Licensed Estate Sale. The fee for this permit shall be set forth in Appendix C.

d. The permit application will contain all information necessary to fully advise the director of building inspection of the dates, location (street address), hours of operation of the Licensed Estate Sale and any other information that may reasonably be required by the director.

Sec. 22-552. Operational limitations.

A Licensed Estate Sale may conduct its sale between the hours of 8:00 a.m. and 6:00 p.m.

During each calendar year a Licensed Estate Sale is limited to conducting a sale for no more than nine days over three consecutive weeks at any single location.

Sec. 22-553. Signs

(a) All signage advertising Licensed Estate Sales and shall be subject to the following requirements:

(1) Signage shall not exceed nine square feet each in surface area.

(2) Signage shall be limited to a total of two on-premises signs and four off-premises signs for a maximum of six signs. "On-premises signs" shall mean signs located on the property where the sale is taking place. Off-premises signage shall not be located on any private property without the written consent of the property owner.

(3) All signs used by a Licensed Estate Sale must include the name and phone number of the business conducting the sale.

(4) The publicly held property between the private property line and the street curb or driving surface of the property where the sale is being conducted may be used for signs in accordance with requirements for number, size and location, otherwise off-premise signs may not be placed in any public right-of-way.

(5) No sign shall be attached to any utility pole, street sign or light, or any public sign or pole. No sign shall be placed in public right-of-way.

(6) No sign shall be exhibited more than two days prior to the sale and shall be removed by 8:00 pm on the last day of the sale.

(7) No sign may be displayed without first obtaining a permit for the estate sale.

(8) Signs must be staked firmly in the ground. Any damage to public property as a result of the sign installation shall be the sole responsibility of the Licensed Estate Sales business owner.

Any person violating a requirement of this article shall be subject to the penalties set forth in section 1-14.

**SECTION TWO.** The Seguin Code of Ordinances, Article 78, Secondhand Goods, Article II, Garage Sales, is hereby amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

ARTICLE II. – GARAGE AND ESTATE SALES

DIVISION 1. - GENERALLY

Sec. 78-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable or nonprofit organization means any organization qualifying as nonprofit under section 501(c) of the Federal Income Tax Code or the state Nonprofit Corporation Act.

Estate sale means a type of garage sale, yard sale or auction, other than a Licensed Professional Estate Sale, conducted from or on a residential premises (single-family, duplex or apartment), in any residential zone for the purpose of disposing of personal property owned by a person who is recently deceased, or one who must dispose of personal property to facilitate a move.

Garage/Estate sale operator means any person with a permit issued by the building inspection department to operate a garage or estate sale.

Garage sales means all general sales, open or advertised to the public, conducted from or on a residential premises (single-family, duplex or apartment), in any residential zone for the purpose of disposing of tangible personal property. Such sales include situations in which more than five specific items of tangible personal property are to be sold.

Personal property means property which is owned, utilized and maintained by a person or members of his 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 means any single-family structure or multifamily complex which may be owned, rented or leased.

Sec. 78-27. - Violations; penalties.

Any person violating a requirement of this article shall be subject to the penalties set forth in section 1-14.

Sec. 78-28. - Exceptions.

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

- (1) The church or organization does not hold more than one garage sale per month.

- (2) The sale must be conducted on the ~~church, or organization property.~~ property of the organization or on commercial property, with the approval of the owner.
- (3) A member of the church or organization, authorized to represent it, must register with the department of building inspection. No fee will be charged for registration.
- (4) None of the net earnings of a garage sale shall inure to a shareholder or other individual.

Sec. 78-29. - Sale of food items.

- (a) Food items shall not be sold under authority of a garage or estate sale permit. A permit for the sale of food items may be obtained from the health department.
- (b) All sales of food items at a garage or estate sale shall be subject to section 22-26 et seq.

Sec. 78-30. - Signs.

- (a) All signage advertising garage and estate sales and shall be subject to the following requirements:
  - (1) All Garage and estate sale signage shall not exceed ~~four~~ nine square feet each in surface area.
  - (2) Garage and estate sale signage shall be limited to two on-premises signs and two off-premises signs for a maximum of four signs. "On-premises signs" shall mean signs located on the property where the sale is taking place. Off-premises signage shall not be located on any private property without the written consent of the property owner and must include the address and date(s) of the sale.
  - (3) The publicly held property between the private property line and the street curb or driving surface of the property where the sale is being conducted may be used for garage and estate sale signs in accordance with requirements for number, size and location, otherwise off-premise signs may not be placed in public right-of-way.
  - (4) No garage or estate sale sign shall be attached to any utility pole, street sign or light, or any public sign or pole. No garage or estate sale sign shall be placed in public right-of-way.
  - (5) No garage or estate sale sign shall be exhibited more than one day prior to the garage or estate sale and shall be removed by 8:00 pm on the last day of the sale ~~one day of the expiration of the garage sale permit.~~
  - (6) No garage or estate sale sign may be displayed without first obtaining a ~~garage sale~~ permit.
  - (7) Garage and estate sale signs must be staked firmly in the ground. Any damage to public property as a result of the sign installation shall be the sole responsibility of the ~~garage sale~~ permit holder.
- (b) A person who violates any provision of this subsection shall be subject to a fine not to exceed \$50.00 per day, per offense.

Sec. 78-31. - Hours of operation.

An applicant having a valid ~~garage sale~~ permit may operate a garage sale between the hours of 8:00 a.m. and 6:00 p.m.

Sec. 78-32. - Display of sale items.

Personal property for sale at a garage or estate sale shall be exhibited or displayed on the private property where the residence is located, not closer than five feet to the front or side property lines, and cannot be placed in the public right-of-way.

## DIVISION 2. - PERMIT

Sec. 78-46. - Required.

It shall be unlawful for any person to operate or participate in the operation of a garage or estate sale without first obtaining the proper permit from the department of building inspection.

Sec. 78-47. - Application for a permit.

- (a) An application for a garage or estate sale operator's permit shall be made upon forms provided by the department of building inspection.
- (b) The application will contain all information necessary to fully advise the director of building inspection of the dates, location (street address), hours of operation of the garage or estate sale and any other information that may reasonably be required by the director.
- (c) Only the owner or lessee of the residential property upon which the garage sale is being conducted, or their authorized agent, may obtain such permit.
- (d) ~~Before such permit shall be issued, the applicant shall provide proof of address such as a driver's license, utility bill or other identification and any other pertinent information as may reasonably be required by the department of building inspection. Upon verification and compliance with this article, and payment of the proper fee, the applicant will be issued a permit for a garage sale by the department of building inspection.~~
- (e) By making application for such ~~garage sale~~ permit, accepting the permit and conducting such sale, the owner or lessee of the property to whom such permit is granted authorizes any code enforcement officer to enter upon the property for the purpose of determining that such sale is being conducted in accordance with this article.

Sec. 78-48. - Maximum number.

~~The department of building inspection shall issue one permit for each garage sale. Each residence is allowed two garage sales per calendar year per location. There shall not be more than two garage or estate sales by the same property owner or tenant at the same location per calendar year.~~

Sec. 78-49. - Permits issued in violation.

Any garage or estate sale permit issued in violation of any section of this article shall be absolutely void, and no rights whatsoever shall accrue.

Sec. 78-50. - Zoning ordinance applicability.

All permits issued pursuant to this division shall be subject to the provisions of this article, as well as the zoning ordinance in appendix B to this Code.

Sec. 78-51. - Fee.

Under this division, no permit shall be issued unless the applicant has paid the building inspection department a ~~garage sale operator's~~ fee as established by the city council by resolution and set forth in appendix C to this Code.

Sec. 78-52. - Term.

All permits issued under this division shall continue in full force from the date specified on the permit. Each ~~garage~~ sale shall not exceed two consecutive days.

Sec. 78-53. - Contents; display.

- (a) Each permit issued under this division shall bear the street address of the residence where the sale will be located, the dates and hours when the ~~garage~~ sale will be held and any other information deemed necessary by the department of building inspection.
- (b) The permit must be clearly displayed and visible for a distance of six feet from the curblineline or nearest edge of the paved portion of the street or right-of-way.

~~Sec. 78-54. - Transferability.~~

~~No permit issued under this division shall be transferrable nor shall a permit holder allow his name to be used by any other person for the purposes of operating a garage sale.~~

**SECTION THREE.** The Seguin Code of Ordinances, Appendix C, Fee Schedule, Section 22, Businesses, is amended by the addition of a new article to read as follows:

Article IX - Licensed Estate Sales

<u>Annual Registration</u>	<u>\$50.00</u>
<u>Sale Permit Fee per week</u>	<u>5.00</u>

**SECTION FOUR.** In accordance with Section 3.10 of the Seguin City Charter, this Ordinance shall become effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

**SECTION FIVE.** If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

**SECTION SIX.** City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

**PASSED AND APPROVED** on first reading this 15<sup>th</sup> day of September, 2015.

**PASSED AND APPROVED** on second reading this 6<sup>th</sup> day of October 2015.

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**DON KEIL, Mayor**

ATTEST:

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Thalia Stautzenberger, City Secretary