

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, PROVIDING REGULATIONS GOVERNING AND RELATING TO GARAGE SALES; PROVIDING DEFINITIONS; PROVIDING STANDARDS FOR ISSUANCE OF A PERMIT BY THE TOWN TO CONDUCT A GARAGE SALE, THE PAYMENT OF A PERMIT FEE, AND FOR THE HOLDING OF A GARAGE SALE; PROVIDING REGULATIONS RELATING TO GARAGE SALE SIGNS; PROVIDING FOR CANCELLATION OF A GARAGE SALE AS A RESULT OF INCLEMENT WEATHER; PROVIDING STANDARDS FOR A GARAGE SALE HELD BY A NONPROFIT ORGANIZATION; PROVIDING FOR A PENALTY (EXCEPT AS OTHERWISE PROVIDED FOR HEREIN) NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED TO OCCUR EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to regulate garage sales within Prosper and to regulate garage sale signs within Prosper and its Extraterritorial Jurisdiction (“ETJ”);

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to prevent potential traffic hazards resulting from the signs’ distractions and locations;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to prevent nuisances and invitations to vandalism;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to create a neat and orderly appearance throughout Prosper;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to ensure a noncommercial atmosphere in residential areas;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to create appropriate and orderly commercial and residential atmospheres;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to maintain the privacy of the home and limit what an unwilling viewer must be exposed to relative to the enjoyment of the investment made in the home;

WHEREAS, the Town Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to enhance property values and psychological well-being for individuals and families;

WHEREAS, Prosper has complied with all notices as required by law; and

WHEREAS, the Town Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to regulate garage sales as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

SECTION 1: Findings Incorporated/Applicability of Ordinance. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein. This Ordinance shall regulate garage sales within Prosper and regulate garage sale signs within Prosper and its ETJ.

SECTION 2: Definitions. The following terms used in this Ordinance shall be defined as follows:

GARAGE SALE - means an occasional sale, exchange, or barter to the general public, on properties with a residential use, for the purpose of disposing of surplus personal property. The term includes, but is not limited to, all sales entitled "garage," "lawn," "yard," "room," "estate," "backyard," "patio," "rummage" and "neighborhood." The term also includes sales authorized by Section 4.J. and Section 7.

RIGHT-OF-WAY - means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the Town has an interest.

SIGNS - means and includes only those signs, issued by the Town, for purposes of advertising a garage sale.

PROPERTY OWNERS ASSOCIATION - means a designated representative of the owners of property in a subdivision, condominium complex, or other property and may be referred to as a "homeowners association," "neighborhood association", "community association," "civic association," "civic club," "association," "committee," or similar term. The membership of the association consists of the owners/tenants of property within the subdivision, condominium complex, or other residential property.

SECTION 3: Permit Required.

No person, firm, nonprofit, or corporation shall advertise, operate, or participate in a garage sale within the limits of the Town of Prosper without first obtaining a garage sale permit. The fee for a garage sale permit shall be \$10.00.

SECTION 4: Conditions of Permit. The following regulations apply in connection with the conduct and operation of a garage sale:

A. Prior to holding or conducting a garage sale, a garage sale permit must be obtained in person at Development Services. Only individuals who are residents of Prosper may apply for a garage sale permit.

B. A garage sale permit, if issued, will be issued by the Building Official of the Prosper or his/her designee(s).

C. A garage sale permit must be obtained by an adult occupant of the property where the garage sale is to be conducted or their designated adult representative (herein referred to as the "Occupant"). Proof of the ownership or occupancy of such property may be verified by the Town through the Collin or Denton County Appraisal Districts, by a copy of a deed, by a copy of a rental/lease agreement, or by water account information.

D. A garage sale permits shall be issued by property address, not applicant name.

E. A garage sale permit may only be issued for properties with a residential use, except for a sale authorized by Section 7.

F. A garage sale permit may be issued no more than three (3) times per calendar year for the same premises (the "Maximum Number of Garage Sales"), excluding community garage sales. At least thirty (30) days must elapse between garage sales occurring on the same property.

G. A garage sale permit shall be valid for up to three (3) consecutive calendar days. On each such day, a garage sale may commence not earlier than thirty (30) minutes following sunrise and shall end not later than thirty (30) minutes prior to sunset.

H. A current garage sale permit issued for the property must be posted on the property where the sale is conducted at all times while the garage sale is being conducted, and must be displayed in a conspicuous location.

I. No more than three (3) families may combine their property for sale at a single garage sale.

J. A Property Owners Association shall be permitted to have a community garage sale and in connection therewith shall abide by and be subject to the provisions set forth in Sections 3 and 4 of this Ordinance.

For purpose of determining the number of garage sales conducted annually on a property, the holding of a community garage sale shall not be considered a garage sale conducted on an individual residential property which is subject to the jurisdiction of the Association. Except as otherwise provided for in this Ordinance, all community garage sales shall be subject to the same terms and conditions applicable to a garage sale for an individual residential property including, without limitation, that no more than three (3) community garage sales may occur each calendar year.

K. Garage sale items may be displayed for sale only in the following areas: residential yard including the front or back yard, garage, patio area, under a carport covering, driveway, or inside a residence.

L. Garage sale items must be placed at least ten (10) feet from the back of the curb and at least five (5) feet from each side property line. Garage sale items shall not be located within the public right-of-way.

M. Garage sale items including, but not limited to: items for sale, displays, tables, racks, tarps, and boxes must be removed by the Occupant from the sale area by 8:00 a.m. the day following the last day of the sale. Items are strictly prohibited from remaining in the sale area or in the yard of the property.

SECTION 5: Signs. All signs to be located in the Town of Prosper or its ETJ for garage sales shall be in conformance with the Town Sign Code, Section 1.09(S), as amended, and the following regulations:

A. The Town will issue five (5) off premise signs for a “garage sale”. Signs for garage sales conducted within the Town may be used in connection with the garage sale for which a garage sale permit was received. Signs for garage sales located in the ETJ shall only be valid for the dates the signs are issued for. All other off-premise signs related to a garage sale are strictly prohibited.

B. All garage sale signs must be posted using a wood or metal stake. All other posting methods are strictly prohibited.

C. Garage sale signs shall not be placed, erected or installed any earlier than 8:00 a.m. the day of the sale. All garage sale signs must be removed by the Occupant by 8:00 a.m. on the day following the last day of the garage sale.

SECTION 6: Cancellations/Inclement Weather. The following regulations pertain to the cancellation of a garage sale:

A. Subject to subsection B of this Section, if inclement weather occurs on any part of three days of a scheduled garage sale, resulting in cancellation of the garage sale in its entirety each such day, the garage sale shall not count toward the Maximum Number of Garage Sales permitted within one calendar year.

B. If the conditions of subsection A of this Section apply, the Occupant must contact Development Services within three (3) business days following cancellation due to inclement weather to reschedule the date of the garage sale. If the Occupant fails to do so, the garage sale shall be counted toward the Maximum Number of Garage Sales allowed per calendar year.

C. Garage sales will only be rescheduled due to inclement weather. (No exceptions.)

D. Permit fees will not be refunded under any circumstances.

SECTION 7: Charitable, Religious, Educational, Fraternal, Governmental or Nonprofit Organizations. The following regulations shall apply to charitable, religious, educational, fraternal, governmental, or nonprofit organizations (together, "Nonprofit Organizations"):

A. Nonprofit Organizations may only conduct a garage sale on the Nonprofit Organization's property or other properties with written permission regardless of zoning or land use.

B. If a Nonprofit Organization desires to conduct a garage sale on property not its own the Nonprofit Organization must present to the Town a letter from the owner of the property authorizing the Nonprofit Organization to conduct a sale on the property. The letter must include the property address, the name of the Nonprofit Organization sponsoring the garage sale and the dates the garage sale is to take place and must be signed by the property owner.

C. The fee for the garage sale permit will be applied as in Section 3.

D. A garage sale permit sponsored by a Nonprofit Organization will be counted as a sale against the Maximum Number of Garage Sales allowed annually for each property.

E. The number of families participating in a garage sale sponsored by a Nonprofit Organization is not restricted.

SECTION 8: Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 9: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any

violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 10: Severability. Should any section, 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. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.


SECTION 11: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, on this 13th day of November, 2007.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:


Matthew Denton, TRMC
Town Secretary



DATE OF PUBLICATION: NOVEMBER 23, 2007, Dallas Morning News – Collin County
Edition