

ORDINANCE NO. 855

AN ORDINANCE REGULATING GARAGE SALES WITHIN THE CITY OF MADRAS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Madras ("City") is working on making City more attractive and interesting for City residents and visitors; and

WHEREAS, in order to promote the general health, safety, and welfare of the public, the Madras City Council (the "City Council") has determined that it is necessary to adopt this Ordinance No. 855 (this "Ordinance") in order to regulate the holding, assisting with, and/or participation in garage sales within City's incorporated limits.

NOW, THEREFORE, the City of Madras ordains as follows:

SECTION 1: DEFINITIONS

For purposes of this Ordinance, the following terms have the following meanings:

"Garage sale(s)" means a general sale open to the public conducted from or on a residential premise for the purpose of disposing of personal property, including, without limitation, all sales entitled "garage," "moving," "lawn," "yard," "attic," "porch," "backyard," "estate," "patio," and/or "basement."

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

SECTION 2: NUMBER OF GARAGE SALES AND HOURS OF OPERATION

2.1 No person will hold more than five garage sales during any one calendar year. If persons of more than one residence join in holding a garage sale, then such garage sale will be considered as having been held by each person of such residences.

2.2 Garage sales will only be operated during daylight hours and for not more than three consecutive days; provided, however, in no event will a garage sale be operated before 7:00 a.m. and/or later than 7:00 p.m.

SECTION 3: DISPLAY AND OPERATION

3.1 Personal property will be offered for sale and displayed only within the residence and/or the garage, carport, and/or yard of the residence. No property offered for sale will be displayed in any public right-of-way, including, without limitation, any sidewalk, alley, and/or street.

3.2 All garage sales will be conducted in a manner so as to cause no significant inconvenience, disturbance, and/or annoyance to residents of neighboring property and/or the neighborhood of the residence upon which the garage sale is conducted. Garage sales will be conducted without the creation of excessive noise, air and/or water pollution, and/or unsightly conditions. The individual(s) operating a garage sale and the owner and/or tenant of the residence upon which the garage sale is conducted will not permit vehicles to impede the safe and orderly passage of traffic on any road or street in the area of the residence.

SECTION 4: ADVERTISING SIGNS

4.1 All garage sale advertising signs will be displayed on the property of the residence where the garage sale is being conducted. No signs will be placed within the public right-of-way, including, without limitation, utility poles, regulatory signs, posts, and/or décor (e.g., flower pots).

4.2 All advertising signs will be posted not earlier than twenty-four (24) hours prior to the garage sale. All advertising signs will be removed not later than twenty-four (24) hours after the close of the garage sale.

4.3 Signs posted and/or found within City which do not comply with this Ordinance (a) are a nuisance to public safety as they detract from the driving public's attention to traffic signals as well as other vehicular and pedestrian traffic, and (b) degrade the beauty or appearance of property and detract from the natural cleanliness or safety of property. Signs posted and/or found in violation of this Ordinance will be considered abandoned and discarded upon public right-of-way and will be subject to confiscation and destruction. Any person posting signs or otherwise in violation of this Ordinance may be subject to enforcement action and/or penalties as provided under this Ordinance and applicable law, including, without limitation, citation under ORS 164.805 for offensive littering.

SECTION 5: OWNER PRESUMPTIONS

5.1 In the enforcement of this Ordinance there is a presumption that the address and/or telephone number listed on a garage sale sign will be that of the individual(s) responsible for posting the sign. In addition, signs directing the public by way of arrows or other directional symbols or phrases to a particular residence are presumed to have been erected by the owner and/or tenant of the residence.

5.2 The individual(s) operating a garage sale and the owner and/or tenant of the residence upon which the garage sale is conducted will be jointly and severally responsible for compliance with this Ordinance, including, without limitation, the maintenance of order and decorum on the residence during the hours of the garage sale's operation.

SECTION 6: VIOLATION NOTICE AND PENALTIES

6.1 Any person violating this Ordinance for the first time may be served with a letter documenting the violation along with a copy of this Ordinance. Notwithstanding anything contained in this Ordinance to the contrary, nothing contained in this Ordinance will be construed to require that the person violating this Ordinance must first receive a violation notice prior to the commencement of any enforcement action and/or penalties under this Ordinance.

6.2 Any person violating this Ordinance (whether or not the person previously received a violation notice) may be subject to a fine not to exceed \$100.00 for each such violation and citation for offensive littering under applicable law. Each day the violation continues will be considered a separate violation.

SECTION 7: SEVERABILITY AND EMERGENCY CLAUSE

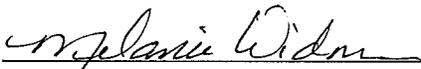
7.1 The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected at any time by order of the City Council to cure editorial and/or clerical errors.

7.2 All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended.

7.3 The City Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health and safety of City's citizens. The City Council further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to the public welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its adoption by the City Council and signing by the Mayor.

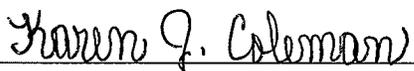
ADOPTED by the Common Council of the City of Madras and signed by the Mayor this 23Rd day of April, 2013.

Ayes: 4
Nays: 0
Abstentions: 0
Absent: 2
Vacancies: 0



Melanie Widmer, Mayor

ATTEST:



Karen J. Coleman, City Recorder