

ORDINANCE NO. 1331

An Ordinance adding Title 9, Chapter 12, regarding outdoor sales, garage sales, and yard sales to the Crossville Municipal Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROSSVILLE, TENNESSEE AS FOLLOWS:

SECTION I. That Title 9, Chapter 12 be added to the Crossville Municipal Code:

SECTION:

- 9-1201. Intent.
- 9-1202. Definitions
- 9-1203. Exceptions from chapter.
- 9-1204. Permit required.
- 9-1205. Penalty for violation of chapter.
- 9-1206. Right of entry-authority of inspector.
- 9-1207. Property permitted to be sold.
- 9-1208. Duration of sale.
- 9-1209. Display of property.
- 9-1210. Signs.
- 9-1211. Responsibility for maintaining order.
- 9-1212. Parking.
- 9-1213. 127 Corridor Sale.
- 9-1214. Means of advertisement of yard sales---obstructing traffic.
- 9-1215. Revocation and refusal of permit.
- 9-1216. Non-conforming sales
- 9-1217. Property maintenance
- 9-1218. Severability.

- 9-1201.** Intent. The City Council of Crossville, Tennessee finds and declares that:
- (1) The intrusion of non-regulated outdoor sales, garage sales, and yard sales is causing annoyance to the citizens in the city and congestion of the streets in the city.
 - (2) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of outdoor sales, garage sales and yard sales, so as not to disturb or disrupt the residential environment of the area.
 - (3) The provisions of this chapter are designed to control the operation of outdoor sales, 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 chapter 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 chapter are enacted not to prevent outdoor sales, garage sales, or yard sales, but to regulate such sales for the safety and welfare of the city's citizens.

- 9-1202.** Definitions. The following words, terms, and phrases, when used in this chapter, 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.
- (1) "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 as household articles, utensils, jewelry, clothing, furniture, or other articles of this kind and may be also known as a garage sale.
 - (2) "Garage sale" means and includes all general sales, open to the public, conducted from or on any premises in any residential or nonresidential area,

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 area 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.

- (3) "127 Corridor Sale" or "World's Longest Yard Sale" refers to an annual four-day sale conducted along Hwy. 127 on the first Thursday in August through the following Sunday, originally organized by the Fentress County Chamber of Commerce.
- (4) "Outdoor sales" shall include, but not be limited to, tent sales, truckload sales, sidewalk sales and parking lot sales. The sale of fireworks is not included in the provision of this chapter and shall be governed by regulations contained in §§ 7-501 et. seq.
- (5) "Non-profit Organization" shall include all organizations so-classified by the Internal Revenue Service. Recognized clubs and sub-organizations of schools, churches, and civic organizations may be considered a non-profit organization with proper documentation. Final determination of status will be made by the City Manager and/or City Clerk.
- (6) "Person" shall include individuals, neighborhood associations, entities and non-profit entities.
- (7) "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.
- (8) "Yard sales" are 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, and, where used herein, includes Community Yard Sales.

9-1203. Exceptions from chapter. The provisions of this chapter 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 its place of business at its physical address (as published or filed publicly) wherein such sale would be permitted, or any other sale conducted by a manufacturer, dealer, or vendor in which sale would be conducted from premises not otherwise prohibited by other ordinances. Such merchant, mercantile, or other business establishment must have applied for and received a business license issued by the city. All persons and entities that hold a business license issued by the City may conduct non-permanent Outdoor Sales at their regular, permanent place of business without a permit as contemplated herein, subject however to all other applicable rules, codes, statutes and regulations.
- (4) Any non-profit 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 subject to any further provision and regulation in this Code.
- (5) Persons selling only edible farm products and produce, other than live animals.

9-1204. Permit Required. With the exception of the 127 Corridor Sale, a permit shall be required to be obtained from the office of the City Clerk for all Yard Sales, Outdoor Sales, Garage Sales, Community Yard Sales except as exempted above. Any permit shall be posted, or available for viewing, on the premises. The applicant shall submit an application containing the following information:

- (a) The name of the applicant;
- (b) The applicant's address and the address where the outdoor sale, garage sale, or yard sale will take place;
- (c) The area within the property where the sale is to be held;
- (d) The date(s) and hours of the sale;
- (e) A general description of the type of merchandise to be sold and the source of such goods; and
- (f) A signed declaration that the applicant resides at the property where the sale is to be held, or has permission to use such property, and that the applicant is the owner of all of the property to be offered for sale.

9-1205. Penalty for violation of chapter.

- (1) Every article sold and every day a sale is conducted in violation of this article shall constitute a separate offense.
- (2) Any person found guilty or violating the terms of this chapter shall be subject to punishment by a fine not less than fifty dollars (\$50) per day.

9-1206. 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 chapter.

9-1207. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

9-1208. Duration of sale. Outdoor sales, garage sales, and yard sales shall be registered with the city clerk as provided for in § 9-1204 of this chapter at no cost and shall be limited as follows:

- (1) A period during a week not greater than three (3) consecutive days.
- (2) Each property address shall be limited to five (5) outdoor, garage, or yard sales per calendar year with persons holding more than five (5) outdoor, garage, or yard sales per year being subject to application for a license from 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:
 - (a) One (1) additional sale is permitted, provided the occupant of a specified address is moving to another specified address.
 - (b) One (1) additional "community yard sale", as defined by this chapter or the annual 127 Corridor Sale shall be permitted.
 - (c) Inclement weather. If an outdoor sale, garage sale, or yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city clerk shall issue another permit to the applicant for an outdoor sale, garage sale, or yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held.
- (3) The hours of operation for any such sales shall be from 6:00 A.M. to 6:00 P.M.

9-1209. Display of property. Personal property offered for sale pursuant to this chapter 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 an outdoor sale, 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. All displays shall maintain a minimum of three foot (3') clearance from the property line.

9-1210. Signs. Signs are permitted but only as specified hereafter, notwithstanding any other Code provision. Only the following specified signs may be displayed in relation to a pending outdoor sale, garage sale, or yard sale; provided however, that such signs shall be subject to any other applicable ordinance of the City of Crossville 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 outdoor sale, 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 outdoor sale, 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. The permit number issued by the City must be shown on such signs.
 - (a) Time limitations. No signs or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.
 - (b) Removal of signs. Signs must be removed at the conclusion of the outdoor sale, garage sale, or yard sale activities.

9-1211. Responsibility for maintaining order. The individual to whom a permit is issued under this chapter 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.

9-1212. Parking. All parking of vehicles at sales regulated under this chapter 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 outdoor sale, garage sale, or yard sale.

9-1213. 127 Corridor Sale. All persons who hold or engage in an outdoor sale, garage sale, or yard sale within the city limits of the City of Crossville during the official days of the 127 Corridor Sale shall not be permitted to set up during the period of two (2) weeks ending on the Monday preceding the official start of the sale and must end their sale with the official end of the 127 Corridor Sale. All provisions of this chapter shall apply to the 127 Corridor Sale, unless otherwise noted.

9-1214. Means of advertisement of yard sales---obstructing traffic. It shall be unlawful for any person or person holding or engaged in an outdoor sale, 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 person holding or intending to hold an outdoor sale, garage sale, or yard sale to post advertisement of the sale on telephone poles, utility poles, traffic or road signs, or in any manner anywhere except as allowed in § 9-1210. Advertising also may be given to the local news media for publication or other similar means of informing the public.

9-1215. Revocation and Refusal of Permit.

- (1) Revocation of permit. An outdoor sale, garage sale, or yard sale permit can be revoked or denied if it is determined that the applicant has submitted false information in the permit application, if the conduct of the sale is creating a nuisance, a hazard, or if unlawful activity is occurring on the premises or is being conducted by the permit holder.
- (2) Refusal of permit. The City Manager is granted authority to reasonably deny the issuance of an outdoor sale permit, garage sale permit, or yard sale permit or to revoke its issuance in the event that sale could create or creates hazardous or

unsafe conditions including but not limited to traffic congestion, or an inability of the police or fire personnel to provide adequate protection for the sale or in other parts of the city, or there is insufficient city personnel to monitor the sale and the adjacent activities, and/or crowded conditions. The denial or revocation of a permit is warranted, for example, when its issuance is in conflict with a public event in the city such as, including but not limited to, special events, ceremonies, shows, demonstrations, pageants, parades, festivals, public displays, concerts, and/or exhibits.

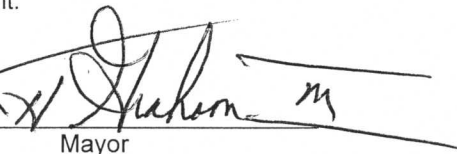
9-1216. Non-conforming sales. Upon the effective date of this chapter, any existing outdoor sales, garage sales, yard sales shall have thirty (30) days to continue to operate without a permit. After such time, they must obtain a permit and operate under all provisions of this chapter.

9-1217. Property maintenance. Persons holding permits under this chapter shall maintain the property during the sale in such a manner as to minimize the accumulation of trash, litter, or other unsightly conditions. At the conclusion of the sale, all debris, signs, tables, and/or any other items must be removed from the site. Failure to properly maintain or clean-up a site may result in the denial of permits for one year.

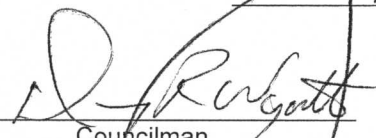
9-1218. Severability. If any provision of this Chapter is found to conflict with any provision of any other Chapter, then the provision of this Chapter shall control. That should any part, or parts of this Chapter be declared invalid for any reason, no other part, or parts, of this Chapter shall be affected thereby.

SECTION II. EFFECTIVE DATE

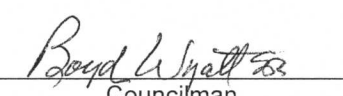
This Ordinance shall take effect from and after its passage and publication as the law directs, the public welfare requiring it.



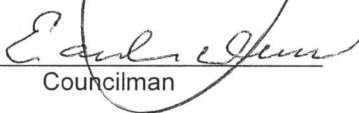
Mayor




Councilman



Councilman

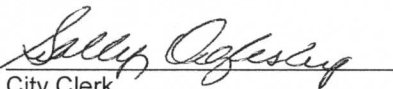


Councilman




Councilman

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

Passed 1st Reading: July 19, 2011
Passed 2nd Reading: August 9, 2011
Passed 3rd Reading: September 13, 2011