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ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C2O-2010-009 Garage Sales, Art Tours and Home Occupation

Description:

Amend Chapter to Title 25 relating to requirements for tours, garage sales, home occupations, and art production and sales. The amendment specifies how often a homeowner may hold a garage sale (4 days/year) or take part in an art tour that includes minor sales (6 days/year).

Staff Recommendation: Staff recommends approval of this code amendment.

Proposed Language

One use would be added to list of permitted accessory uses for a primary residential use:

§ 25-2-893 (*Accessory Uses for a Principal Residential Use*)

(C) The following are permitted as accessory uses:

- ...
- (7) on-site sales held in connection with a garage sale or a tour that or a tour that complies with Section 25-2-901 (Garage Sales and Tours);

The following new section would be added:

§ 25-2-901 GARAGE SALES AND TOURS.

(A) A garage sale is allowed as an accessory residential use subject to the requirements of this subsection.

- (1) A garage sale includes yard sales, carport sales, or similar types of sales involving:
- (a) the sale of used or secondhand tangible property customarily found at a residence; and
 - (b) the production and incidental sale of artwork by an individual responsible for making or producing the artwork.
- (2) A garage sale must be conducted entirely on a property used as the seller's principal residence.
- (3) A garage sale may not be held at the same property more than four days per calendar year or as part of a tour under Subsection (B) of this section.

(B) Participation on an annual or semi-annual tour is allowed as an accessory residential use subject to the requirements of this subsection.

- (1) A tour is an organized event in which multiple residential properties are opened to members of the public for any lawful purpose, including:
- (i) the appreciation and study of architecture; and
 - (ii) the production and incidental sale of artwork by an individual responsible for making or producing the artwork.

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- (2) A residential property may participate in a tour that includes the production or sale of art at the property no more than six days per calendar year.
- (C) In addition to the requirements of this section, a garage sale or studio tour must comply with all other applicable regulations.

City Council Date and Action:

May 12, 2011: City Council adopts Resolution No. 20110512-040 initiating a code amendment to address garage sales and art tours.

Board and Commission Actions

Planning Commission Committee on Codes and Ordinances – May 17, 2011: The committee forwarded this item to the full Planning Commission with a recommendation for approval.

Planning Commission – July 12, 2011: Planning Commission is scheduled for a public hearing and possible action on this item

Ordinance Readings: 1st 2nd 3rd

Ordinance Number:

City Staff: Robert Heil **Phone:** 974-2330 **Email:** robert.heil@ci.austin.tx.us

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ORDINANCE NO.

1 AN ORDINANCE ESTABLISHING REQUIREMENTS FOR RESIDENTIAL
2 GARAGE SALES AND TOURS AND CLARIFYING REQUIREMENTS
3 RELATING TO ART PRODUCTION ON RESIDENTIAL PROPERTY.
4

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
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7 PART 1. Subsection (C) of City Code Section 25-2-893 (*Accessory Uses for a Principal*
8 *Residential Use*) is amended to read:

9 (C) The following are permitted as accessory uses:

- 10 (1) recreational activities and recreational facilities for use by residents;
- 11 (2) religious study meetings;
- 12 (3) playhouses, patios, cabanas, porches, gazebos, and household storage
13 buildings;
- 14 (4) radio and television receiving antenna and dish-type satellite receivers;
- 15 (5) solar collectors;
- 16 (6) home occupations that comply with Section 25-2-900 (*Home*
17 *Occupations*);
- 18 (7) on-site sales held in connection with a garage sale or a tour that complies
19 with Section 25-2-901 (*Garage Sales and Tours*);
- 20 ~~[(7)](8)~~ the keeping of dogs, cats, and similar small animals as household pets;
21 and
- 22 ~~[(8)](9)~~ a single accessory apartment that complies with the requirements of
23 Section 25-2-901 (*Accessory Apartments*).
24

25 PART 2. City Code Chapter 25-2, Article 5 (*Accessory Uses*) is amended to add a new
26 Section 25-2-901 (*Garage Sales and Tours*) to read as follows:

27 § 25-2-901 GARAGE SALES AND TOURS.

28 (A) A garage sale is allowed as an accessory residential use subject to the
29 requirements of this subsection.

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- 1 (1) A garage sale includes yard sales, carport sales, or similar types of sales
- 2 involving:
- 3 (a) the sale of used or secondhand tangible property customarily found
- 4 at a residence; and
- 5 (b) the production and incidental sale of artwork by an individual
- 6 responsible for making or producing the artwork.
- 7 (2) A garage sale must be conducted entirely on a property used as the
- 8 seller's principal residence.
- 9 (3) A garage sale may not be held at the same property more than four days
- 10 per calendar year or as part of a tour under Subsection (B) of this section.

11 (B) Participation on an annual or semi-annual tour is allowed as an accessory
12 residential use subject to the requirements of this subsection.

- 13 (1) A tour is an organized event in which multiple residential properties are
- 14 opened to members of the public for any lawful purpose, including:
- 15 (i) the appreciation and study of architecture; and
- 16 (ii) the production and incidental sale of artwork by an individual
- 17 responsible for making or producing the artwork.
- 18 (2) A residential property may participate in a tour that includes the
- 19 production or sale of art at the property no more than six days per
- 20 calendar year.

21 (C) In addition to the requirements of this section, a garage sale or studio tour must
22 comply with all other applicable regulations.

23 **PART 3.** The City Council finds that:

- 25 (A) As determined by Planning & Development Review Department, a home
- 26 occupation use under Section 25-2-900 (*Home Occupations*) may include the
- 27 production of art. However, the sale of art is only allowed in connection with a
- 28 garage sale or tour as authorized by this ordinance.
- 29 (B) City Code does not regulate internet advertising.
- 30

31 **PART 4.** This ordinance takes effect on _____, 2011.

PASSED AND APPROVED

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_____, 2011

Lee Leffingwell
Mayor

APPROVED: _____
Karen Kennard
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

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RESOLUTION NO. 20110512-040

WHEREAS, several annual and semi-annual tours are held within Austin's urban neighborhoods that enhance the unique cultural and artistic environment for city residents and members of the Austin creative community; and

WHEREAS, production of arts and crafts is currently a permitted use under the City's home occupation regulations; and

WHEREAS, the promotion of home occupations, including arts and craft production and limited sales, is allowed via websites as well as guides and directories related to tours and events; and

WHEREAS, the tours provide a creative outlet for visual artists, craft-makers, and design professionals, as well as residents who maintain homes and public spaces and enhance the character and economy of the city; and

WHEREAS, city regulations protect neighborhoods and impact the success of tours, art production and home art sales; and

WHEREAS, in recognition of the City of Austin's continuing efforts to support art in public spaces and cultural arts programming and its creative community; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City Council initiates code amendments to City Code Chapter 25-2 (*Zoning*) and directs the City Manager to develop a proposed ordinance that:

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- (A) Allows residential properties throughout the City of Austin to participate in a tour, which may include the on-site incidental sale and production of arts and crafts, for up to 6 days per year;
 - (B) Allows residential properties to hold garage sales or similar events, which may include the on-site incidental sale and production of arts and crafts, for up to four-days per year when not associated with a tour; and
 - (C) Clarifies that the ordinance does not waive applicable land use codes or health and safety regulations.
2. The City Manager is directed to present a draft ordinance consistent with the terms of this resolution for consideration by the Council within 90 days.

ADOPTED: May 12, 2011 ATTEST: Shirley A. Gentry
Shirley A. Gentry
City Clerk