

ORDINANCE 2023-6

AN ORDINANCE OF THE TOWN OF GENEVA, INDIANA ADDING §111
TO TITLE XI OF THE GENEVA TOWN CODE, SETTING FORTH RULES
AND REGULATIONS DESIGNED TO CONTROL AND RESTRICT
GARAGE SALES.

WHEREAS, the Common Council of the Town of Geneva, Indiana has determined that the intrusion of non-regulated garage sales is causing annoyance to citizens in residential areas and residential premises in the Town of Geneva and congestion of the streets in residential zones in the Town of Geneva; and

WHEREAS, the Common Council of the Town of Geneva, Indiana has determined that if garage sales are left unregulated, the result may be regular commercial enterprises in residential neighborhood; and

WHEREAS, the provisions in this Ordinance are intended to prohibit the conducting of a retail business in any zoned residential areas or residential premises by regulating the terms and frequency of garage sales so as not to disturb or disrupt the residential environment of the area; and

WHEREAS, the provisions in this Ordinance do not seek control of sales by individuals selling a few of their household or personal items; and

WHEREAS, the provisions and prohibitions hereinafter contained are enacted not to prevent, but to regulate garage sales for the safety and welfare of the Town's citizens; and

WHEREAS, §153 of Article XV of the Town Code restricts home occupations in Residential Zones of the Town of Geneva.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF GENEVA, INDIANA, THAT:

Section 1. Chapter 111, of Title XI of the Town Code is hereby added, reading as follows:

CHAPTER 111: GARAGE SALES.

§111.01 PURPOSE.

These rules and regulations are designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on in compliance with Chapter 153, Zoning, of Title XV of the Geneva Town Code. The intent of this chapter is to eliminate perpetual, prolonged and extended garage sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in residential areas

and zones, create a nuisance, and often violate the zoning regulations of the Town of Geneva. The provisions of this chapter arise from the need to limit, regulate, restrict and control garage sales. It is not the intent of this chapter to change or amend Chapter 153, Zoning, of Title XV, and/or any other ordinances of the Town of Geneva.

§111.02 DEFINITIONS.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. As used in this chapter, the following terms shall have the meanings indicated:

- (A) GARAGE SALE: The sale or offering for sale of new, used or secondhand items of personal property at any one (1) residential premises at any one (1) time. This shall include all sales in residential areas entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.
- (B) GOODS: Any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.
- (C) MUNICIPALITY: All residential dwellings located within any type of zone, zoned area, zoning district, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Town of Geneva.
- (D) PERSONS: Individuals, partnerships, family groups, voluntary associations and corporations.

§111.03 PERMIT REQUIRED; FEE; CONDITIONS FOR SALES.

- (A) It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Town of Geneva without first obtaining a garage sale permit from the Clerk-Treasurer's Office after filing an application containing the information hereinafter specified.
- (B) Prior to issuance of any garage sale permit, the individuals conducting such sale shall file a written statement with the Town of Geneva Clerk-Treasurer in advance of the proposed sale, setting forth the following information:
 - 1. The full name and address of applicant.
 - 2. The location at which the proposed garage sale is to be held.
 - 3. The date or dates upon which the sale shall be held.
 - 4. The date or dates of any other garage sales within the current calendar year.
 - 5. An affirmative statement that the property to be sold was owned by the applicant as the applicant's own personal property and was neither acquired or consigned for the

purposes of resale.

- (C) Each permit application shall be accompanied by a permit administration processing fee as may be set from time to time by resolution of the Common Council of the Town of Geneva.
- (D) It shall be unlawful to participate in more than two (2) garage sales in any one (1) calendar year. For the purposes of this paragraph D, participation in a "Town-Wide Garage Sale" as scheduled and approved by the Town shall not be considered as counting toward the two (2) garage sale limit within said calendar year.
- (E) Not more than two (2) garage sale permits shall be issued to any one (1) person in any one (1) calendar year. For the purposes of this paragraph E, participation in a "Town-Wide Garage Sale" as scheduled and approved by the Town shall not be considered as counting toward the two (2) garage sale limit within said calendar year.
- (F) Not more than two (2) garage sale permits shall be issued for any one (1) premises in any one (1) calendar year. For the purposes of this paragraph F, participation in a "Town-Wide Garage Sale" as scheduled and approved by the Town shall not be considered as counting toward the two (2) garage sale limit within said calendar year.
- (G) It shall be unlawful to conduct any garage sale with a duration exceeding three (3) consecutive days. This three (3) day limitation shall apply to all permitted garage sales, including a "Town-Wide Garage Sale." All garage sales shall be limited in time to daylight hours.
- (H) The garage sale permit must be posted at a visible location to the traveling public for the duration of the sale.
- (I) No personal property offered for sale at a garage sale shall be displayed in any public right-of-way.
- (J) Upon the completion of a garage sale as set forth herein, all remaining property that was offered for sale, all tables and other items used to display such property, and all signage for used in said sale shall be removed from a visible location to the traveling public within twelve (12) hours of the termination of the sale.

§111.04 EXEMPTIONS.

This chapter shall not be applicable to:

- (A) Persons selling goods pursuant to an order of process or a court of competent jurisdiction.
- (B) Persons acting in accordance with their powers and duties as public officials.
- (C) Any person selling an item or items of personal property that are specifically named or described in a newspaper, radio or internet advertisement.
- (D) Any publisher of a newspaper, magazine or other publication or other communications media which publishes or broadcasts anything in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been met.
- (E) Any sale conducted by any legitimate business or commercial or industrial establishment on property zoned under the zoning regulations of the Town of Geneva with or without the protection of the nonconforming use section of the zoning laws, or any sale conducted by any other vendor or dealer when the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the State of Indiana and ordinances of the Town of Geneva, including this chapter.
- (F) Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.
- (G) Any public auction having a duration of no more than two (2) days and conducted by an auctioneer, licensed by the State of Indiana.

§111.05 ENFORCEMENT; COMPLAINTS.

- (A) This chapter shall be enforced by the Town of Geneva Marshal's Office, and it shall be its duty to investigate and prosecute any violation of this chapter.
- (B) If, after an investigation, a violation is found to exist, the Town of Geneva Marshal's Office shall issue a citation pursuant to the provisions of this chapter.

§111.06 CONDUCT.

The persons to whom the garage sale permit was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.

- (A) No such person shall permit any loud or boisterous conduct on such premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.
- (B) In the event of an emergency, all such persons shall obey reasonable orders from any member of the Town of Geneva Marshal's Office or Fire Department in order to maintain the public health, safety and convenience.

§111.07 VIOLATIONS AND PENALTIES.

Each violation shall carry a fine of seventy-five dollars (\$75.00). In addition to civil penalties imposed herein, a person cited for violation of this Ordinance shall be responsible for all court costs. The Town of Geneva shall not issue such individual another garage sale permit for a period of four (4) years from the time of a prior violation. Every day that a violation of this chapter continues shall constitute a separate offense.

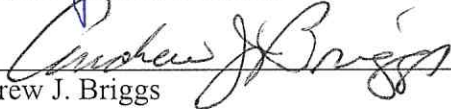
Section 2. This ordinance shall be in full force and effect from and after its passage and due publication thereof.

Duly passed, adopted and resolved by the Common Council of the Town of Geneva, State of Indiana, on April 11, 2023.

COMMON COUNCIL OF THE TOWN OF GENEVA



Agnes A. Schoch, President



Andrew J. Briggs

Gary L. Hendershot



Arlen R. Mitchell



Marvin R. Schwartz