

## ORDINANCE NO. 974

AN ORDINANCE REGULATING THE SALE OF GOODS WITHIN RESIDENTIAL AREAS; EXEMPTING CERTAIN PERSONS; IMPOSING DUTIES UPON THE SELLER; PRESCRIBING PENALTIES; PROVIDING FOR SEVERABILITY, AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL OF ROSWELL, NEW MEXICO:

Section 1. Purpose. This ordinance is adopted for the expressed purpose of providing harmony and adequate open spaces for traffic, on and off street parking within residential areas and to provide for a distribution of population, parking and traffic which will promote conditions favorable to health, safety, convenience, prosperity and general welfare.

Section 2. Definitions.

- a. "City" is the City of Roswell, New Mexico.
- b. "Goods" shall include any goods, wares and merchandise or other personal property capable of being the subject of a sale regulated hereunder.
- c. "Person" is any person who is occupying any home or mobile home located within a residential district of the City of Roswell and who conducts a sale as defined herein.
- d. "Sale of Goods" is the selling of goods, wares or merchandise in bulk to another within a residential area of the City, commonly known as home and mobile home, garage, patio, and yard sales, and other sales activities associated and incidental thereto and held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue the selling of goods at the place of sale upon disposal of the stock of goods on hand.

Section 3. Persons Exempted. The provisions of this ordinance shall not apply to or affect the following persons:

- a. Persons acting pursuant to an order or process of a court of competent jurisdiction;
- b. Persons acting in accordance with their powers and duties as public officials;
- c. Duly licensed auctioneers, selling at auction;
- d. Any duly licensed, bona-fide merchant of the City, conducting a seasonal or a special sale ordinarily conducted by merchants in the regular course of their business or to any bona-fide merchant who is closing out his stock of goods and advertises such sale to that effect or to a bona-fide merchant whose stock of goods has been damaged by fire, smoke, water or otherwise, and who advertises as such.

Section 4. Duties of the Seller.



a. Good faith advertising. Seller shall refrain from the employment of untrue, deceptive or misleading advertising.

b. Sale shall be conducted in strict conformity with any advertising or holding out incidental thereto.

c. The selling period pertaining to the sale of goods as defined herein shall not exceed five (5) consecutive days.

d. The selling of goods at the same location stated in the advertisement, within ninety (90) days from the last day of the original selling period is prohibited.

e. Prior to the conduct of any sale regulated hereunder, seller shall file with the City Clerk notice in writing stating:

1. His name and Postoffice address;
2. Location where sale is to be held;
3. Dates of commencement and termination of sale;
4. Statement that Seller has not conducted at the location any sale regulated hereunder during the 90 days immediately preceding, and
5. That Seller acknowledges his liability for payment to the State of New Mexico of gross receipts tax upon the proceeds of any such sale.

Section 5. Penalties. Any person violating the provisions of this ordinance shall be punished upon conviction pursuant to Section 6, Chapter 1 of the Code of the City of Roswell, New Mexico.

Section 6. Severability. That if any section, paragraph, clause or provision of ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

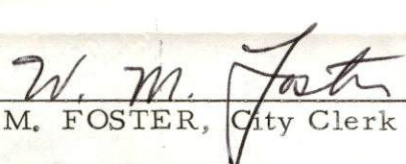
Section 7. Effective Date. This ordinance shall be and become effective on and after 1 July 1975.

PASSED, ADOPTED, SIGNED AND APPROVED on 10 June 1975.

CITY SEAL

  
JERRY N. SMITH, Mayor

ATTEST:

  
W. M. FOSTER, City Clerk