

AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE CITY'S REGULATIONS AS THEY RELATE TO GARAGE SALES IN SECTION 117-94

Background:

Nixa has long supported a city-wide garage sale event over Mother's Day weekend. Due to the popularity and success of this city-wide event, In August 2022 Nixa City Council approved an amendment to Chapter 12, Article IV, Section 12-85 which authorized a second city-wide garage sale during the 4th weekend in September annually.

Analysis:

Approval of this amendment caused a conflict with Chapter 117, Article IV, Section 94, (c)4. This provision of the Accessory Use code allows for the city-wide garage sale held over Mother's Day weekend to be an exception to the limit of two garage sales over a 12-month period. The language of this section was never updated to account for the addition of a 2nd city-wide garage sale.

Planning and Zoning Commission:

A public hearing for this item was held April 1 at the regularly scheduled Planning and Zoning Commission meeting. No one approached the Commission to speak on this item. The P&Z Commission, minus one Commissioner that was absent, voted unanimously (6-0) to recommend approval to the Nixa City Council.

Recommendation:

The proposed code amendment would eliminate redundancy and contradictions in the current code language. Staff recommends approval of this code amendment.

MEMO SUBMITTED BY:

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1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER**
2 **12, ARTICLE IV & CHAPTER 117, ARTICLE IV OF THE NIXA CITY CODE FOR THE**
3 **PURPOSE OF MODIFYING THE CITY’S REGULATIONS RELATED TO GARAGE**
4 **SALES.**

5 _____
6

7 **WHEREAS** Planning and Development staff have identified a conflict in the City
8 Code related to garage sales; and

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10 **WHEREAS** this Council Bill, if approved, would modify the City Code to rectify this
11 conflict; and

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13 **WHEREAS** the Planning and Zoning Commission held a public hearing to consider
14 the amendments contained herein at their April 1, 2024, regular meeting; and

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16 **WHEREAS** after said public hearing, the Commission recommended approval of
17 said amendments; and

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19 **WHEREAS** the City Council desires to modify the City Code as set forth herein.

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21 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
22 **NIXA, AS FOLLOWS, THAT:**

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24 **SECTION 1:** Chapter 12, Article IV, of the Nixa City Code is hereby amended by
25 adding thereto a new Section 12-82, which said Section shall read as follows
26 (Explanation: Language in bold-face type (e.g., **thus**) is language to be to be added.
27 Language in bold-faced brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted
28 or deleted.):

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30 **Sec. 12-82. Definitions of Section 101-2 to apply.**

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32 **For purposes of this article the definitions contained in Section 101-2 of the**
33 **Nixa City Code shall also apply to this article, except where the context clearly**
34 **indicates otherwise.**

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36 **SECTION 2:** Chapter 117, Article IV, Section 117-94 of the Nixa City Code is
37 hereby amended by repealing Section 117-94 in its entirety and adopting in lieu thereof
38 a new Section 117-94, which said Section shall read as follows (Explanation: Language
39 in bold-face type (e.g., **thus**) is language to be to be added. Language in bold-faced
40 brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted or deleted.):

41
42 **Sec. 117-94. Accessory uses.**

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44 (a) The table of approved uses (section 117-99) classifies different principal uses
45 according to their different impacts. Whenever an activity (which may or may not be

46 separately listed as a principal use in this table) is conducted in conjunction with
47 another principal use and the former use:

48
49 (1) Constitutes only an incidental or insubstantial part of the total activity that takes
50 place on a lot; or

51
52 (2) Is commonly associated with the principal use and integrally related to it then the
53 former use may be regarded as accessory to the principal use and may be carried
54 beneath the umbrella of the permit issued for the principal use.

55
56 (b) For purposes of interpreting subsection (a) of this section:

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58 (1) A use may be regarded as incidental or insubstantial if it is incidental or
59 insubstantial in and of itself or in relation to the principal use;

60
61 (2) To be "commonly associated" with a principal use it is not necessary for an
62 accessory use to be connected with such principal use more times than not, but
63 only that the association of such accessory use with such principal use takes place
64 with sufficient frequency that there is common acceptance of their relatedness.

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66 (c) Without limiting the generality of subsections (a) and (b) of this section, the following
67 activities, so long as they satisfy the general criteria set forth above, are specifically
68 regarded as accessory to residential principal uses:

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70 (1) Offices or studios within an enclosed building and used by an occupant of a
71 residence located on the same lot as such building to carry on administrative or
72 artistic activities of a commercial nature, so long as such activities do not fall within
73 the definition of a home occupation.

74
75 (2) Hobbies or recreational activities of a noncommercial nature.

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77 (3) The renting out of one or two rooms within a single-family residence (neither of
78 which constitute a separate dwelling unit) to not more than two persons who are
79 not part of the family that resides in the single-family dwelling.

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81 (4) Yard sales or garage sales, so long as such sales **comply with the provisions of**
82 **Chapter 12, Article IV of the Nixa City Code** ~~[are not conducted on the same lot~~
83 ~~for more than three days (whether consecutive or not). Only two yard sales per~~
84 ~~year not including the city-wide garage sale event].~~

85
86 **SECTION 3:** The City Attorney, when codifying the provisions of this Ordinance, is
87 authorized to provide for different section numbers, subsection numbers, and different
88 internal citation references than those provided herein when such section numbers,
89 subsection numbers, or internal citation references are in error or are contrary to the intent
90 of this Ordinance.

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