

# 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 4<sup>th</sup> 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:**

**Scott Godbey** | Director of Planning and Development sgodbey@nixa.com | 417-725-5850



AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 1 2 3 SALES. 4 5 6 7 Code related to garage sales; and 8 9 10 11 conflict; and 12 13 14 15 16 17 said amendments; and 18 19 20 21 **NIXA, AS FOLLOWS, THAT:** 22 23 24 25 26 27 or deleted.): 28 29 30 31 32 33 indicates otherwise. 34 35 36 37 38 39 40 41 42

12, ARTICLE IV & CHAPTER 117, ARTICLE IV OF THE NIXA CITY CODE FOR THE PURPOSE OF MODIFYING THE CITY'S REGULATIONS RELATED TO GARAGE

WHEREAS Planning and Development staff have identified a conflict in the City

WHEREAS this Council Bill, if approved, would modify the City Code to rectify this

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

WHEREAS after said public hearing, the Commission recommended approval of

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

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF

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

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

For purposes of this article the definitions contained in Section 101-2 of the Nixa City Code shall also apply to this article, except where the context clearly

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

Sec. 117-94. Accessory uses.

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

COUNCIL BILL NO. 2024-12 separately listed as a principal use in this table) is conducted in conjunction with 46 another principal use and the former use: 47 48 (1) Constitutes only an incidental or insubstantial part of the total activity that takes 49 place on a lot; or 50 51 (2) Is commonly associated with the principal use and integrally related to it then the 52 former use may be regarded as accessory to the principal use and may be carried 53 beneath the umbrella of the permit issued for the principal use. 54 55 56 (b) For purposes of interpreting subsection (a) of this section: 57 (1) A use may be regarded as incidental or insubstantial if it is incidental or 58 insubstantial in and of itself or in relation to the principal use; 59 (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but 62 only that the association of such accessory use with such principal use takes place 63 with sufficient frequency that there is common acceptance of their relatedness. 64 65 (c) Without limiting the generality of subsections (a) and (b) of this section, the following 66 activities, so long as they satisfy the general criteria set forth above, are specifically 67 regarded as accessory to residential principal uses: 68 69

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

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

- (3) The renting out of one or two rooms within a single-family residence (neither of which constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.
- (4) Yard sales or garage sales, so long as such sales comply with the provisions of Chapter 12, Article IV of the Nixa City Code [are not conducted on the same lot for more than three days (whether consecutive or not). Only two yard sales per year not including the city-wide garage sale event].

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

ORDINANCE NO.
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92 93 94	<b>SECTION 4:</b> Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause or causes of action occurred or existing, under any act or		
95	ordinance repealed hereby.		
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97	<b>SECTION 5:</b> Severability Clause. If any section, subsection, sentence, clause, or		
98	phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect		
99	the validity of the remaining portions of this Ordinance. The Council hereby declares that		
100	it would have adopted the Ordinance and each section, subsection, sentence, clause, or		
101	phrase thereof, irrespective of the fact that any one or more sections, subsections,		
102	sentences, clauses, or phrases be declar	red invalid.	
103	OFOTION C. This Conditions as a half		
104	<b>SECTION 6:</b> This Ordinance shall be in full force and effect from and after its final		
105	passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.		
106 107	or section 3.11(g) or the City Charter.		
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108	ADOPTED BY THE COUNCIL THIS DAY OF, 2024.		
110	ADDITION THE COUNCIL THIS	. DAT OI, 2024.	
111		ATTEST:	
112		71112011	
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114 115	PRESIDING OFFICER	CITY CLERK	
116 117 118	APPROVED BY THE MAYOR THIS	, DAY OF, 2024.	
119		ATTEST:	
120		ATTEOT.	
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122	MAYOR	CITY CLERK	
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125 126 127	APPROVED AS TO FORM:		
127	CITY ATTORNEY		