

AN ORDINANCE REGULATING PERSONAL PROPERTY SALES (YARD/GARAGE SALES) IN RESIDENTIAL DISTRICTS; DEFINING YARD/GARAGE SALES; LIMITING THE NUMBER OF YARD SALES PER YEAR; LIMITING THE HOURS AND DURATION OF SALE; REGULATING DISPLAY OF SALE PROPERTY; PROVIDING FOR ADVERTISING AND SIGN RESTRICTIONS; REGULATING PARKING; NOTING CERTAIN PERSON OR SALES EXEMPTED FROM THE TERMS OF THIS ORDINANCE; AND PROVIDING FOR PENALTIES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG as follows:

INTENT AND PURPOSE.

- (a) The intrusion of non-regulated yard/garage sales is causing annoyance to citizens in residential area and congestion of the streets in residential areas in the City.
- (b) The provisions contained in the Ordinance are intended to prohibit the infringement of any businesses and business activity in any residential area by regulating the term and frequency of yard/garage sales, so as not to disturb or disrupt the residential environment of the area.
- (c) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate yard/garage sales for the safety and welfare of the City's citizens.

DEFINITIONS.

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. 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 the plural number. The word "shall" is always mandatory and not merely directory.

(a) Sale shall mean and include all general sales, open to the public, conducted from or on a residential premise in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea marker", or "rummage" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement of such sale specifically names these items to be sold.

(b) Personal Property shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

PROPERTY PERMITTED TO BE SOLD.

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this Ordinance, property other than personal property.

NUMBER OF SALES PERMITTED.

No more than two (2) such sales shall be held at any residence and/or family household or by any individual or entity during a calendar year. If members of more than one (1) residence join in such sale, then such sale shall be considered as having occurred at all such residences. In addition to the above two (2) such sales an individual residence or family household shall be permitted to participate in one (1) neighborhood yard sale per calendar year. A neighborhood yard sale shall be defined as any yard sale held by and at multiple adjoining or nearby residences and promoted or advertised as a neighborhood, street, or community sale. No permit shall be required. (amendment on first reading April 14, 2009)

HOURS OF OPERATION.

Such yard sales shall be limited in time to no more than the daylight hours on three (3) consecutive days. No such sale shall be conducted on Sunday.

DISPLAY OF SALE PROPERTY.

Personal property offered for sale may be displayed within the residence, in a yard, garage, carport, and/or in a private driveway. No personal property offered for sale at such a sale shall be displayed in any public right-of way.

ADVERTISING; SIGNS.

(a) Signs Permitted. Only the following specified signs may be displayed in relation to a pending sale.

(1) Two Signs Permitted. Two signs of not more than six (6) square feet each shall be permitted to be displayed on the property of the residence where the sale is being conducted.

(2) Directional Signs. Two signs of not more than (4) square feet each re permitted provided that the premises upon which the sale is conducted s not on a major thoroughfare, and written permission to erect said signs is received from the property owners upon whose property such signs are to be placed.

(b) Time Limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(c) Removal of signs. Signs shall be removed at the end of the sale.

(d) No signs shall be placed in any City right-of-way or on or attached to any utility poles, street signs, or traffic control signs.

PUBLIC NUISANCE.

The individual(s) conducting the sale and the owner(s) or tenant(s) of the premises on which such sale or activity is conducted shall be jointly and severally

responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on said premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the Police or Fire Department of the City in order to maintain the public health, safety and welfare.

PARKING.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any such sale.

PERSONS AND SALES EXEMPTED FROM ORDINANCE.

The provisions of this Ordinance shall not apply to or affect the following:

- (a) Persons selling goods 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) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business where such sale would be permitted by the zoning regulations of the City or under the protection of the non-conforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.
- (d) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or the organization's charitable purposes and the goods or articles are not sold on a consignment basis.

SEPARATE VIOLATIONS

Every article sold and every day a sale is conducted in violation of this Ordinance shall constitute a separate offense.

PENALTY

Whoever violates any provision of this article shall be fined not less than Fifty Dollars (\$50.00) nor more than Two-Hundred Fifty Dollars (\$250.00) for each offense.

Sponsored by Councilmen Wilcox, Lynch, Kimes, Tallman, Reynolds, Joyce, and Reed.