

ORDINANCE NO. 06-01

AN ORDINANCE TO ESTABLISH REGULATIONS, PERMITS AND PENALTIES FOR YARD SALES IN THE CITY OF LAVACA, ARKANSAS, AND FOR OTHER PURPOSES.

WHEREAS, it has been determined by the City Council that a significant amount of noise is generated at yard sales, and,

WHEREAS, some individuals are conducting numerous and continuous yard sales at the same location, and,

WHEREAS, there is the potential for continuous yard sales at multi-unit residential locations within the City, and,

WHEREAS, shoppers parking on the streets and rights-of-way of the City create a hazard for pedestrian and vehicular traffic.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF LAVACA, ARKANSAS:

1. DEFINITIONS:

(a) "YARD SALE" Yard sale shall mean and include all sales entitled "yard sale", "garage sale", "lawn sale", "attic sale", "rummage sale", or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

(b) "GOODS" Goods are meant to include any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

(c) "PERSONAL PROPERTY" Personal property does not include property or goods that have been consigned for the purpose of resale to a person who obtains a permit.

(d) "PERSON" shall mean and include individuals, partnerships, voluntary associations and corporations, both profit and non-profit, and shall include religious or charitable institutions.

(e) "VIOLATION" shall mean that there has been an observable violation of this ordinance by a law enforcement person, regardless whether or not a citation is issued for its violation.

2. PERMITS AND FEES. There shall be no fee or charge for a permit to conduct a yard sale in the City; however, any person so conducting a yard sale shall obtain a permit from the City of Lavaca for each day a sale is conducted. The permit must be maintained and displayed at the sale location and at the request of any law enforcement person. One permit may be obtained for no more than three (3) continuous days of any sale for one location within the City during each calendar quarter.

3. PERSONS AND SALES NOT EFFECTED. The provisions of this ordinance shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order of a court.

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Doris Tate, County Clerk and Recorder

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(b) Persons acting in accordance with their powers and duties as public officials.

(c) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in a newspaper advertisement and which separate items do not exceed five in number.

(d) No religious, charitable, civic or scholastic organization or any other similar organizations shall be required to obtain a permit herein; however, they shall be subject to all other regulations imposed by this ordinance.

(e) Any regularly licensed auctioneer in the State of Arkansas who is conducting a sale by auction of personal or real property, or both, in the ordinary course of his/her business on site of the owner of the personal or real property.

4. SIGNS. Any signs, bills, posters, sticks, boards or any combination thereof which indicate that a yard sale as defined in this ordinance is being conducted shall be removed from any sale site, other premises and City rights-of-way within Twenty-four (24) hours after the last day of sale.

5. TIME. Yard sales shall be conducted no earlier than one-half hour before sunrise or later than one-half hour after sunset during any sale day.

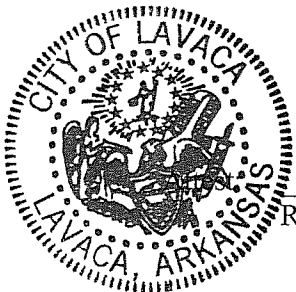
6. PENALTY. Any person, association or corporation conducting any such sale in violation of this ordinance shall first receive a warning from any law enforcement person. The second violation shall be a misdemeanor and, upon conviction, such person, association or corporation shall be fined \$25.00 for each violation. Each day the ordinance is violated shall be a separate offense for purposes of this ordinance.

7. OTHER LEGAL RELIEF. Three (3) or more violations of this ordinance within any one (1) year are deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty under this ordinance does not prevent the application for and granting of equitable relief in appropriate cases and the remedies are deemed to be cumulative and not exclusive.

8. SEVERABILITY. If, for any reason any portion of this ordinance be held to be invalid, such invalidity shall in no wise affect the remaining portions thereof which are valid, but such valid portions shall be and remain in full force and effect.

9. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed and approved by at least a two-thirds majority this 10th day of April, 2006.



Susan Weaver

Recorder

Mitchel Brown
Mayor

CITY OF LAVACA
PO BOX 3
LAVACA AR 72941

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