

ORDINANCE NO. 1020

AN ORDINANCE REGULATING OUTDOOR RUMMAGE SALES, OUTDOOR AUCTIONS, SIDEWALK SALES, PORCH SALES AND GARAGE SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF EUREKA SPRINGS, ARKANSAS, REQUIRING THE OBTAINMENT OF PERMITS FOR SUCH SALES, AND ESTABLISHING FEES TO BE PAID FOR SUCH PERMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS:

SECTION 1. PURPOSES.

This Ordinance is for the purposes of regulating outdoor rummage sales, outdoor auctions, yard sales, porch sales, sidewalk sales and garage sales within the corporate limits of the City of Eureka Springs, Arkansas, requiring the obtainment of permits, for such sales, and establishing fees to be paid for such permits.

SECTION 2. DEFINITIONS OF TERMS.

(a) In this Ordinance, the terms "outdoor rummage sales," "sidewalk sales," "yard sales," "porch sales," "outdoor auctions" and "garage sales" shall be understood to mean and include all sales which the general public may attend, which are held on privately owned property either wholly or partly outdoors, regardless whether such property is ordinarily used for residential, commercial, social and/or religious purposes, which are of a duration of not more than three (3) consecutive calendar days, and at which items of new and ^{or} used merchandise, clothing, crafts, live plants, household furnishing and appliances, tools, and other items commonly sold at such sales are offered to the public for purchase, by auction or otherwise.

(b) Specifically excepted from this Ordinance are sales by merchants or organizations of items which such merchants or organizations ordinarily offer for sale in the course of operating their established business enterprises on a regular day-to-day basis and at an established commercial location. Also specifically excepted from the provisions of this Ordinance are judicial sales and sales held pursuant to judicial orders and/or writs of execution issued by courts of competent jurisdiction and conducted by officers of such courts.

SECTION 3. PERMITS REQUIRED.

(a) From and after the effective date of this Ordinance, no person, firm, partnership, corporation or organization shall hold or maintain any garage sale, porch sale, sidewalk sale, outdoor rummage sale or yard sale without first having applied for and having actually obtained a written permit for the same from the Office of the City Clerk of the City of Eureka

Springs, Arkansas, such written permit to be co-signed by the Chief of Police of the City of Eureka Springs, Arkansas.

(b) Applications for such permits shall be filed in the Office of the City Clerk and with the Chief of Police not less than one (1) week prior to the first date of the sale for which the permit is sought. Applications shall be on a standard form prepared by the Office of the City Clerk and shall be furnished to applicants for twenty-five cents (25¢) each, upon request. Each applicant shall, on the two (2) application forms, state his or her name or the name of their firm, organization, partnership or corporation, the address at which the sale is to be held, the date or dates of the sale, the hours during the day for the sale, the ordinary use of the private property on which the sale is to be held, and, where items are contributed to the applicant by other individuals, firms, organizations, corporations or partnerships for sale on a consignment, commission or percentage-of-the proceeds basis by the applicant, the name and address of each such contributor, in which case each such contributor shall be deemed to also be an applicant. Each individual filing said applications shall sign the same, certifying the same to be accurate and true, and shall state his or her representative capacity, if any, and shall date said application with the date of actual filing.

PROVIDED, the foregoing requirements for the names and addresses of each contributor of items to be sold shall not apply to religious, educational, charitable, benevolent, or service organizations.

(c) The Chief of Police is hereby authorized to deny any application where there is a finding by the Chief of Police that the holding of the sale at the address stated on said application would result in the unreasonable hindrance of the orderly flow of vehicular and/or pedestrian traffic and/or the endangering of human life and private property and/or the unreasonable disruption and disturbance of the public peace and order. It shall be unlawful for any person, firm, partnership, corporation or organization to conduct any sale covered by this Ordinance where a written permit for the same is not co-signed by the Chief of Police. The Chief of Police shall not consider an application for such a permit until the applicant has shown proof of the obtainment of the required permit from the Office of the City Clerk.

(d) Copies of all filed applications, whether granted or denied, and copies of all permits issued shall be maintained in the Offices of the

City Clerk and of the Eureka Springs Police Department. In addition, the Chief of Police shall, when denying such an application, state the reason or reasons for such denial, in writing, present a signed and dated copy of such reason or reasons to the applicant, and file a signed and dated copy of the same with the denied application. All such documents shall be open to public viewing, inspection and copying.

(e) No person, firm, corporation or organization shall hold any such sale regulated by this Ordinance more than ^{two (2)} / times in any calendar year.

SECTION 4. TERMS UNDER WHICH PERMITS ARE ISSUED.

(a) Permits shall be on a form prepared by the Office of the City Clerk.

(b) The City Clerk shall issue permits upon all properly completed and timely filed application and upon payment of the fee hereinafter provided for.

(c) The Chief of Police shall co-sign all permits issued and signed by the City Clerk or her authorized deputy subject to the authority granted to the Chief of Police in paragraph (c) of Section 3 of this Ordinance to deny such applications for good cause.

(d) Permits shall be for a period of time not to exceed three (3) consecutive calendar days, and the date or dates of the sale permitted thereby shall be clearly stated on each permit, together with the name of the individual signing the application for the same, the address of the sale, the date of issuance of the permit, and the signatures of the City Clerk or her authorized deputy and the Chief of Police. No such permit shall be valid or lawful unless co-signed by the Chief of Police.

(e) Permit shall be posted at the site of the sale in a conspicuous place.

SECTION 5. FEES FOR PERMITS.

(a) Each applicant for a permit heretofore required, whether an applicant by virtue of being the individual signing the application, or by virtue of being the named applicant, or by virtue of being a contributor of things to be offered for sale, shall be entitled to receive two (2) permits per calendar year.

(b) A permit fee of Five and 00/100 Dollars (\$5.00) shall accompany each application filed with the City Clerk by any applicant, as "applicant" is defined in the immediately preceding paragraph. A calendar year is hereby defined to commence on January 1 of a given year to end on December 31 of

the same given year.

(c) In the event that the Chief of Police denies an application with which a permit fee has been tendered by the applicant, the City Clerk shall refund such tendered fee upon a showing by the applicant of the written and signed reasons for such denial by the Chief of Police. However, the sum paid for copies of the application form shall not be refundable.

(d) No permit fee shall be required for the application filed with the Chief of Police.

SECTION 6. ADDITIONAL CONTRIBUTORS AND ADDITIONAL ITEMS OFFERED FOR SALE AFTER PERMIT DATE PROHIBITED.

The itemized list of contributors of items to be sold on a consignment, ~~statement,~~ Commission or percentage-of-the proceeds basis, shall be final as of the filing of the application for a permit, and it shall be unlawful for any applicant, as defined in paragraph (a) of Section 5 of this Ordinance, to accept and/or offer any items for sale from a contributor who is not so listed, and it shall be unlawful for any person, firm, partnership, organization or corporation to contribute any item for sale at any sale covered by this Ordinance where the contributor of such item has not been so listed. The penalty for such unlawful activities shall be as provided in Section 7 of this Ordinance.

SECTION 7. VIOLATIONS AND PENALTIES.

Any person, firm, partnership, corporation or organization violating any provision of this Ordinance shall be deemed guilty of a misdemeanor; and each day that any violation shall be in existence shall be deemed a separate ~~misdemeanor, and each day that any violation shall be in existence shall be deemed a separate offense.~~ ^{offense.} Upon conviction of such offense, the person, firm, partnership, corporation or organization so convicted shall be fined, for each separate offense, in a sum not less than Twenty-Five and 00/100 Dollars (\$25.00) and not more than Two Hundred Fifty and 00/100 Dollars (\$250.00) and, in addition to such fine or fines, shall be assessed all customary and applicable court costs and fees.

SECTION 8. VALIDITY.

In the event that any word, phrase, sentence, paragraph, section or provision of this Ordinance shall be held unconstitutional or unenforceable for any reason, such holding shall not affect the validity or enforceability of the remaining parts of this Ordinance, and the same shall remain in full force and effect.

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SECTION 9. REPEAL OF CONFLICTING ORDINANCES AND PARTS OF
ORDINANCES.

All ordinances and/or parts of ordinances in actual conflict with
any provision of this Ordinance are hereby repealed.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after
the ^{5th}~~1st~~ day of May, 1977.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS,
ARKANSAS, ON THIS 30th DAY OF April, 1977.

APPROVED:

~~CHARLES F. ROBINSON~~
MAYOR

Truic Walsh P.P.T.
Truic Walsh

ATTEST:

June L. Moncravie
JUNE L. MONCRAVIE
CITY CLERK

(SEAL)

EMERGENCY DECLARED

The City Council of the City of Eureka Springs, Arkansas has found and does hereby declare that an emergency exists with regard to hazards to vehicular and pedestrian traffic occasioned by the outdoor sales to which Ordinance No. 1020 pertains; therefore, Ordinance No. 1020 shall take effect immediately upon the date of its publication according to law, in the interests of the public health, safety and welfare.

PASSED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS

ON THIS 30TH DAY OF APRIL, 1977.

ATTEST: *Jane I. Moncravie* APPROVED

Jane I. Moncravie, City Clk.

Truie Walsh

Truie Walsh, Pres. Pro Tempore