

# **TITLE XV: LAND USAGE**

## **Chapter 161**

### **Yard Sales and Flea Markets Ordinance**

## **CHAPTER 161: YARD SALES AND FLEA MARKETS ORDINANCE**

### **Section**

- 161.01 Purpose and Intent
- 161.02 Applicability of Regulations
- 161.03 Definitions
- 161.04 Restrictions
- 161.05 Enforcement and Penalty
- 161.06 Severability
- 161.07 Effective Date

### **§ 161.01 PURPOSE AND INTENT**

It is the purpose and intent of this Chapter to allow individuals and organizations the opportunity to have regulated yard and/or estate sales for the purpose of selling personal property. Further, it is the intent of this ordinance to prohibit flea markets except as may be allowed in accordance with Section 161.04 of this Chapter.

(Ord. Passed 04-08-09)

### **§ 161.02 APPLICABILITY OF REGULATIONS**

Yard and/or estate sales shall be permitted in all zoning districts, except as may be limited or prohibited by other Pike County code regulations or private covenants (e.g. subdivision covenants), subject to the restrictions in Section 160.04 of this Chapter.

(Ord. Passed 04-08-09)

### **§ 161.03 DEFINITIONS**

For the specific purposes of this Chapter, the following definitions shall apply:

#### **(A) ESTATE SALE, PROFESSIONAL.**

Professional estate sale shall mean a sale or liquidation for purposes of estate planning. Professional estate sales are coordinated and conducted by professional liquidators. A “yard sale” named an “estate sale”, not meeting these criteria is not a professional estate sale.

#### **(B) FLEA MARKET.**

- (1) Per the Code of Georgia Section 10-1-360, a flea market means any event:
  - (a) At which two or more persons offer personal property for sale or exchange; and
  - (b) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or
  - (c) At which a fee is charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange; or
  - (d) Regardless of the number of persons offering or displaying personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if the event is held more than six times in any 12 month period.
- (2) The term ‘flea market’ is interchangeable with and applicable to ‘swap meet’, ‘indoor swap meet’ or other similar terms regardless of whether these events are held inside a building or outside in the open. The primary characteristic is that these activities

involve a series of sales sufficient in number, scope, and character to constitute a regular course of business.

- (3) The term 'flea market' shall not mean and shall not apply to:
- (a) An event which is organized for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers or the gross receipts or net earnings from the sale or exchange of personal property, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event; or
  - (b) Any event at which all of the personal property offered for sale or displayed is new, and all persons selling, exchanging, or offering or displaying personal property for sale or exchange are manufacturers or licensed retail or wholesale merchants.
- (4) In addition to the standards set forth in Ga. Code Section 10-1-360, flea markets typically contain outdoor product display areas on a continuous or near-continuous basis. Flea markets are deemed not to be the same as 'auction galleries', 'auction houses', or 'auction markets'.

(C) **JOINT YARD SALE.**

Joint yard sale shall mean a yard sale held at a specific location by a group of residents, tenants or by an organization (religious, charitable or otherwise).

(D) **PERSONAL PROPERTY.**

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

(E) **YARD SALE.**

Yard sale shall mean the sale or offering for sale new, used or secondhand items of primarily personal property at any 1 premises at any 1 time and may include all sales entitled and also known as *garage sale, tag sale, porch sale, lawn sale, attic sale, basement sale, rummage sale, junk sale, estate sale, moving sale, barn sale* or any similar casual sale of primarily personal property. Yard sales shall not be subject to permits or business licenses.

(Ord. Passed 04-08-09)

**§ 161.04 RESTRICTIONS**

- (A) A flea market shall not be considered a home occupation. Flea markets shall be strictly prohibited in any and all agricultural and residential districts. A flea market may only be allowed as a special exception in commercial and industrial zoning districts and shall follow the same procedure for other special exception applications outlined in Section 156.027 Special Exceptions in the Pike County Zoning Code. Approved flea markets shall also be subject to a Pike County non-trades business license. Any structures associated with the flea market, built for the purposes of public sales and access, shall be properly permitted and inspected, in accordance with the Code of Pike County.
- (B) Yard sales, as defined in Section 161.03 of this Chapter, shall be subject to the following restrictions:

- (1) No yard sale shall be conducted for more than 3 consecutive days.
  - (2) Yard sales shall be conducted during daylight hours only.
  - (3) A maximum of four yard sales is allowed during any one calendar year on any property parcel.
  - (4) Items offered for sale shall not be displayed within any public right-of-way.
  - (5) Yard sales shall not create a nuisance to neighbors, shall not block driveways, sidewalks or other access ways, and shall not create dangerous traffic conditions on adjacent and/or nearby roads. No parking related to yard sales, estate sales, or flea markets shall occur within any public right-of-way.
  - (6) Open outdoor storage of yard sale items and display tables, except during the specified time of the sale, shall be strictly prohibited. The storage of yard sale items before and after the specified time of the sale shall be in an enclosed accessory or principal building only, and the building's construction shall be in accordance with the Code of Pike County. Tarps, blankets, or other similar coverings shall not be considered adequate enclosures for outdoor storage of yard sale items.
  - (7) All signage related to yard and/or estate sale events shall be in accordance with Chapter 158 of the Code of Pike County, Georgia.
  - (8) Yard sales, including joint yard sales, may be allowed on other properties not owned by the primary organizer of the joint yard sale, provided that written permission is obtained from the property owner and that the other established restrictions set forth in this Chapter are observed.
- (C) Professional estate sales, as defined in Section 161.03 of this Chapter, shall be subject to the restrictions in (2) above, except that true professional estate sales exempt from the sale duration restrictions in (2a) above for the purposes of achieving a more efficient liquidation of personal property.
- (D) Yard sales, including joint yard sales, conducted by religious organizations are exempted from the frequency restrictions established in (2c), as long as they are held on the religious organization's property.
- (Ord. Passed 04-08-09)

#### **§ 161.05 ENFORCEMENT AND PENALTY**

Any person in violation of this article, upon conviction, shall be subject to prosecution and fined up to \$50.00 daily for each day a violation occurs.

(Ord. Passed 04-08-09)

#### **§ 161.06 SEVERABILITY**

Any portion of this ordinance that may be deemed void, invalid or otherwise unconstitutional and/or illegal shall be severed from the ordinance without invalidating the remaining provisions of this ordinance.

(Ord. Passed 04-08-09)

#### **§ 161.07 EFFECTIVE DATE**

This ordinance shall become effective upon the second reading of the proposed ordinance and upon the affirmative vote of at least 3 commissioners.

(Ord. Passed 04-08-09)