

ORDINANCE NO. 539

AN ORDINANCE OF THE BOROUGH OF FLEETWOOD TO REQUIRE PERMITS FOR YARD SALES, TO REGULATE THE NUMBER OF YARD SALES PERMISSIBLE, TO ESTABLISH A TIME OF REMOVAL OF YARD SALE SIGNS, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF..

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Fleetwood, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same:

SECTION 1. TITLE This local Ordinance shall be known as the “Ordinance Regulating and Restricting Garage Sales.”

SECTION 2. PURPOSE Rules and Regulations as set forth in this Ordinance are designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on and with the zoning laws of the Borough of Fleetwood, Berks County, Pennsylvania. The intent of this Ordinance is to eliminate perpetual prolonged and extended garage sales in residential areas. Such sales, if carried on indefinitely, tend to become retail businesses in residential areas and zones, creating nuisances and usually violating the zoning regulations of Fleetwood, Berks County, Pennsylvania. The provision of this Ordinance arise from the need to limit, regulate, restrict and control garage sales.

SECTION 3. DEFINITIONS As used in this Ordinance, the following terms shall have the meanings indicated:

A. GARAGE SALES:

(i). The sale or offering for sale of ten (10) or more new, used or secondhand items of personal property at any one (1) residential premises at any one (1) time;

(ii). The terms includes all sales in residential areas entitled “garage sales”, “yard sales”, “tag sale”, “porch sale”, “lawn sale”, “attic sale”, “basement sale”, “rummage sale”, “flea market sale”, or any similar casual sale of tangible personal property.

B. GOODS: Goods shall include any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

C. PERSON: Person shall include individuals, partnerships, family groups, voluntary associations and corporations.

D. BOROUGH OF FLEETWOOD: Borough shall include all residential dwellings located within any type of zone, zoned areas, zoning districts, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Borough of Fleetwood, Berks County, Pennsylvania.

SECTION 4:

(a) It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Borough of Fleetwood, Berks County, without first obtaining a garage sale permit from the Borough office after filing an application containing the information hereinafter specified.

(b) Such permit shall be issued to one (1) person or for one (1) specific premises or location only one (1) time within a two week period. No more than two (2) licenses for garage sales shall be issued for the same premises or to the same person in any one (1) calendar year.

(c) No permit shall be issued for a garage sale for longer than two (2) consecutive days.

(d) Each license issued under this Ordinance must be prominently displayed on the garage sale premises throughout the entire period of the licensed sale and must be exhibited to any Borough Officer or policeman upon request.

SECTION 5:

(a) All garage sales held pursuant to these provisions shall be conducted between the hours of 7:00 a.m. and 5:00 p.m., only on the day or days which the permit is issued.

(b) A sign no larger in size than two feet by two feet (2' x 2') may be installed on the property where the sale is being conducted. In addition, no more than two other directional signs no larger in size than the two feet by two feet (2' x 2') hereinbefore described may be installed on private property with the permission of said property owner. The signs may be displayed no more than four (4) days prior to the date of the sale and shall be removed within twenty-four(24) hours after the sale is concluded.

(c) No sign or other display advertising the sale shall be placed on the public right-of-way. No lighted or illuminated signs shall be used. No signs shall be permitted that are pasted, stapled, nailed or otherwise temporarily attached to public utility poles or trees within the right-of-way of any street.

SECTION 6: EXCEPTIONS This Ordinance shall not be applicable to:

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

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

(c) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed nine (9) in number. Notwithstanding any provisions of this Ordinance, any person may sell up to nine (9) secondhand articles without being subject to the provisions of this Ordinance.

(d) Any sale conducted by any legitimate business or commercial or industrial establishment, on properties zoned under the zoning regulations of the Borough of Fleetwood, Berks County, Pennsylvania and any other sale conducted by a business or commercial or industrial establishment under the protection of the non-conforming use section of the zoning laws, or by any other vendor, dealer, etc., when the sale is conducted in a properly zoned area and not otherwise prohibited by the laws and Ordinances of the Borough of Fleetwood, Berks County, Pennsylvania, or this Ordinance

(e) Sales by a bona fide charitable, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof of establishing the exemption under this section shall be on the organization or institution claiming such exemption.

(f) Any public auction conducted by an auctioneer, licensed by the Commonwealth of Pennsylvania having a duration of no more than two (2) days.

SECTION 7:

(a) This local law shall be enforced by the police department having jurisdiction within the Borough of Fleetwood, Berks County, Pennsylvania.

(b) It shall be the duty of the police department to investigate any violations of this Ordinance coming to its attention whether by complaint or arising from its own personal knowledge.

(c) If, after investigating a violation is found to exist, the Police Department shall prosecute a Complaint before a District Justice pursuant to the provisions of this Ordinance.

(d) The person to whom the garage sale license was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted, shall be jointly or severally responsible for procuring a permit and complying with this Ordinance.

(e) The person to whom the garage sale license was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.

(f) No such person shall permit any loud music, or other loud and boisterous noises on such premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises where the sale is being conducted.

(g) In the event of an emergency, all such persons shall obey reasonable orders from any member of the police department or the fire department having jurisdiction to maintain order and public health and safety within the Borough of Fleetwood, Berks County, Pennsylvania.

SECTION 8: Any person, firm, association, corporation or other entity conducting any such sale or similar activity without being properly licensed therefore or who shall violate or fail to comply with any provisions adopted pursuant to this Ordinance or any other rules, terms, regulations or provisions adopted pursuant to this Ordinance or making any false statements on any application provided for herein, shall be deemed to be a violation and the violator(s) shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) and each day that such sale or violation continues without being duly licensed shall be considered and shall constitute a separate new violation.

SECTION 9: If any provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 10: It is not the intention of this Ordinance to change or amend the zoning laws, hawking and peddling laws, or any other laws or ordinances of the Borough of Fleetwood, Berks County, Pennsylvania.

SECTION 11 - EFFECTIVE DATE: This Ordinance shall become effective immediately upon adoption.

ENACTED AND ORDAINED THIS 12th day of FEB, 2001

FLEETWOOD BOROUGH COUNCIL

Alexander J. Spive

President

ATTEST:

Secretary

Masha J. Anderson

Samuel S. Bonnell

Mayor