

CITY OF BRACKETTVILLE
ORDINANCE #2022 -15-11 FM

AN ORDINANCE DEFINING AND REGULATING FLEA MARKETS, FARMER'S MARKETS, AND GARAGE SALES; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brackettville has deemed rules governing flea markets, farmers markets, and garage sales necessary to regulate for the public benefit.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRACKETTVILLE:

SECTION 1. FLEA MARKETS AND FARMER'S MARKETS

Section 1-1: Definitions.

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Flea market/Farmer's market. The terms shall be used interchangeably and mean any establishment which permits two (2) or more persons to display for sale items including, but not limited to, wearing apparel, watches, jewelry, luggage, musical instruments, furniture, household appliances, automobile parts and accessories, hand tools, mechanical equipment, garden tools, hobby items, water heaters, pipes, electrical fittings, plumbing fittings, radios, television sets, bicycles, personal property, mobile food vendor carts operated in conformance with state, county, and city health and safety codes, and any and all kinds of used goods, wares and merchandise.

Flea market operator license. The term shall mean the written approval by the City to conduct a flea market business pursuant to this ordinance.

Operation. The term shall mean the period time during which sales activities are conducted.

Section 1-2: License required.

No flea market shall be operated within the city without first having obtained a flea market operator license. The license shall be procured by the flea market operator and shall cover all salespersons at the flea market. The license shall be procured by complying with the following provisions:

(a) **Application.** A flea market operator shall submit an application for a license which shall contain the name, address, and phone number of each owner and operator.

(b) **License fees.** The annual license fee for licenses under this section shall be **one hundred thirty dollars (\$130.00)**, paid in advance of the year for which the permit is being sought.

Section 1-3: License to be available for inspection.

Every flea market operator while engaged in the pursuit of their business shall have posted, in a conspicuous place in public view and available for inspection at all times, their license to be engaged in such business.

Section 1-4: Limitations to license.

A license issued under this ordinance shall only authorize the holder to operate a flea market. The license is not transferrable or assignable. A new license shall be required if there is a change in business ownership or property ownership or a change in operators. A license issued under this ordinance shall expire one (1) year from the date of issuance.

Section 1-5: Copy of regulations to be furnished to every person who is allowed to display merchandise for sale.

Every flea market operator shall furnish a copy of the regulations contained within this ordinance to every person who is allowed to display merchandise for sale within such flea market. The City shall revoke the flea market operator license if the operator fails to comply with this provision.

Section 1-6: Merchandise subject to inspection.

All merchandise on the premises of a flea market shall be subject to inspection at all times by the police department and the City.

Section 1-7: Prohibited merchandise.

- (a) The sale, display, or distribution of merchandise bearing counterfeit trademarks or that infringes on copyrighted designs or materials shall be prohibited.
- (b) The sale of prepackaged food, including infant formula or baby food of a type intended for consumption by children younger than two (2) years of age, and medical drugs as defined in Section 431.002 of the Texas Health and Safety Code is prohibited.
- (c) The sale, display, or distribution of firearms is prohibited.
- (d) The sale, display, or distribution of fireworks is prohibited.

Section 1-8: Hours of business regulated.

It shall be unlawful for any person to engage in the operation of a flea market between the hours of 9:00 p.m. and 5:00 a.m. Central Standard Time.

Section 1-9: Operator and vendor responsibility.

- (a) The flea market operator shall ensure that all flea markets
 - 1) Have direct or easement access to an arterial street.
 - 2) Have adequate off-street parking
 - 3) Have access to trash bins and prohibit littering.
 - 4) Sales are made from designated vendor sale areas. Sale material is prohibited to be placed within or upon any pedestrian access aisle. Booth areas and pedestrian access aisles are to be clearly delineated on the property through the use of a

three (3) inch wide white or yellow stripe painted on the asphalt or concrete surface area of the flea market

- 5) Any on-premises sale of food shall be subject to the health and sanitation requirements of the State of Texas.
 - 6) All merchandise for sale, including temporary canopies, tables, and display structures shall be removed from the flea market property at the close of business each day
 - 7) Each flea market vendor shall have a copy of the regulations contained within this ordinance in their designated booth area.
- (b) Any flea market operator that does not comply with the provisions of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation, with a separate violation deemed committed for each and every day that the violation(s) continues to occur.

Section 1-10: Denial, suspension, revocation, and renewal of license.

The license may be suspended, revoked, and/or not renewed if the City finds that the holder of the license has violated any provisions of this ordinance. If, after submission of an application for a license, the City finds that the application does not qualify for a license or comply with the provisions of this ordinance, then the City may deny the request for a license.

Section 1-10: Enforcement and penalty for violations.

- (a) It shall be the duty of the City and the police department to enforce the provisions of this ordinance.
- (b) Any person or corporation who shall violate any of the provisions of this ordinance or fails to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor and shall be liable to a fine of not more than five hundred dollars (\$500.00), with each and every day such violation shall be permitted to exist constituting a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this ordinance shall be placed or shall exist, and any person in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction thereof, be fined as hereinbefore provided.
- (c) In addition, this ordinance may be enforced by injunctive relief, and a person or entity found to be in violation of this ordinance may be assessed a civil penalty of not more than five hundred dollars (\$500.00) each and every day such violation shall be permitted to exist. If an injunction is granted, the court shall award the city its attorney fees and costs incurred in obtaining the injunctive relief.

SECTION 2: GARAGE SALES

Section 2.1: Definitions.

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Garage sale operator. Any person operating a garage sale.

Garage sales. All general sales, open or advertised to the public, conducted from or on a residential premises (single-family, duplexes, or apartments whether owned, rented, or leased), in any residential zone for the purpose of disposing of tangible personal property. Said sale includes situations in which more than twenty (20) specific items of tangible personal property are to be sold.

Personal property. Property that 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.

Section 2.2: Garage sale permit.

It shall be lawful for any person to operate or participate in the operation of a garage sale within the city limits without a permit. Each garage sale shall not exceed two (2) consecutive days. A resident may operate a garage sale between the hours of 7:00 a.m. and 6:00 p.m., Central Standard Time.

Section 2.3: Signage.

- (a) Signs advertising garage sales shall not exceed four (4) feet square each in surface area and no more than four (4) signs may be posted for any one (1) garage sale.
- (b) Garage sale signs must be temporary signs. No signs may be exhibited more than two (2) days prior to the sale, and all signs must be removed at the end of the garage sale. The person or persons exercising ownership or leasehold rights over property on which a garage sale is held or advertised to be held shall be presumed to have placed and exhibited the sign advertising the garage sale which identifies the person's address or location at which the garage sale is to be held. This presumption may be rebutted by evidence to the contrary.
- (c) Signs must be staked on the garage sale operator's private property and cannot be attached to utility poles, streetlight standards, or other public facilities.
- (d) Garage sale signs may be placed on private property other than that of the garage sale operator, provided that the operator has obtained the consent of the property owner.

Section 2.4: Removal of signs advertising garage sales.

A garage sale operator shall remove any advertising sign upon expiration of the garage sale permit. Violators of this section are subject to a fine not to exceed fifty dollars (\$50.00) for each day past the deadline for removing signs.

Section 2.5: Display of sale items.

Personal property shall be exhibited or displayed on the private property where the residence is located. Personal property cannot be placed in the public right-of-way.

Section 2.6: Enforcement and penalty for violations.

(a) It shall be the duty of the City and police department to enforce the provisions of this ordinance.

(b) Any person or corporation who shall violate any of the provisions of this ordinance or fails to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor and shall be liable to a fine of not more than five hundred dollars (\$500.00), with each and every day such violation shall be permitted to exist constituting a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this ordinance shall be placed or shall exist, and any person in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction thereof, be fined as hereinbefore provided.

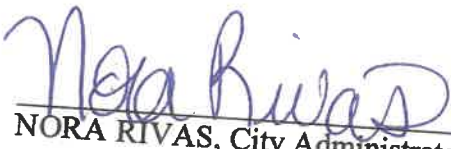
EFFECTIVE DATE

This Ordinance shall be effective from and after its passage and approval upon first reading and any required publication as prescribed by Law.

READ, PASSED, AND APPROVED ON FIRST and FINAL READING, this 15th day of NOVEMBER 2022.


ERIC J. MARTINEZ, Mayor

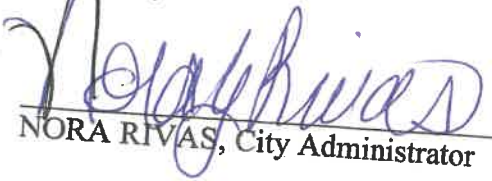
ATTEST:


NORA RIVAS, City Administrator

READ, PASSED, AND APPROVED ON FIRST and FINAL READING, this 13th day of DECEMBER 2022.


ERIC J. MARTINEZ, Mayor

ATTEST:


NORA RIVAS, City Administrator