

ORDINANCE NO. 339

ORDINANCE TO REGULATE FLEA MARKET VENDORS

The City of Montezuma realizing the need to control the gathering of persons to offer personal property for sale or exchange does hereby issue this ordinance for the purpose of setting forth the guidelines for said gatherings within the city.

Section 1.1 Definitions

(1) (A) "Flea market" means any event:

- (i) At which two or more persons offer personal property for sale or exchange; and
- (ii) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or
- (iii) 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
- (iv) 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.

(B) 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 hold 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.

(C) The term "flea market" shall not mean or shall not apply to:

- (i) 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 person 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
- (ii) 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, licensed retailers, or wholesale merchants.

- (2) "Personal property" is defined as merchandise, wares, fabric, material, furniture, clothing, shoes, and other articles of commerce. Provided, however that "used personal property" shall not include the sale of motorized vehicles or boats.
- (3) "Vendor" means a person who engages in the retail sale of personal property at a flea market.
- (4) "Food Vendor" means any person or corporation who engages in the retail sale of food products for consumption. Examples: snowcones, taco stands, fruit markets.

Section 2.1 License.

Each Vendor shall be required to obtain a license from the city clerk. Vendor shall file an application with the city clerk for such license, which application shall contain, at a minimum the following information:

- (a) Name of applicant;
- (b) A copy of picture identification;
- (c) Permanent address and telephone number of applicant;
- (d) Local address and telephone number of applicant;
- (e) Applicant's date of birth and age, if an individual;
- (f) Applicant's social security number or federal employer's identification number;
- (g) If applicant is a partnership or corporation, the name and home address of each partner, principal, or corporate officer;
- (h) Type of merchandise or service offered for sale;
- (i) Place where business is to be conducted and written approval from the property owner of such location;
- (j) Dates to be in business and total number of days to be in business;
- (k) Hours in which the business will be conducted; and
- (l) List of cities where business has been conducted by the applicant within the past twelve (12) months.

The license application shall be signed under oath by the applicant.

(i) In the event the applicant provides all required information to the city clerk and the applicant qualifies for the license, then such license shall be issued by the clerk upon payment of the appropriate fees.

(ii) A separate application, license, and fee shall be required for each separate location from which applicant proposes to do business.

(iii) In the event that a licensee violates any of the provisions of this article, then the license may be revoked by the city clerk, and the justification of each revocation may be considered by the clerk in the event that such licensee applies for a license under this article at a future date.

Section 3.1 Applicability to residents and nonresidents.

The prohibitions provided in this article shall apply to all persons, whether residents of the city, nonresidents of the city; residents of the state or nonresidents of the state.

Section 4.1 Permitted Exceptions.

(a) The provisions of this article shall not apply to the sale by the producers of agricultural products within the state; provided however, such producers shall fully comply with all regulations heretofore and hereafter prescribed by the governing body and by any federal or state agency or department relative to the inspection and the sale of such products.

(b) The provisions of this article shall not apply to sales made by dealers, traders, manufactures, merchants, or businesses at their established places of business.

(c) The provisions of this article shall not apply to any sidewalk sale, flea market, art show, or arts and crafts show or other merchandise on the public sidewalks, walkways, or other open areas at the invitation of or as a part of the downtown promotional activities of the downtown development authority or an organization licensed to do business as a charity under Georgia law.

(d) The provisions of this article shall not apply to sales made by fruit or produce stands or sales of carnival type products such as snowcones, cotton candy which are not normally sold by restaurants.

Section 5.1 Fees.

Licensees under this article shall pay a daily license fee of one hundred dollars (\$100.00) per day for each day and for each location from which the licensee proposes to do business within the city.

Section 6.1 Yard sales.

Except as otherwise provided in this section, yard sales by citizens are permissible and require no approval from any city department. Yard sales by one (1) individual or family shall not be held more than twelve (12) times during a calendar year. Any individual or family holding more than twelve (12) yard sales in a calendar year shall be required to apply for and obtain a license as outlined in Section 2.1.

SO ORDAINED, BY THE MAYOR AND COUNCIL of the City of Montezuma, Georgia this 10th day of September, 2002. This Ordinance becomes effective upon passage

Willie J. Larry - Mayor

David M. Peaster, Sr. – City Manager

Business License Application for Temporary Vendors

Name of Applicant: _____	Permanent Address: _____ _____
Date of Birth: _____	Telephone Number: _____
Social Security No.: _____	Local Address: _____ _____
Federal Tax ID No.:	Local Telephone Number: _____
Type of merchandise offered: _____ _____	Place where business is to be conducted: _____ _____
Dates to be in business:	List of cities business has been conducted by applicant with the past 12 months: _____ _____
Total number of days to be in business:	
Hours in which the business will be conducted:	