

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MECHANICSBURG, ADOPTED BY ORDINANCE 925 AND THEREAFTER AMENDED, WITH RESPECT TO PART 5 OF CHAPTER 13 LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS, TO REQUIRE PERMITS FOR YARD SALES, TO REGULATE THE NUMBER OF YARD SALES PERMISSABLE, TO ESTABLISH A TIME OF REMOVAL OF YARD SALE SIGNS, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, per Borough Code at 8 P.S. §1202(5), the Borough of Mechanicsburg is authorized to enact Ordinances as may be expedient or necessary for the maintenance of health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough; and

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Mechanicsburg, Cumberland County, Pennsylvania, as Follows:

SECTION 1: Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] of the Code of Ordinances of the Borough of Mechanicsburg is hereby amended and designated as follows:

YARD SALES PERMITS.

SECTION 2: Section 13-501 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby vacated and amended and designated as follows:

§13-501: Purpose: These rules and regulations are designed to control and restrict yard sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only and to eliminate perpetual, prolonged and extended yard sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in residential areas and create a nuisance. The provisions of this chapter arise from the need to limit, regulate, restrict and control yard sales.

SECTION 3: Section 13-502 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby designated as follows:

§13-502: Definitions. The following terms shall have the meanings indicated:

BOROUGH: Shall refer to the Borough of Mechanicsburg, Cumberland County, Pennsylvania;

- HOUSEHOLD: Shall refer to the individual who applies for a permit and anyone who resides in that individual's residence;
- PERMIT: Shall refer to the form that must be obtained, completed, and submitted to the Borough Office prior to conducting a yard sale;
- PERSONS: Individuals, partnerships, family groups, civic groups, voluntary associations and corporations; and
- YARD SALE: The sale or offering for sale of new, used secondhand items of personal property on residential property including, but not limited to, the residential properties, garage, home, lawn, sidewalk, or yard of same.

SECTION 4: Section 13-503 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby designated as follows:

- §13-503: Permit Required; Conditions of Sales.
- A. Unless otherwise exempted, it shall be unlawful for any person to conduct a yard sale within the Borough of Mechanicsburg without first obtaining a yard sale permit from the Borough.
 - B. Not more than two (2) yard sale permits shall be issued to any one (1) person in any one (1) calendar year.
 - C. Not more than two (2) yard sale permits shall be issued for any one (1) premises in any one (1) calendar year.
 - D. It shall be unlawful to conduct a yard sale with a duration exceeding two (2) consecutive days.
 - E. A yard sale must be held within thirty (30) days of the issuance of the permit for that yard sale.
 - F. The yard sale permit must be posted at a visible location to the traveling public for the duration of the sale.
 - G. Each permit application shall be accompanied by a fee as shall be set from time to time by resolution of Borough Council.

- H. Any person conducting a yard sale within the Borough or any person posting advertisements within the Borough limits for a yard sale to be held inside or outside of the Borough limits shall remove from within the Borough right-of-way all signs, flyers, posters and bulletins no later than the date after the yard sale. Should the yard sale for any reason not be held, all signs, flyers, posters and bulletins and advertising the yard sale, must be removed no later than the scheduled last day of the yard sale.

SECTION 5: Section 13-504 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby designated as follows:

§13-504: Exemptions.

This chapter 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.
- C. Any sale conducted by any business or commercial or industrial establishment on property zoned as such per the zoning regulations of the Borough of Mechanicsburg or any sale conducted by any other vender or dealer with the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the Commonwealth of Pennsylvania and ordinances of the Borough of Mechanicsburg, including this chapter.
- D. 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 to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.
- E. Any public auction having a duration of no more than two (2) days and conducted by an auctioneer licensed by the Commonwealth of Pennsylvania.

SECTION 6. Section 13-505 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby designated as follows:

§13-505: Violation.

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of _____ (\$ _____) Dollars plus prosecution costs for the first offense; _____ (\$ _____) Dollars plus prosecution costs for the second offense; _____ (\$ _____) Dollars plus prosecution costs for the third offense and any offense thereafter.

SECTION 7. Section 13-506 of Part 5 of Chapter 13 [Licenses, Permits and General Business Regulations] is hereby designated as follows:

§13-506: Enforcement

Any police officer is hereby authorized to act on behalf of the Borough to enforce permit requirement.

SECTION 8. All ordinances or any parts thereof which are inconsistent herewith are hereby repealed.

SECTION 9. If any provision, sentence, clause section or any part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of the Ordinance.

SECTION 10. This Ordinance shall take effect immediately upon its enactment.

ENACTED AN ORDAINED this _____ day of _____, 2015

ATTEST:

BOROUGH OF MECHANICSBURG

Patrick E. Dennis, Secretary

By: _____
Rodney L. Whitcomb, President

APPROVED this _____ day of _____, 2015

Jack C. Ritter, Mayor