

**AN ORDINANCE**

AN ORDINANCE TO ADD TO THE HINESVILLE CODE OF ORDINANCES, CHAPTER 9, LICENSING AND BUSINESS REGULATIONS, ARTICLE IV, MISCELLANEOUS BUSINESS REGULATIONS, SECTION 108 FLEA MARKET (UNDER SECTION IA BELOW) AND AMENDING HINESVILLE CODE OF ORDINANCES, APPENDIX A, ZONING, ARTICLE V, SPECIFIC ZONING DISTRICT REGULATIONS, SECTIONS 512, 513, 514, AND 515, WHICH ARE ZONING DISTRICTS C-1 (CENTRAL BUSINESS DISTRICT), C-2 (GENERAL COMMERCIAL DISTRICT), C-3, (HIGHWAY COMMERCIAL DISTRICT) AND L-1 (LIGHT INDUSTRIAL DISTRICT), RESPECTIVELY (UNDER SECTION IB BELOW).

**WITNESSETH**

WHEREAS, the duly elected governing authority of the City of Hinesville, Georgia, is authorized under Article IX, Section II, of the Constitution of the State of Georgia to enact or amend ordinances.

WHEREAS, the duly elected governing authority of the City of Hinesville, Georgia, is the Mayor and City Council thereof;

WHEREAS, the Mayor and City Council desire to have regulations for flea markets in the Code of Ordinance in conformance with O.C.G. A. § 10-1-360.

WHEREAS, the Mayor and City Council would like to make a distinction between casual and permanent flea markets;

WHEREAS, the Mayor and City Council wishes to designate specific zoning districts under which a casual or permanent flea market would be allowed by right or by special permit use.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Hinesville, and it is hereby ordained by the authority of same, that Section 108, Flea Market, be added to CHAPTER 9, ARTICLE IV, Code of Ordinances; and Sections 512 through 515 are amended in the Code of Ordinances, Appendix A, Zoning, Article V, Specific Zoning District Regulations.

## Section IA

Add Section 108 to the Code of Ordinances, Chapter 9, Article IV to read as follows:

### **Sec. 9-108. Flea market operations.**

*(a) Definitions.*

*Flea market.* A flea market is an open-air or closed-in market that allows a great variety of vendors to display, sell or exchange personal property. A flea market license shall authorize the license holder (operator or owner) to rent stalls or spaces within the bounds of a specific location to vendors of used and second-hand items, as well as new items. The flea market operator or owner shall be responsible for the collections and payment of all sales taxes and record keeping of all vendors.

A flea market under this section (O.C.G.A. 10-1-360), does not apply to the following:

- (1) 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
- (2) Any event at which all 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.

*Flea market, permanent site.* A permanent “flea market” site is one which has permanent structures to be used as stalls for vendors and other amenities such as built-in bathroom facilities permanent in construction that are ADA compliant. Typically, a permanent site is used on a weekly basis.

*Flea market, casual site.* On a casual site, permanent structures are not permitted. This is a site that is not being used regularly or on a weekly basis. Flea markets on a casual site shall be restricted to eight (8) times a year. Bathroom facilities may consist of portable sanitary structures or by a written agreement with an adjoining commercial property owner.

*Nonregistered vendor* means a vendor without a certificate of registration from the State Revenue Commissioner.

*(b) License Required.*

The flea market operator or owner must be licensed by the City for the operation of a flea market. This license shall be a license of privilege that may be revoked by the Mayor and City Council if nuisances or other violations occur.

- (1) All vendors shall be licensed for business specifically at the flea market location by the City; or
- (2) All vendors not licensed for business specifically at the flea market location by the city shall file a certificate of registration with the flea market operator

or owner, and shall pay the registration fee, required for the daily flea market retail sales without a business license for each day that merchandise is displayed for sale. This fee is assessed by the City and collected for the city by the market management.

- (3) Any vendor operating any business in the City outside of the flea market and selling the same or similar merchandise at the flea market location shall not be required to obtain a business license from the City for the flea market location.
- (4) A City occupational tax or valid certificate of registration shall be continuously displayed in a conspicuous location on the front of each flea market booth. A certificate of registration is valid only if it is labeled by the market operator or owner to indicate payment of the registration fee, required for daily flea market retail sales without a business license.

*(c) License Fees Established.*

The license fees for the flea market operator and vendors shall be set by Mayor and City Council.

*(d) Zoning.*

C-1, C-2, C-3, and L-I zoning districts allow casual flea market sites. Casual flea markets shall be permitted eight (8) weekends per year on Fridays, Saturdays, and Sundays only. A permanent flea market site shall be permitted in C-3 and L-I with a special permit use.

*(e) Food Service Permits.*

All vendors intending to engage in the sale of prepared food items, food products, or produce shall first obtain a permit from the City of Hinesville or by the Georgia Department of Agriculture as appropriate. Cooking on-site shall be restricted to cooking on barbecue pits, fireplaces, propane cookers, grills, and food trucks.

*(f) Buildings and structures.*

- (1) All permanent and temporary structures to include booths, tents, stands, bathroom facilities etc. shall be in compliance with State of Georgia and local building and fire codes.
- (2) All structures including temporary structures shall be adequately anchored to the ground to prevent uplift, sliding, rotation or overturning.
- (3) All temporary structures (e.g. tent) will have to be put up and taken down daily and cannot remain on site overnight.
- (4) Provide a minimum of ten designated 10 ft. x 10 ft. stalls for permanent flea markets.
- (5) Do not allow one tenant to rent more than three (3) stalls.
- (6) For permanent flea markets, the area where the vendors are showing their wares shall be paved; in addition, a 8 ft. sidewalk for visitors in front of the stalls shall be provided.

*(g) Setbacks and Vegetative/Tree Buffers.*

A flea market shall have not any permanent or temporary structures in the front yard.

A front yard shall be a minimum of 35 ft of depth. A 20 ft. vegetative/tree buffer shall be planted or retained along the sides and rear property lines. In conjunction with the buffer, a 6 ft. opaque fence is required.

If a flea market abuts any residential property, a 25 ft. vegetative/tree buffer along the side and rear property line where the residential property is located shall be planted or retained. In conjunction with the buffer a 6 ft. opaque fence shall be installed.

*(h) Trash, Litter and Refuse.*

- (1) Flea markets shall be kept free of litter and rubbish. Portable fire extinguishers as approved by the fire department shall be kept in service buildings, in areas close to cooking facilities, and all other locations designated by the Hinesville Fire Department.
- (2) Flea markets shall be maintained free of any accumulations of debris which may provide rodent harborage or create breeding places for flies, mosquitos, or other pests. Extermination methods shall conform to the requirements of the county health department.
- (3) The storage, collection and disposal of refuse in the flea market shall meet the requirements of the City's solid waste ordinance and shall be conducted in such a manner as not to create any health hazards, rodent harborage, insect breeding, fire hazards, or air pollution.
- (4) Any refuse shall be collected at least weekly.

*(i) Days of the Week and Hours of Operation.*

Casual Site: Friday, Saturday, and Sunday only from 8 a.m. to 8 p.m; frequency: eight (8) times a year.

Permanent Site: Friday, Saturday, and Sunday; 8 a.m. to 8 p.m. frequency: all year

*(j) Development plans required.*(1) Casual Flea Market.

- a. LCPC and departmental review and approval of a conceptual drawing/site layout plan.
- b. Grass parking shall be permitted.
- c. Portable/temporary bathroom facilities and handwashing stations.
- d. Solid waste plan shall be required.

(2) Permanent Flea Market

- a. LCPC and departmental review and approval of an engineered site plan.
- b. Concrete and asphalt parking based on the paved sales area at a ratio of 1 parking space/200 sq. ft.

- c. Permanent bathroom construction with toilets and sinks with cold and hot running water shall be provided.
- d. Solid waste plan shall be required.
- e. GDOT approval may be required.

(k) *Prohibitions.*

- (1) The sale of animals is prohibited in any flea market including, but not limited to livestock, reptiles, birds, felines and canines.
- (2) No sale of alcoholic beverages.
- (3) No sale of firearms shall be permitted.

(l) *Maintenance of Records Required by Law (O.C.G.A.10-1-360)*

Every nonregistered vendor (without a certificate of registration from the State Revenue Commissioner) and registered vendor shall maintain a permanent record book, in which shall be entered in ink and in legible English, at the time any property is acquired for the purpose of retail sale:

- (1) The date of the transaction;
- (2) The name, age, and address of the person, corporation, or entity from whom the property was acquired, a description of the general appearance of any such person, and the distinctive number from such person's driver's license or other similar identification card;
- (3) An identification and description of the property acquired including, if reasonably available, the serial, model, or other number and all identifying marks inscribed thereon;
- (4) The price paid for such property;
- (5) Used or second-hand personal property which has previously been sold or delivered to a retailer prior to being acquired by a vendor when the vendor's cost exceeds \$50 per item.
- (6) The signature of the seller.
- (7) All entries shall appear in ink and shall be in chronological order. No blank lines may be left between entries. No obliterations, alterations, or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying the legibility. Such record book shall be open to the inspection of any law enforcement officer during the ordinary hours of business or at any reasonable time.
- (8) The record of each purchase transaction provided for in this Code section shall be maintained for a period of not less than two years and shall be kept by the nonregistered vendor or vendor and made available during any period at which such person is open for business or is offering property for sale.

Exemptions to such record keeping shall apply to the following:

- a. The sale of a motor vehicle or trailer required to be registered or subject to a certificate of title law of this state.
- b. The sale of food products, agricultural products, or forestry products.
- c. Business conducted at any industry or association trade show.
- d. The sale of arts and crafts by the person produced such arts and crafts.

### Section IB

Add Text and Amendments to Appendix “A”, Hinesville Code of Ordinances, Sections 512 through 515.

In the Code of Ordinances, Appendix A, Zoning, Chapter V, Specific Zoning Regulations,

Add the following language to Sec. 512, C-1, central business district, (A) Use regulations, (19) *Casual flea market*, and renumber the current (19) to be (20).

Add the following language to Sec. 513, C-2, general commercial district, (A) Use regulations, (10) *Casual Flea market*, and renumber the current (10) to (11).

Add the following language to Sec. 514, C-3, highway commercial district, (A) Use regulations (15) *Casual flea market*; and add under (B) Special permit uses, (4) *Permanent flea market*.

Add the following language to Sec. 515, L-I, light industrial district, (A) Use regulations, (13) *Casual flea market*, and renumber current (13) to (14); (B) Special permit uses, (3) *Permanent flea market*.

### Severability II

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision.

### Section III

#### Repealer

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

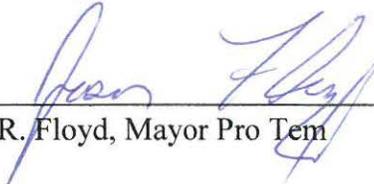
### Section IV

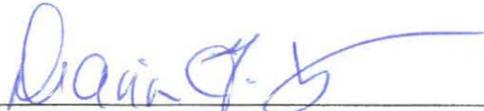
#### Effective Date

This Ordinance shall become effective on the 6<sup>th</sup> day of May, 2021.

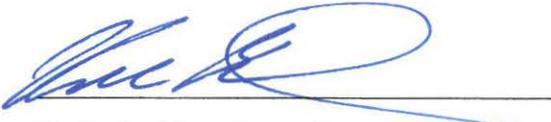
APPROVED this 6<sup>th</sup> day of May, 2021, by the Mayor and Council of the City of Hinesville.

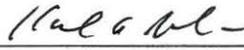
  
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Allen Brown, Mayor

  
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Jason R. Floyd, Mayor Pro Tem

  
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Diana F. Reid, Councilmember

  
\_\_\_\_\_  
Vicky C. Nelson, Councilmember

  
\_\_\_\_\_  
Keith Jenkins, Councilmember

  
\_\_\_\_\_  
Karl A. Riles, Councilmember

ATTEST:

  
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Lia Jones, City Clerk