

**ORDINANCE #1-2020**

**PROVIDING FOR: An Adoption of Chapter 52 of the Code of the Town of Millinocket concerning Yard Sales**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET that the attached Yard Sale Ordinance is hereby adopted as Chapter 52 of the Millinocket Code.**

**IT IS FURTHER ORDAINED** that the Town Clerk make appropriate changes to incorporate this chapter into the Millinocket Code and distribute new pages to all persons known to have a copy of the Code.

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_

ATTESTED: \_\_\_\_\_

## 52-1 YARD SALE ORDINANCE

This Ordinance shall be known as and may be cited as the "Yard Sale Ordinance of the Town of Millinocket, Maine," and will be referred to herein as the "Ordinance."

### 52-1 Purpose:

A. The Town finds perpetual, prolonged, and extended yard sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create noise, traffic congestion, unsightly signage, and other nuisances, and often violate the Site Plan Review Ordinance of the Town of Millinocket. The rules and regulations contained herein are designed to control and confine yard sales to enhance and protect the public health, safety and convenience of the citizens of Millinocket and to restrict sales to casual or occasional occurrences only, in keeping with the character of the residential neighborhoods. The Town finds a need to limit, regulate, restrict and control yard sales.

### 52-2 Definitions:

Words and terms not defined in this Ordinance shall have the meanings given them in the Site Plan Review Ordinance of the Town of Millinocket, or in the absence of definition in said Ordinance, such words and terms shall have their customary dictionary definition.

A. **Yard Sale:** The sale of more than **five** items of personal property from any premises, whether advertised in local media, by signs, or otherwise as a yard sale, barn sale, garage sale, household sale, moving sale, or other sale, whether accomplished by direct sale or auction; or sales conducted by civic groups, school groups, church groups, charitable or fraternal organization and other non-profit organization if such sale is held within the Town of Millinocket.

B. **Residential Premises:** A building or structure having at least one dwelling unit and the lot of land associated therewith.

C. **Personal Property:** Shall mean tangible property which is owned, utilized and maintained by an individual or members of a residence or acquired in the normal course of living in or maintaining a residence, such as, but not limited to, household items, clothing, tools, toys, recreation equipment, or other used or second-hand items normally found in and about the home and advertised to the public.

D. **Person:** Shall mean any natural person or persons, association, partnership, firm, corporation or other entity.

E. Calendar Year: January through December.

**52-3 Authorization:**

A. Yard Sales are permitted within the municipal limits of the Town of Millinocket under certain terms and conditions as herein set forth. It shall be unlawful for any individual to sell or offer for sale, under authority granted by this Ordinance, property other than personal property.

**52-4 Permit:**

A. No person, firm, corporation, business or other entity shall conduct a yard sale in the Town of Millinocket without obtaining a yard sale permit from the town office.

B. Permit Fee: Yard sale permits shall be issued free of charge.

C. Permit to be Posted: Yard sale permits issued under this ordinance shall be posted at the yard sale in a location which is easily visible from the street while the sale is in progress. All permits will have the location of all off premises signs before signs can be installed. **See 52-6 E. on advertising of yard sales.**

D. Permits are available at the Town Office and may be obtained during normal business hours. The permit must be obtained prior to commencement of the yard sale.

**52-5 Conditions of Conducting Yard Sale:**

A. No yard sale may be conducted for more than three (3) consecutive days.

B. No person, firm, corporation or other entity shall conduct more than three (3) yard sales from any location in one (1) calendar year.

C. If the town chooses to have a town wide yard sale, it will not affect the (3) yard sale limitation in B above.

D. If a hardship situation develops which may cause cancellation of a sale, the Code Enforcement Officer may issue another permit to the person conducting the sale, setting forth the reason for such cancellation.

E. A sale may be conducted by a single person, multiple persons, church, social, civic, or charitable organizations. All items to be sold must originate as the legal property of the applicant, other persons participating in the sale, or members of the organization. Goods must be surplus to the needs of the owner and shall not include any items purchased for resale at the yard sale.

**F.** Yard sales may be conducted only on private property. No merchandise may be placed upon public right-of-way, streets or roads. All merchandise must be displayed at enough distance from public roadways in order to avoid obstruction of view or traffic hazards.

**G.** All unsold yard sale merchandise remaining on the permitted site at the conclusion of the yard sale, to include items sold to purchasers, must be removed from the site within twenty-four hours.

**H.** The yard sale permit shall authorize Code Enforcement Officer, to enter the permitted sale site to monitor, inspect and determine compliance with all the provisions of this Ordinance.

#### **52-6 Advertising of Yard Sales:**

**A.** A yard sale may be advertised to the public by means of Town web site, newspapers, radio, television, cablevision, handbills and signs.

**B.** Signs designating yard sales shall not exceed four (4) square feet and shall bear the name of the permittee. Signs must not obstruct traffic view.

**C.** No road signs shall be exhibited for more than two (2) days prior to the day such sale is to commence.

**D.** Signs shall be removed at the end of the permitted yard sale.

**E.** Off premise signs are only allowed for permitted yard sales. Signs may not be attached to any utility pole, street sign, sign post, traffic control sign or motor vehicle.

#### **52-7 Exceptions:**

This Ordinance shall not apply to or affect the following persons or sales:

**A.** Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

**B.** Persons selling or advertising for sale an item of personal property which is specifically named or described in the advertisement and which separate items do not exceed five in number.

**52-8 Enforcement and Penalties:**

**A. Enforcement:** All requirements contained in this Ordinance shall be enforced by the Code Enforcement Officer or any Law Enforcement Official.

**B. Violation:** Any person who violates any provision of this section, or fails to comply with any of its requirements, shall, upon conviction thereof, will lose the privilege of having a yard sale for one year from the date of violation, and or be fined not more than five hundred dollars (500.00), plus reasonable attorney fees. Each day violations continue shall constitute a separate offense.

Any person accused of violating this Ordinance may waive prosecution in the District Court by payment of a waiver fee of fifty dollars (\$50.00) for each violation to the Town Office within twenty (20) days of being notified in writing of the right to waive prosecution by the Town Official issuing the notice of violation. Notice of this waiver provision may be made by mailing a copy of the notice to the alleged violator at their last known address, or by such other means as is reasonably calculated to reach the alleged violator in a timely fashion. When mailing is chosen as the manner of service, three days may be added to the period in which the waiver fee may be paid.

**52-9 Severability:**

If any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, sub-section, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

Enacted: \_\_\_\_\_