

Sec. 22-103. Identification of city in film.

Use of the words "Winter Garden" or "City of Winter Garden," either visually or verbally, in a film produced pursuant to this article, including in the credit line, shall be prohibited without the express written consent of the city commission. (Code 1988, § 13-159)

Sec. 22-104. Appeals.

Any applicant for a production permit aggrieved by a decision of the city manager or the film commissioner may appeal to the city commission by filing with the city commission a petition setting forth the reasons for the appeal. The city commission's decision to affirm, reverse, or modify the film commissioner's decision shall be final. A person aggrieved by such decision may appeal to the circuit court pursuant to the Florida Rules of Appellate Procedure. Rendition shall be deemed to occur upon the making of the decision appealed. (Code 1988, § 13-160)

Secs. 22-105—22-124. Reserved.

ARTICLE V. RESIDENTIAL GARAGE SALES

Sec. 22-125. Purpose.

The purpose of this article is to provide necessary regulations of residential garage and estate sales in the city in the interest of the public health, safety and welfare of the citizens and residents of the city. (Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Estate sale means a sale within the city by a relative of a deceased resident or a representative of the deceased resident of items belonging to such deceased resident which shall take place at

the residential site of the deceased resident and is the final sale of items of the deceased resident due to the death of the resident.

Garage sale means a sale open to the public conducted from or on a residential premise in any residential district, or from a temporarily arranged site elsewhere within the city, for the purpose of disposing of personal property or secondhand items, including, but not limited to, all sales entitled "garage, moving, lawn, yard, attic, porch, backyard, patio, basement", or other similarly intended nature.

Personal property means property which is utilized, owned and maintained by an individual or by members of a residence and acquired in the normal course of living in or maintaining of a residence. It does not include merchandise which was purchased for resale or obtained from close-outs, fire sales, or other quantity liquidations, or commercial consignments. (Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-127. Notice.

Required. Garage sales and estate sales may not be conducted without first providing notice to the code enforcement division, which notice shall set forth the date, time, and place of the garage sale or estate sale. (Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-128. Duration of sale; frequency.

A garage sale shall not last more than two consecutive days. A garage sale may not be conducted by any resident, including a representative of a resident, more than once every six months, except one garage sale may be conducted within six months from the last garage sale if the garage sale is due to the sale of the residential property. For purposes of this article, the term "resident" shall be deemed to include all or any persons within the household.

An estate sale shall not last more than five consecutive days. An estate sale may be conducted within six months from the last garage

sale on the same residential property and upon the death of a resident formerly residing at the applicable residence.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-129. Sign.

One sign with a maximum area of three square feet in size and up to six feet in height may be posted at the site of the garage or estate sale, and two directional signs with a maximum area of one and one-half square feet in size may be posted. The directional signs shall be placed so that the total height above the ground level does not exceed two feet and may be placed behind the street curb or beyond the edge of the street in the public right-of-way provided vehicular and pedestrian traffic is not obstructed. Sign placement is subject to removal or relocation by a property owner if placed on said property owner's property without said property owner's permission. Signs may not be attached to any city traffic sign or traffic control device, walls, fences, trees, or utility poles. Neighborhood or citywide garage sale events may utilize other approved signs by obtaining a special event permit. Signs not meeting the criteria described in this paragraph are subject to removal and disposal by the city. The foregoing signs shall be removed within 24 hours of the conclusion of the garage sale or estate sale, as the case may be.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-130. Display of sale goods.

At a garage or estate sale no property offered for sale shall be displayed in any public right-of-way, sidewalk, alley or street. During the garage or estate sale property offered for sale may be displayed on the lawn, yard, driveway or such other area within the boundary of the property. At the conclusion of such sales, all unsold articles and items shall be removed or packed in such a manner so as not to be visible from any public street or abutting properties.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-131. Property to be sold.

It shall be a violation of this article for any person during a residential garage sale to sell or offer for sale property other than personal property.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-132. Parking.

Garage or estate sale parking shall be controlled by the individual conducting the sale so as not to be a hazard or create any congestion on adjacent streets. The police department or code enforcement division may require all sales activity to cease and revoke the authorized sale, if excessive parking congestion or a traffic hazard exists.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-133. Exceptions.

This article shall not apply to:

- (1) Nonprofit corporations, churches, temples or recognized fraternities, sororities, clubs or lodges conducting home sales, provided that such nonprofit corporations, churches, temples or recognized fraternities, sororities, clubs or lodges conduct their sales on real estate owned and/or occupied by such organizations; or
- (2) Sales conducted by lawfully nonconforming businesses located in residential zoning districts.
- (3) Sales conducted pursuant to an order or process of a court of competent jurisdiction, including but not limited to, an estate sale.
- (4) Sales where no more than three specific items are held out for sale.

(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-134. Revocation of authorization.

If the city commission or any of its agencies, departments, or divisions shall determine that the items and articles to be sold or the premises at which they are to be sold would adversely affect

the public health, safety and welfare, it will be cause for revocation of authorization and become a violation of this article of the City Code.
(Ord. No. 02-26, § 2, 6-13-02)

Sec. 22-135. Penalties.

A violation of this article shall be punished as a class I violation as provided in division 3, article ii of chapter 2 of the City's Code of Ordinances.
(Ord. No. 02-26, § 2, 6-13-02)

Secs. 22-136—22-149. Reserved.

ARTICLE VI. ITINERANT AUTOMOTIVE SALES

Sec. 22-150. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Winter Garden, Florida. As used throughout, the term "city" also includes the designated agent of the city.

City manager means the City Manager of the City of Winter Garden or his designee.

Event organizer means any individual, business, corporation, partnership, limited liability company or any other legal entity which organizes, sponsors, conducts, promotes or otherwise operates an itinerant automotive sale.

Itinerant automotive sale means a temporary sale within the city limits involving three or more motor vehicles or trailers (including, but not limited to, passenger vehicles, trucks, recreational vehicles, motor homes, motorcycles, and boats) held on property which is not primarily or regularly used by the property owner to conduct such sales or which is not primarily or regularly used by the event organizer to conduct its business or affairs.

Itinerant automotive sales permit means the permit required by this article.

Permittee means the recipient of an itinerant automotive sales permit under the terms and provisions of this article.
(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-151. Purpose.

The purpose of this article is to establish a permitting process and provide necessary regulations and review procedures of itinerant automotive sales that because of their nature may create traffic control, public safety, sanitation or other public health, safety and welfare issues. The criteria herein are intended to ensure that said itinerant automotive sales may be permitted while not creating a public health or safety hazard or a public nuisance.
(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-152. Declaration of necessity and intent.

It is hereby found and declared that:

- (1) There is a desire to permit itinerant automotive sales in certain areas of the city to stimulate economic activity and provide additional purchasing options for the benefit of the city's residents.
- (2) The presence of such itinerant automotive sales, if not properly permitted, reviewed, and regulated, may result in increased traffic, site congestion, sanitation, security or safety problems, unnecessarily increase burdens on municipal services, and when held for prolonged periods of time or on numerous occasions, be inconsistent with the planning objectives of the city.
- (3) The establishment of permit conditions, review standards and regulations governing itinerant automotive sales are necessary to protect and promote the general health, safety and welfare of the residents of the city.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-153. Scope.

Any property owner or event organizer desiring to operate, engage in, organize or otherwise conduct an itinerant automotive sale within the

city limits shall be subject to the requirements of this article. The provisions of this article are in addition and supplemental to other requirements of the Code, including, but not limited to provisions regarding sign permits, occupational licenses, compliance with setbacks, and building permits.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-154. General; limitations.

(a) It shall be unlawful for any person to operate, engage in, organize or otherwise hold an itinerant automotive sale within the city limits without first obtaining an itinerant automotive sales permit as required by this article.

(b) No itinerant automotive sale permit issued under this article shall be for a period of more than 12:00 noon the day prior to the itinerant automotive sale for set up, three consecutive days for sales and from midnight until 12:00 noon following the sale days for take down and restoration. The sale area shall not be open to the public nor sales made during set up and take down. The sales area shall be available to the public and hours of sale shall not exceed the hours of 6:00 a.m. to 11:00 p.m. during the sale days. Any break in the event shall require the issuance of a separate itinerant automotive sale permit.

(c) An event organizer shall be limited to two itinerant automotive sales permits during any calendar year; however, no more than one itinerant automotive sales permit may be issued in any one calendar quarter per event organizer.

(d) No lot or parcel within the city shall be used to host an itinerant automotive sale more than three times during any calendar year, and no more than one itinerant automotive sale may be held on a particular lot or parcel during any one calendar quarter.

(e) Itinerant automotive sale permits are neither transferable nor assignable.

(f) No itinerant automotive sales permit shall be issued if it results in a parking reduction of greater than 25 percent for the primary use of the property.

(g) Itinerant automotive sales shall only be permitted on property that is directly accessible from and adjacent to State Road 50.

(h) All itinerant automotive sales shall be conducted only on paved parking lots.

(i) Should any temporary structures be required for the itinerant automotive sale, the event organizer will be responsible for obtaining all necessary building permits and meeting all requirements of the applicable building codes at least 48 hours prior to the itinerant automotive sale.

(j) All itinerant automotive sales shall provide lighting to permit the safe viewing of vehicles for sale, however, such lighting shall not be positioned so as to negatively impact surrounding neighborhoods.

(k) The underlying zoning of the property must allow automotive sales as a permitted use or as a special exception.

(l) No live entertainment or speakers shall be placed within the permitted area unless permitted as a special event under a separate application. Conditions such as hours and days of operation and audio levels will be regulated by the city, and these may vary during the year.

(Ord. No. 04-73, § 2, 11-11-04; Ord. No. 13-19, § 3, 5-23-13)

Sec. 22-155. Application and supplementary materials.

Any event organizer seeking the issuance of an itinerant automotive sales permit and the owner of the property on which the itinerant automotive sale is to be located shall jointly file an application with and on forms approved by the planning and zoning department, together with an application review fee of \$500.00, at least 60 days prior to the proposed date of the itinerant automotive sale. The application shall be signed by autho-

rized representatives of the joint applicants and shall include the following minimum information and materials:

- (1) The name, address and telephone number of the event organizer and of the property owner.
- (2) The location, date(s) and hours of operation of the proposed itinerant automotive sale (no "floating" date approvals will be issued).
- (3) A general description of the activities to be conducted at the itinerant automotive sale together with attendance estimates.
- (4) A statement, signed by both the event organizer and property owner, acknowledging that they have reviewed and understand the provisions of this article and that they will comply with and be responsible for the compliance of the regulations of this article and any conditions imposed on the grant of an itinerant automotive sales permit. Further, acknowledging that the event organizer or property owner or both may be cited for failure to comply with this article or the conditions imposed on the grant of an itinerant automotive sales permit or that such permit may be revoked or suspended. And further agreeing that upon issuance of a itinerant automotive sales permit, the event organizer and property owner, jointly and severally, agree to indemnify, defend, save and hold harmless the city, its elected and appointed officials, consultants and employees from any and all claims, liabilities, lawsuits, damages and causes of action which may arise out of or in any way relate to the issuance of an itinerant automotive sales permit or the event organizer's and property owner's activity on the permitted premises.
- (5) A site plan of the property upon which the itinerant automotive sale is proposed to be conducted depicting, at a minimum, the following:
 - a. The location of the itinerant automotive sale area on the property.
 - b. The dimensions and locations of all equipment and proposed temporary structures to be located on the property (e.g., tents, portable sanitary facilities, lighting, signage, sales area, offices, et cetera).
- (6) A description and location map of the proposed signage and lighting proposed to be provided in connection with the itinerant automotive sale.
- (7) A description of the security plan with the name of the company providing staffing for the itinerant automotive sale, which staffing shall include at least one person with arrest powers within the city.
- (8) A description of the capacity and location of restroom facilities sufficient to meet the anticipated demand at the itinerant automotive sale.
- (9) A description of the provisions to be made for solid waste collection and disposal.
- (10) A parking plan which clearly shows all on-site and overflow parking (if necessary), the number of parking spaces, public roads and proposed traffic flow and any necessary traffic control devices at the location. The proposed traffic circulation pattern to be utilized should be designed so as not to impede normal traffic flow on adjacent roadways and to minimize traffic impacts.
- (11) A list of all concessionaires and vendors in addition to the event organizer, if any.
- (12) If the event organizer is a corporation or limited liability company or some other business entity required to be registered with the department of state, a certificate of good standing certifying that the event organizer is authorized to do business in the state of Florida.
- (13) Written proof of permission from the underlying fee owner for the use of the fee owner's property by the event organizer for the itinerant automotive sale. The fee owner shall be required to sign the appli-

cation and agree to any conditions placed on the itinerant automotive sale by the city commission.

- (14) Copies of all required federal, state, and local business or regulatory licenses required to be held by the event organizer and, if applicable, any concessionaires and vendors.
- (15) The event organizer and property owner shall provide to the city proof of insurance coverage by a certificate of liability insurance, certificate of property insurance or evidence of property insurance. This certificate must show general liability coverage limits in the amount of not less than \$1,000,000.00. Insurance coverage for workers' compensation must also be shown on a Certificate for any employees hired by the event organizer.
- (16) Any other documentation or information that the city staff or the city commission determines to be reasonably necessary to properly evaluate the application.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-156. Review procedure.

Following a review by the city staff of a complete application, application review fee and other materials submitted for conformity to this article and such other requirements of the code or law as may be applicable, the negotiations with the applicant on changes deemed advisable and the kind and extent of conditions which may be imposed, the completion of all necessary actions by the applicant as may be required by the code or applicable law and after the applicant has addressed the city staff's comments, and provided any requested additional information or materials, the city planner shall place the applicant's request for an itinerant automotive sales permit, as submitted or as modified, on the next available city commission agenda. Thereafter, the city commission shall express its approval and shall state the conditions, if any, of such approval, or, if disapproved, shall express its disapproval and its reasons therefor.

In considering the applicant's request, the city commission shall, at a minimum, consider:

- (1) The suitability of the site to host an itinerant automotive sale.
- (2) The potential adverse or negative effect granting an itinerant automotive sale permit could have on surrounding properties or business, including, but not limited to, noise, vibration, air pollution, glare, odor, reduction in parking, security, sanitation, and traffic impacts.
- (3) Disturbances, complaints or problems associated with itinerant automotive sales of a similar character or nature as the proposed itinerant automotive sale, or disturbances, complaints or problems associated with itinerant automotive sales organized by the event organizer in the past.
- (4) Whether the itinerant automotive sale will require additional staffing of public safety personnel by the city.
- (5) Whether the grant of the itinerant automotive sale permit hampers any legitimate city objective or whether the benefit of granting such permit request is outweighed by the denial of such permit request.
- (6) The imposition of conditions reasonably necessary to protect the public health, safety, or welfare.
- (7) Such other criteria or facts considered relevant by the city commission.

Notwithstanding anything to the contrary, unless expressly excepted by the city commission upon the grant of approval for the issuance of an itinerant automotive sales permit, such grant of approval is, at all times, conditional and shall be issued subject to compliance with the standards, criteria, limitations and conditions set forth in this article and the payment of the itinerant automotive sale permit fee of \$3,375.00 per permit. Said fee must be paid at the time of issuance and prior to the staging of any equipment or vehicles on the property.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-157. Conditions of issuance itinerant automotive sale permits.

Unless expressly excepted by the city commission, all itinerant automotive sale permits which may be granted are granted subject to, and the permittee must maintain compliance with, the following conditions:

- (1) The city may revoke or suspend an itinerant automotive sales permit in emergency situations, to prevent a public nuisance or for safety considerations. The issuance of a hurricane or high wind hazard by the weather bureau or the city shall constitute an emergency situation.
- (2) The permittee shall assure that the itinerant automotive sale in no way interferes with public rights-of-way.
- (3) The area covered by the itinerant automotive sales permit shall be maintained in a neat, clean and orderly appearance at all times by the permittee, and the area shall be cleared of all debris as needed during the day, and again at the close of each business day. Items that are sensitive to windy conditions must be sufficiently weighted to prevent movement, and the city may require removal of these items on windy days to prevent injury or litter.
- (4) The permittee shall conspicuously post the itinerant automotive sales permit and any other applicable permits at all times at the location where the activity is permitted.
- (5) Only the structures and equipment specifically disclosed on the approved application and not otherwise prohibited shall be allowed within the permitted area.
- (6) The permittee shall not operate under the itinerant automotive sales permit in such a manner so as to create a public nuisance or to constitute any hazard to the public health, safety or welfare or to damage or destroy public property.
- (7) Any damage to the public sidewalk or public fixtures within the public ways, including, but not limited to, chipped or cracked concrete, painted concrete, bent

signs, etcetera, resulting from operation of the restaurant shall be the responsibility of the permittee and said permittee shall be liable to city for all cost of repair.

- (8) The permittee in conducting the itinerant automotive sale, shall not violate any provision of this Code, any local, state, federal law or any regulations of the county health department or other applicable regulatory agency, or the conditions imposed on the issuance of an itinerant automotive sales permit, if any.
- (9) The permittee shall not utilize within the permitted area any bell, siren, horn, loudspeaker, flashing lights or any similar device to attract the attention of customers.
- (10) The permittee, in conducting the itinerant automotive sale, shall not fail to comply with the requirements of this article, the terms under which the itinerant automotive sales permit is issued, or an order of or a citation issued by a code enforcement officer.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-158. Violations.

Code enforcement officers and fire inspectors are hereby expressly designated as designees of the city for purposes of issuing warning notices and citations for all violations of this article in accordance with the established procedures. Life safety violations are defined as those conditions which exist involving serious threat to the public health, safety or welfare, including violations of the state accessibility code or building construction, in which case no warning notice shall be required.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-159. Classes of violations and penalties.

Violations of this article or the conditions of an issued itinerant automotive sales permit shall be classified as Class 5 violations under division 3, article II, chapter 2, part II of this Code.

(Ord. No. 04-73, § 2, 11-11-04)

Sec. 22-160. Non-exclusivity.

Nothing contained in this article shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or situation of noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. All remedies and penalties provided for in this article shall be cumulative and independently available.

(Ord. No. 04-73, § 2, 11-11-04)