

Wendy Wickwire

From: Anita Geraci [ageraci@ageracilaw.com]
Sent: Friday, August 01, 2008 3:44 PM
To: Wendy Wickwire
Subject: 2008-18 Ordinance on Yard and Public Auction Sales.doc
Attachments: 2008-18 Ordinance on Yard and Public Auction Sales.doc

Wendy,

The ordinance you revised which is also attached is fine except that I would change 2. (h) to read "in an amount assessed by the Code Enforcement Board in accordance with law." I recommend this because any violations will be thru code enforcement. I can make this change if you agree, or if Council determines they want it at the first reading.

Let me know if you have any questions or concerns.

Thank you,

Anita

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ORDINANCE 2008-18

AN ORDINANCE OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA; RELATING TO THE REGULATION OF YARD AND PUBLIC AUCTION SALES WITHIN THE TOWN OF MONTVERDE; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGULATIONS; PROVIDING FOR AN EXEMPTION; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Montverde has certain responsibilities for the public health, safety and welfare within the Town limits; and

WHEREAS, Chapter 166, Florida Statutes, authorizes municipalities to adopt ordinances to protect the citizen's health, safety and welfare, in exercise of the Town's police power; and

WHEREAS, the Town Council has determined that some Town residents are conducting yard or public auction sales on numerous consecutive weekends and such excessive conducting of such sales within the Town causes traffic congestion and hazardous conditions along Town streets and roads and is detrimental to the health, safety and welfare of the Town citizens; and

WHEREAS, the Town of Montverde has advertised as required by law for two public hearings prior to adoption of this Ordinance; and

WHEREAS, the Town Council of the Town of Montverde, Lake County, Florida hereby finds and declares that the adoption of this ordinance is necessary, appropriate, and in the public interest of the citizens of this community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and, by this reference, are hereby incorporated into and made an integral part of this ordinance.

Section 2. Creation.

The yard and public auction sales Ordinance is hereby enacted as follows:

(a) Intent And Purpose.

It is the intent and purpose of this Ordinance to regulate the conducting of yard and public auction sales within the limits of the Town of Montverde.

(b) Definitions.

FOR THE PURPOSE OF THIS Ordinance the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

(1) Public auction shall mean the sale or offering for sale of goods at a public or private gathering by public outcry and competitive bidding. The term shall also include the sale or offering for sale of goods at such public or private gathering utilizing the method known as "down hill bidding". "Down hill bidding" is first offering any article for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

(2) Auctioneer shall include any person who conducts and handles an auction sale or public auction and shall be limited to natural persons and any person licensed pursuant to Florida Statutes, chapter 468 and who holds a valid Florida auctioneering license.

(3) Yard sale shall mean and include all general sales open to the public, from or on residential premises and any residential zone, as designed by the land use plan, for the purpose of disposing of personal property, including, but limited to all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea market", "white elephant", or "rummage sales. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

(c) Duration And Frequency.

No more than four (4) yard or public auction sales may be conducted at any one residence or household during any calendar year. Yard sales shall be limited in duration to no more than the daylight hours (not to exceed 7:00 PM) of three (3) consecutive days.

(d) Permit Number Required, Application and Display.

It shall be a violation of this ordinance for any person to conduct a yard or public auction sale on any lot, parcel or tract of land without first obtaining a permit number from the Town. This number can be obtained via telephone. The time

and place where the sale is to be held shall be provided when obtaining the permit number and the sale shall be held only on the days stated when applying for the permit number. The permit number shall be displayed on the premises at which the sale is being conducted, and the town council may charge such fee for the issuance of such permit number as it may deem necessary to cover the cost of issuance.

(e) Signage.

Notwithstanding any other provision of Town law, one sign of not more than four (4) square feet shall be permitted to be displayed on the property of the residence where a yard or public auction sale is being conducted pursuant to this ordinance. In addition, the permittee may place not more than three (3) directional signs in the town right-of-way. All such signs shall be displayed no more than twenty-four (24) hours before the beginning of the sale and must be removed within twenty-four (24) hours of the conclusion of the sale. Such signs must include the dates of the event, the address of the premises, and the permit number.

(f) Cleanup.

At the conclusion of a yard or public auction sale, all unsold articles and items and all tables, chairs, display cases and signs used in conjunction with such sale shall be removed or packed away so as not to be visible from any public street or abutting property.

(g) Exception.

The provisions of this article shall not apply to sales of personal property made pursuant to a valid order of a court of competent jurisdiction.

(h) Penalties.

The first violation of this ordinance may result in a written warning. Subsequent violations may result in a fine, the amount of which may be adopted by a resolution of the town council. In addition, a second violation of this ordinance shall also prevent the violating applicant from again applying for or obtaining a sale permit number for a period of one year.

Section 3. Conflicts And Ordinances Repealed.

All ordinances or parts of ordinances in conflict are hereby repealed.

Section 4. Severability.

If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED AND DULY ADOPTED by the Town of Montverde, Lake County, Florida this ____ day of _____, 2008.

Troy A. Bennett, Mayor

Bill Bates, Council President

Attest:

Wendy S. Wickwire, Town Clerk

Approved as to form and legality:

Anita Geraci, Town Attorney

First Reading _____

Second Reading _____

Council Member _____ moved the passage and adoption of the above and foregoing Ordinance. Motion was seconded by Council Member _____ and upon roll call on the motion the vote was as follows:

Ordinance 2008-18

	YEA	NAY
Bill Bates		
Mike Davis		
Jim Pierce		
Joe Wynkoop		
Glenn Burns		