

ARTICLE 4

CLOSE-OUT SALES

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ARTICLE 4

CLOSE-OUT SALES

SEC. 6-4.00 PURPOSE. The purpose of this Article is to safeguard the public and encourage competition by prohibiting unfair, dishonest, deceptive, destructive, fraudulent and discriminatory practices by which fair and honest competition is destroyed or prevented and by which members of the public are injured.

SEC. 6-4.01 LIBERAL CONSTRUCTION. This Article shall be liberally construed so that its beneficial purposes may be served.

SEC. 6-4.10 DEFINITIONS. Whenever used in this Article, the following terms shall mean:

- (1) "Sale". The sale or an offer to sell to the public, goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised to be a "fire-sale", "adjustment sale", "creditor's sale", "trustee's sale", "liquidation sale", "reorganization sale", "alteration sale", "executor's sale", "administrator's sale", "insolvent sale", "insurance salvage sale", "mortgage sale", "assignee's sale", "adjustor's sale", "receiver's sale", "loss-of-lease sale", "wholesaler's close-out sale", "creditor's committee sale", "forced-out-of-business sale", "removal sale" and any and all sales advertised in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued.
- (2) "Publish", "publishing", "advertisement", "advertising". Any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio, or television announcement and any and all means including oral, written or printed.

SEC. 6-4.15 REGULATION OF SALES. The Tax and License Administrator is authorized to supervise and regulate sales as defined in Section 6-4.10 herein.

SEC. 6-4.16 PERMIT REQUIRED. It shall be unlawful for any person to publish or conduct any sale of the type herein defined unless there exists a valid permit therefor as provided in Article 1 of this Chapter.

SEC. 6-4.17 APPLICATION FOR PERMIT. Application for a permit required by this Article shall be filed with the Division of Permits and Licenses, and shall be verified and set forth the following information:

- (1) A description of the place where such sale is to be held.
- (2) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy.
- (3) The means to be employed in publishing such sale, together with the proposed content of any advertisement.
- (4) An itemized list of the goods, wares, and merchandise to be offered for sale.
- (5) The place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition; provided, however, stock purchased or acquired within thirty (30) days of the date application is made for such sale shall not be added to the stock for sale unless satisfactory proof is given to the Tax and License Administrator that such stock was not purchased or acquired for the purpose of such sale.
- (6) The name of the owner of the goods, wares and merchandise to be offered for sale; and if the sale is to be conducted by a person not the owner of the goods, then the name of the person conducting such sale.
- (7) Any additional information as the Tax and License Administrator may require.

SEC. 6-4.18 TERM OF PERMIT. Upon the filing of such application, the Tax and License Administrator after investigation thereof, and determining that the provisions of this Article have been complied with, shall issue such permit for a period not to exceed ninety (90) days.

If the Tax and License Administrator determines that the provisions of this Article have not been complied with, the application must be denied.

SEC. 6-4.19 RENEWALS OF PERMIT. Upon satisfactory proof by the permittee that the stock itemized in the original application has not been disposed of, the Tax and License Administrator may renew such permit for one additional thirty (30) day period.

Such proof shall contain an itemized list of stock on hand and shall be verified.

The Tax and License Administrator shall cause the same to be examined and investigated and if satisfied as to the truth of the statements, he may issue a renewal permit for said period not to exceed thirty (30) days.

SEC. 6-4.20 PERMIT FEES. An applicant for an original permit, or for renewal of such permit, shall pay the permit fees established by resolution of the City Council.

SEC. 6-4.25 DISPLAY OF PERMIT. Upon commencement of any such sale, the permit therefor shall be conspicuously displayed near the entrance to the premises.

SEC. 6-4.26 PERMIT NOT TRANSFERABLE. Any permit issued pursuant to the provisions hereof shall not be transferable.

SEC. 6-4.30 STOCK RECORDS. Suitable books and records shall be kept by the permittee and shall be available at all reasonable times to the Tax and License Administrator or his representatives. The permittee shall permit an examination of all merchandise on the premises for comparison with the stock list for which such permit was issued.

SEC. 6-4.35 NO ADDITIONAL GOODS. No goods, wares or merchandise shall be permitted to be offered for sale at the place of business where such sale is to be conducted other than those items listed in the inventory filed with the application for the permit.

SEC. 6-4.40 EXEMPTIONS. The following persons shall be exempt from the provisions of this Article:

- (1) Persons acting pursuant to an order of the process of a court of competent jurisdiction in disposing of goods, wares and merchandise the subject of said court's jurisdiction.
- (2) Sheriffs and marshals acting in accordance with their powers and duties as public officers.

SEC. 6-4.45 REVOCATION AND SUSPENSION OF PERMIT. Any permit granted pursuant to the provisions of this Article may be revoked or suspended in the manner provided in Article 1 of this Chapter for any violation of the provisions hereof regulating close-out sales.