

ORDINANCE NO. 1991, FOURTH SERIES.

AN ORDINANCE REGULATING CLOSING-OUT SALES;
PROVIDING PENALTIES AND REMEDIES FOR VIOLATIONS;
REPEALING ORDINANCE NO. 780, FOURTH SERIES, PASSED
JUNE 10, 1938, AND ORDINANCE NO. 1939, FOURTH
SERIES, PASSED OCTOBER 27, 1955.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. PURPOSE.

The purpose of this Ordinance 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 defrauded or injured.

SECTION 2. LIBERAL CONSTRUCTION.

This Ordinance shall be liberally construed so that its beneficial purposes may be served.

SECTION 3. DEFINITIONS.

Whenever used in this Ordinance, the following terms shall mean:

- (1) "Sale," includes 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," shall mean 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.

- (3) "Permit" shall mean a permit issued pursuant to this section. "Permittee" shall mean any person to whom a permit has been issued pursuant to this section. "Inspector" shall mean an inspector appointed by or authorized by the City of Sacramento.
- (4) "Person" includes any person, firm, association, organization, partnership, business trust, company, or corporation.

SECTION 4. REGULATION OF SALES.

The Assessor-Collector is authorized to supervise and regulate sales as defined in Section 3 of this Ordinance.

SECTION 5. PERMITS

It shall be unlawful for any person to publish or conduct any sale of the type herein defined without a permit therefor.

SECTION 6. APPLICATION FOR PERMIT

- (a) Every application for a permit required by this ordinance shall be in writing and shall be verified under oath.
- (b) Such application must contain:
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 stock list of inventory, of the goods, wares, and merchandise to be offered for sale, together with the cost at which the goods, wares and merchandise was obtained by the owner thereof, or person conducting such sale. All goods, wares and merchandise listed upon the inventory herein required shall be so described in detail by manufacturer's name and lot number, the individual number of articles so numbered, colors, sizes and otherwise, that the identity of such goods with the goods listed on such inventory can be readily determined.

5. The place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition; and in the case of stock placed upon the premises within 90 days prior to such sale, the time of acquisition of such stock.
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. Such additional information as the Assessor-Collector may require.

(c) No application for any such permit shall be accepted by the Assessor-Collector for filing unless accompanied by a filing fee in the amount of FIFTY (\$50.00) DOLLARS, no part of which shall be refundable.

SECTION 7. TERM OF PERMIT.

Upon the filing of such application, the Assessor-Collector, after investigation thereof, and determining that the provisions of this Ordinance have been complied with, shall issue such permit for a period not to exceed sixty days. If the Assessor-Collector determines that the provisions of this Ordinance have not been complied with, the application must be denied. Each permit issued under the provisions of this section shall have printed, written or stamped on the face thereof the following:

"This permit is granted by the Assessor-Collector and accepted by the permittee upon the condition that such permittee will comply with and abide by all the provisions of Ordinance Number _____, Fourth Series, of the City of Sacramento"

with a line thereunder for signature by the permittee and a witness.

At the time of the delivery of said permit such statement must be signed by the permittee in the presence of an employee of the City of Sacramento who shall sign as a witness.

SECTION 8. CONDITIONS OF PERMIT.

Any permit issued under the provisions of this Ordinance shall authorize the one type of sale named in the application, at the place named therein, for a period of not more than sixty (60) calendar days, and shall permit the sale of goods only which are set out in said application, all of which goods throughout the duration of the sale must be definitely separated from any other goods displayed at, or within the store or place of business, and all advertising, signs or notices referring to, or calling attention to the sale, must be confined to the display or displays of goods involved in the sale. Provided, however, that the Assessor-Collector may, upon a verified application therefor, renew said permit for a period of not to exceed

thirty (30) days, upon the payment of a renewal fee in the amount of twenty-five (\$25.00) dollars. Such verified petition for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall not contain any goods, wares or merchandise not named in such original application. Upon receipt of such application for renewal the Assessor-Collector shall cause an investigation to be made at once, and if satisfied of the truth of the statements therein contained, the Assessor-Collector shall grant such renewal, which shall be endorsed and signed as provided for the original permit. The Assessor-Collector may renew any original permit in the manner above provided, not to exceed two times, upon the payment of the sum of twenty-five (\$25.00) Dollars for each such renewal; provided however, that the Assessor-Collector may not issue permits or renewals which will allow the conduct of any sale, or sales of any kind, or kinds, named in this section, at any one location for more than one hundred twenty (120) calendar days in any one twelve-month period.

SECTION 9. TERMS OF PERMIT.

Such permit shall be valid only for the advertising, representation and sale of the particular goods, ware or merchandise described in the original application therefor, and at the particular time, and particular place stated therein, and by the particular applicant, and any renewal, replenishment or substitution or storage of such goods, wares or merchandise, or change of such time or place for such sale, or change of person conducting the sale, shall be unlawful and shall render such permit void. No person in contemplation of conducting any such sale or special sale, or during the continuance of such sale, shall order or accept delivery of any goods, wares or merchandise for the purpose of selling them at such sale and any unusual purchase, or additions to the stock of such goods, wares or merchandise, within sixty (60) days before the filing of such application for a license to conduct such sale shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling them at such sale.

Each sale of goods, wares or merchandise as were not inventoried and described in said original application shall constitute a separate offense under this section.

SECTION 10. RULES AND REGULATIONS.

The Assessor-Collector may make such rules and regulations for the conduct and advertisement of such sales as, in his opinion, will serve to prevent deception and to protect the public.

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SECTION 11. FEES.

The applicant for an original or renewal permit to advertise or conduct such sale shall pay a fee sufficient to pay for the cost of investigating said application and for the cost of investigations during the progress of any licensed sale. Upon filing an application the applicant shall deposit the sum of \$100.00. The Assessor-Collector shall thereafter require further deposits of \$100.00 each as he determines are reasonably necessary to continue such investigations. The Assessor-Collector may contract for the services of qualified persons to make such investigation, and they shall be paid from the aforesaid deposits.

Any excess of the funds deposited by the applicant after the investigations are completed shall be returned to said applicant, and in all cases a statement of the cost of such investigations shall be rendered to each applicant at the conclusion of each sale. No permit shall be issued until the costs of investigations have been paid in full by the applicant.

SECTION 12. DISPLAY OF PERMIT.

Upon commencement of any such sale, the permit therefor shall be conspicuously displayed near the entrance to the premises.

SECTION 13. STOCK RECORDS.

- (a) A duplicate original of the application and stock list pursuant to which such permit was granted shall be available at all times to the Assessor-Collector or to his inspectors, and the permittee shall allow such inspectors to examine all merchandise on the premises for comparison with such stock list.
- (b) At the close of business each day the stock list attached to such application shall be revised and items on such list disposed of during such day shall be noted thereon.
- (c) Suitable books and records as prescribed by the Assessor-Collector shall be kept by the permittee and shall be available at all times to the inspectors of the Assessor-Collector.

SECTION 14. 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.

SECTION 15. ADVERTISING.

- (a) All advertising shall be descriptive of the nature of such sale as stated in the application therefor. The language in such advertising shall be identical with the advertising content as indicated in the application.
- (b) It shall be unlawful to indicate in such advertising, either directly or indirectly, that such sale is held with the approval of the Assessor-Collector.

- (c) Such advertising shall contain a statement in the following words and no others: "Sale held pursuant to permit of the City of Sacramento, granted the _____ day of _____" and in such blank spaces the requisite dates shall be indicated.

SECTION 16. SALES IN PROGRESS

No sale as herein defined which is in progress at the time this Ordinance becomes effective shall be continued more than 30 days thereafter without complying with all of the requirements of this Ordinance.

SECTION 17. PENALTY.

Any person, or any employee or agent thereof who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in a sum of not more than five hundred (\$500.00) Dollars, or shall be imprisoned in the City Jail for not more than six months, or both, within the discretion of the court.

SECTION 18. RESTRAINING ORDERS.

In addition to other remedies, the City Attorney, in the name of and in behalf of the City of Sacramento may institute appropriate actions or proceedings in any court of competent jurisdiction to restrain or abate violations of the provisions of this Ordinance.

SECTION 19. REPEAL OF ORDINANCES

Ordinance No. 780, Fourth Series, passed June 10, 1938, and Ordinance No. 1939, Fourth Series, passed October 27, 1955, are hereby repealed.

SECTION 20. PUBLICATION

This ordinance shall be published once within ten days after adoption in the official newspaper of the City of Sacramento, and shall become effective thirty days from and after passage.

PASSED: December 6, 1956

EFFECTIVE: January 5, 1957

ATTEST:

Paul H. Manby
City Clerk.

Clarence L. Zeno
Mayor.