Chapter 17 - GOING OUT OF BUSINESS AND DAMAGED GOODS SALES

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5-17-1: - Definitions.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

Damaged Goods: A sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged by fire, smoke, water, or other reason.

Going Out of Business Sale: A sale held out in such a manner as to reasonably cause the public to believe that, upon the disposal of the stock of goods on hand, the business will cease and will be discontinued, including but not limited to the following sales: adjuster's, adjustment, alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustee's, building coming down, closing, creditors' committee, creditors' end, executor's, final days, forced out, forced out of business, insolvents, last days, lease expires, liquidation, loss of lease, mortgage sales, receiver's, trustee's, quitting business.

Goods: Is meant to include any goods, wares, merchandise or other property capable of being the object of a sale regulated by this Chapter.

(Ord. 96-59)

5-17-2: - License Required.

It shall be unlawful to conduct a going out of business and/or damaged goods sales prior to obtaining a license from the Licensing Officer except for the following:

A.

Persons acting pursuant to an order or process of a court of competent jurisdiction, persons acting in accordance with their powers and duties as public officials, and any publisher of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this Chapter have not been complied with.

(Ord. 96-59)

5-17-3: - Application for License.

A.

The application for a going out of business and/or damaged goods sale license shall be made in accordance with the provisions of Title 5, Chapter 1.

B.

In addition the applicant shall be required to provide the following:

1.

Proof of sales tax deposit.

2.

Copy of complete inventory.

(Ord. 96-59)

5-17-4: - Special Conditions and Restrictions of the License.

In addition to licensing conditions set forth in Chapter 1 of this Title, the following special provisions shall apply:

A.

Sales Tax Deposit Required. In addition to all applicable license fees, the applicant shall deposit with the License Officer an amount equal to three and one-half percent (3.5%) of the retail value of the goods to be sold during the first

week of the sale. The License Officer shall establish the deposit based upon prior sales tax reports filed with the License Officer by the license holder. After the sale, the applicant shall deposit with the License Officer an amount equal to three and one-half percent (3.5%) of the retail value of the goods sold in the prior week of the sale. The deposit may be in the form of cash or a bond acceptable to the License Officer. The records and transactions of the applicant shall be subject to weekly review by the License Officer during the period of the sale. License holders failing to comply with the sales tax filing and payment provisions of Title 4, Chapter 4, of this Code shall forfeit their deposit and the License Officer shall pursue the proper collection of all amounts properly due to the City.

After the payment of all taxes due, and a verification is provided by an appropriate City audit, the City shall return to the license holder any funds deposited by the license holder.

B.

Term of License. The license shall authorize the sale described in the application for a period of not more than sixty (60) consecutive days. A one time license renewal may be allowed. The renewal shall not exceed thirty (30) consecutive days. After the license expires, all business activities shall cease, and not resume under the same direct or indirect ownership for a period of two (2) years.

C.

Duties of License Holders. In addition to requirements of Chapter 1 of this title, the following duties are required of license holders under this chapter:

1.

No additions to inventory may be made during the period of the licensed sale to the stock of goods set forth in the inventory attached to the application for license.

2.

License holders shall keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicates to inspecting officials upon request. Each license holder shall further keep available for inspecting officials his stock records or other records of his business relating to said sale or his application for a license.

3.

License holders shall not employ any untrue, deceptive or misleading advertising.

4.

License holders shall conduct the licensed sale in strict conformity with any representations made in advertising.

5.

License holders shall keep any goods separate and apart from the goods listed in the filed inventories as being object of sale, and make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale, apprising the public of the status of all such goods.

D.

Removal of Goods. If any goods described in the inventory are removed from the place of sale authorized by the license, those goods shall lose their identity as the stock of any of the "sales" defined by the license. No license will be issued under this chapter for conducting a sale of those goods removed from the sale that identifies them with the original license.

(Ord. 96-59; Ord. 99-17)