

CHAPTER 23.

SPECIAL SALES.

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Sec. 23-1. Defintions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Publish, publishing, advertisement and advertising. Such forms shall mean all means and methods of conveying to the public a notice of sale or a notice of intention to conduct a sale, whether by word of mouth, newspaper or magazine advertisement, handbill, written or printed notice or display, billboard display, poster, radio or television announcement and any and all other means, oral or written, of calling attention to such a sale.

Sale. The sale or offer to sell to the public, goods, wares and merchandise of any kind and description, on hand and in stock, in connection with a declared purpose as set forth by publishing or advertising on the part of the seller, that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale or the removal of a business from one locality to another. It shall also include any sale advertised to be a “fire sale”, “adjustment sale”, “creditor’s 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”, “removal sale”, “alteration”, “close-out sale”, “creditor’s committee sale”, “forced-out-of-business sale”, and all sales advertised in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on the premises, the business will cease or be temporarily discontinued at that location.

Stock. Goods, wares and merchandise of all kinds and description.
(G.O. No. 797, § 1.)

Sec. 23-2. License – Required.

It shall be unlawful for any person to publish, advertise, announce or conduct any sale of a type or kind defined in section 23-1 without first obtaining a license therefor in compliance with the provisions of this chapter. (G.O. No. 797, § 2.)

Sec. 23-3. Same – Application

Applicants for a license under this chapter shall file with the town clerk a written application, signed by the individual or by all partners if a partnership, and by the president or vice-president and secretary or assistant secretary, if a corporation, which application shall contain the following:

(a) The name of the individual having management or supervision of the applicant's business during the time that it is proposed that the sale will be conducted; the local address of such individual while conducting such sale; the permanent address of such individual, the capacity in which such individual will act, whether as proprietor, agent or otherwise; the name and address of the person for whose account the sale will be carried on, if any; and if such person is a corporation, then its full corporate name, the state in which it is incorporated and the name and address of its agent in this state upon whom service of legal process may be had.

(b) A description of the place and location where such sale is to be held and its street address.

(c) The nature of the occupancy of the premises from which the sale is to be conducted, whether ownership by lease or by sublease, giving the commencement date and the effective date of termination of any such lease or sublease.

(d) The means to be employed in publishing such sale, together with the proposed content of any advertisement.

(e) An itemized inventory and list of stock on the premises to be offered for sale, together with a statement of the quality and cost price thereof.

(f) The place where such stock was purchased or acquired and the manner of such acquisition.

(g) Every application shall be verified under oath by the applicant.
(G.O. No. 797, § 3.)

Sec. 23-4. Same – Issuance; term; nontransferable.

The town clerk shall submit each application for a license under this chapter to the town treasurer, and upon written approval of the town treasurer endorsed upon such application, the town clerk shall issue a license for a period not exceeding thirty days. Such license shall be issued or denied within a period of ten days from filing application, and the license shall not be transferable. (G.O. No. 797, § 4.)

Sec. 23-5. Same – Renewal.

(a) Upon satisfactory proof by a licensee under this chapter that the stock itemized in the original application has not been disposed of, the license may be renewed by the town clerk for an additional thirty-day period.

(b) Application for renewal shall be made on a form furnished by the town clerk, and shall contain an itemized list of stock remaining on the premises to be offered for sale and such application for renewal shall be verified.

(c) The town treasurer shall examine the application for renewal and investigate the facts, and upon being satisfied as to the truth of the statements therein contained, shall approve such application by endorsement, after which the town clerk shall issue such renewal for a period of thirty days. No further renewal may be granted for any such sale for the same location within one year from the issuance of the original license.

(G.O. No. 797, § 5.)

Sec. 23-6. Same – Fees.

Upon filing an application for an original or renewal license under this chapter, the applicant shall pay to the town clerk a fee of twenty-five dollars. If any such application shall be denied, such payment shall be forfeited to the town to defray the cost of investigating the application. (G.O. No. 797, § 10.)

Sec. 23-7. Same – Verification of details contained in applications by town treasurer.

The town treasurer may, in his discretion, either personally or by his representative, verify the details contained in an application for a license or for a renewal thereof, or cause a check and certification to be made of the items of stock sold during the sale. It shall be unlawful for any person to whom a license has been issued to fail or refuse to furnish the town treasurer or his designated representative with information concerning stock sold, stock on the premises, or any other information that may be required in order to make a complete investigation of all applications for licenses and renewals thereof.

(G.O. No. 797, § 6.)

Sec. 23-8. Same – Revocation and suspension.

(a) A license or renewal thereof, issued pursuant to this chapter may be revoked by the town treasurer after notice and hearing for any of the following reasons:

(1) Any fraud, misrepresentation or false statement contained in the application or any advertisement.

(2) Any fraud, misrepresentation or false statement as to the inventory, stock sold or stock on the premises.

(3) Any violation of this chapter.

(4) Conviction of licensee of any felony.

(5) Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace, a menace to the health, safety or general welfare of the public or in any manner such as to create a public nuisance.

(b) Notice of hearing for revocation of a license shall be given by the town treasurer in writing, setting forth specifically the grounds of complaint and the times and places of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at the address given in the application, at least five days prior to the date set for the hearing.

(c) A license may be suspended for not more than five days pending a hearing by the town treasurer, upon proper cause being shown him that the license should be revoked.

(d) The town treasurer shall hold such hearings and make such investigations, either by person or by his designated representative, as may be necessary to carry out the provisions and intent of this section.

(G.O. No. 797, § 7.)

Sec. 23-9. Same – Appeal from action of town treasurer.

Any person aggrieved by the decision of the town treasurer with respect to the denial of an application for a license or its renewal, or in connection with the revocation or suspension of a license, shall have the right to appeal to the town council. Such appeal shall be taken by filing a written statement of the grounds for appeal with the town council within ten days after notice of a decision of the town treasurer has been mailed to such person. The town council shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in subsection (b) of section 23-8 for notice of hearing on revocation. The decision of the town shall be final. (G.O. No. 797, § 8.)

Sec. 23-10. Same – Display

Before commencing or opening any such sale, the license issued therefor under the provisions of this chapter shall be conspicuously displayed near the entrance to the premises where such sale is to be conducted. (G.O. No. 797, § 11.)

Sec. 23-11. Town treasurer to promulgate rules and regulations for conduct of sales.

The town treasurer may, with the approval of the town council, make such rules and regulations for the conduct of such sales and the advertisement of same as may be necessary to prevent deception and to protect the public interest and welfare. Such rules will be available to applicants for licenses. (G.O. No. 797, § ??)

Sec. 23-12. Records of stock.

(a) A duplicate original of the application and stock list by virtue of which a license under this chapter is granted shall be made available by the licensee to the town treasurer or his designated representative, and the licensee shall permit the town treasurer or his

representative to inspect and examine all stock on the premises for comparison with the stock list.

(b) At the close of the business each day, the duplicate of the original stock list in the possession of the licensee, shall be revised by the licensee and items on such list sold on that day shall be noted thereon.

(c) Suitable books and records shall be kept by the licensee at the place of sale and shall be made available for inspection by the town treasurer or his authorized representative at all times during which the sale is being conducted.

(d) It shall be unlawful to sell, offer or expose for sale at any such sale, or to list on the inventory required by section 23-3, any stock which is not the stock of the store for which a license has been granted, and it shall be unlawful to replenish or add to such stock for the purpose of disposal at such sale after the license has been granted, or to fail, neglect or refuse to keep accurate or true records of the initial stock sold and stock on hand.

(G.O. No. 797, § 9.)

Sec. 23-13. Advertising.

All advertising for sales regulated by this chapter shall be descriptive of the nature of such sale. The content of the advertisement shall be identical with the proposed advertisement submitted with the application and any changes in such advertisement shall first be submitted to and approved by the town treasurer. (G.O. No. 797, § 12.)

Sec. 23-14. Exemptions.

(a) Persons acting pursuant to an order of a court of competent jurisdiction.

(b) Sheriffs, marshals and constables acting in accordance with their powers and duties as public officers.

(c) Duly licensed auctioneers selling at auction.

(d) Executors', administrators' sales of household furnishings and personal effects in the liquidation of estates.

(e) Sales conducted by bona fide organizations of the town, the proceeds of which are primarily to go to charity.

(G.O. No. 797, § 13.)