

1 Ordinance No. 780, Fourth Series.

2
3 Ordinance regulating (or relating to) fire and closing-out
4 sales.

5 Be it enacted by the Council of the City of Sacramento:

6 Section 1. DEFINITIONS: For the purpose of this section
7 only, the following words and terms shall be deemed to mean and
8 be construed as follows:

9 (a) "Sale." The sale, or an offer to sell, to the public,
10 or to any group thereof, goods, wares, or merchandise of any and
11 all kinds and descriptions, on hand, in transit, and in stock,
12 in connection with a declared purpose as set forth by advertising,
13 on the part of the seller, that such sale is anticipatory to, or
14 to avoid the termination, closing, liquidation, revision, wind-
15 up, discontinuance, conclusion, or abandonment of the business
16 in connection with such sale, and any and all sales advertised
17 in any manner as to reasonably convey to the public the belief
18 that upon the disposal of the stock of goods on hand the business
19 will cease and be discontinued, including but not limited to
20 sales advertised to be "Adjuster's Sale," "Adjustment Sale,"
21 "Alteration Sale," "Assignee's Sale," "Bankrupt Sale," "Bene-
22 ficial of Administrator's Sale," "Benefit of Creditors' Sale,"
23 "Benefit of Trustees' Sale," "Building coming down Sale," "Clos-
24 ing Sale," "Creditors' Committee Sale," "Creditors' Sale," "Dama-
25 ged Goods Sale," "End Sale," "Executors' Sale," "Final Days
26 Sale," "Fire Sale," "Forced Out Sale," "Forced Out of Business
27 Sale," "Insolvents' Sale," "Insurance Salvage Sale," "Last Days
28 Sale," "Lease Expires Sale," "Liquidation Sale," "Loss of Lease
29 Sale," "Mortgage Sale," "Receiver's Sale," "Removal Sale," "Re-
30 organization Sale," "Salvage Sale," "Smoke Sale," "Smoke and
31 Water Sale," "Trustee's Sale," "Quitting Business Sale," "Whole-

ORDINANCE No. 780

1 sale Closing Out Sale."

2 (b) "Advertise," "Advertisement," "Advertising," "Publish,"
3 "Publication," shall mean any and all means, whether oral, written,
4 lettered or printed, used for conveying to the public notice of
5 the conduct of a sale as defined herein, or notice of intention
6 to conduct such sale, including but not limited to oral or written
7 announcements by proclamation or outcry, newspaper advertisement,
8 magazine advertisement, handbill, written or printed notice,
9 printed display, billboard display, poster, and radio announcement.

10 (c) "Permit" shall mean a permit issued pursuant to this
11 section.

12 (d) "Permittee" shall mean any person to whom a permit has
13 been issued pursuant to this section.

14 (e) "Inspector" shall mean an inspector appointed by or
15 authorized by the City of Sacramento.

16 Section 2. PERMIT REQUIRED: No person or persons, company
17 or corporation shall hereafter publish or conduct any sale of
18 the type herein defined without first obtaining a permit therefor
19 from the City Manager in the manner hereinafter provided in this
20 section.

21 Section 3. APPLICATION FOR AND GRANTING OF PERMIT: No permit
22 to conduct a sale as defined herein shall be granted except upon
23 written application to the City Manager, signed and verified be-
24 fore a person authorized to administer oaths, by the person, or
25 persons, or an officer of a corporation, who intends to conduct
26 such sale, which application shall set forth and contain the
27 following information in the order named herein:

28 (a) Description, by street, location, and kind of building
29 of the location at which such sale is to be held;

30 (b) The nature of the occupancy, whether by ownership, lease
31 or sublease, and if by lease or sublease, the effective date of
the termination of such tenancy;

(c) A copy of all advertisements proposed to be used in con-

1 nection with such sale, and a statement of the means or methods
2 of advertising to be used in advertising such sale;

3 (d) The facts in regard to the insurance, bankruptcy, insol-
4 vency assignment, mortgage foreclosure, administration, receiver-
5 ship, trustee ship, removal, executorship removal, or other cause
6 which, in the opinion of the applicant brings such sale within
7 the class or classes of sales regulated hereby;

8 (e) An inventory of goods, wares and merchandise, to be sold
9 at such sale, and, insofar as possible, the date of acquisition
10 of such goods, wares or merchandise, and the persons from whom
11 obtained and the place from which goods were last taken.

12 All goods, wares and merchandise listed upon the inventory
13 herein required shall be so described in detail by manufacturer's
14 name and lot number, the individual number of articles so numbered,
15 colors, sizes and otherwise, that the identity of such goods with
16 the goods listed on such inventory can be readily determined.

17 If the City Manager or such official of the City of Sacramento,
18 to whom the application may be referred, shall find that the facts
19 alleged in such application are true, and that the description of
20 the goods in said inventory is complete, as required by this section,
21 and that the conduct of such sale will not be detrimental to the
22 general welfare of the citizens of the city, the City Manager may
23 issue a permit to conduct such sale in accordance with the provisions
24 of this section.

25 If the City Manager, or such official of the City of Sacramento,
26 to whom the application may be referred, finds that such sale will
27 be inimical to the general welfare of the citizens of the city, or
28 that said application is incomplete or insufficient, such person
29 shall refuse to grant a permit; provided, however, that if such per-
30 mit is refused on account of lack of information upon the application,
31 the City Manager may grant the applicant permission to file an
amended application.

1 No application for any such permit shall be accepted by the
2 City Manager for filing unless accompanied by a filing fee in
3 the amount of Fifty (\$50.00) Dollars, no part of which shall
4 be refundable.

5 Each permit issued under the provisions of this section shall
6 have printed, written or stamped on the face thereof the follow-
7 ing:

8 "This Permit is granted by the City Manager and
9 accepted by the permittee upon the condition
10 that such permittee comply with and abide by all
the provisions of Ordinance Number 780 of the
City of Sacramento."

11 with a line thereunder for signature by the permittee and a wit-
12 ness.

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

16 Section 4. CONDITIONS OF PERMIT: Any permit issued under
17 the provisions of this section shall authorize the one type of
18 sale named in the application, at the place named therein, for
19 a period of not more than sixty (60) calendar days, and shall
20 permit the sale of goods only which are set out in said applica-
21 tion, all of which goods throughout the duration of the sale
22 must be definitely separated from any other goods displayed at,
23 or within the store or place of business, and all advertising,
24 signs or notices referring to, or calling attention to the sale,
25 must be confined to the display or displays of goods involved
26 in the sale. Provided, however, that the City Manager may, upon
27 a verified application therefor, renew said permit for a period
28 of not to exceed thirty (30) days, upon the payment of a renewal
29 fee in the amount of Twenty-five (\$25.00) Dollars. Such veri-
30 fied petition for renewal shall set forth a complete list of
31 goods/ ^{listed} in the original application and remaining unsold, and shall

1 not contain any goods, wares or merchandise not named in such
2 original application. Upon receipt of such application for
3 renewal the City Manager shall cause an investigation to be made
4 at once, and if satisfied of the truth of the statements therein
5 contained, the City manager shall grant such renewal, which
6 shall be endorsed and signed as provided for the original permit.
7 The City Manager may renew any original permit in the manner
8 above provided not to exceed two times, upon the payment of the
9 sum of Twenty-five (\$25.00) Dollars for each such renewal; pro-
10 vided however, that the City Manager may not issue permits or
11 renewals which will allow the conduct of any sale, or sales of
12 any kind, or kinds, named in this section, at any one location
13 for more than one hundred twenty (120) calendar days in any one
14 twelve month period.

15 Section 5. RULES AND REGULATIONS. Such permit shall be
16 valid only for the advertising, representation and sale of the
17 particular goods, wares or merchandise described in the original
18 application therefor, and at the particular time, and particular
19 place stated therein, and by the particular applicant, and any
20 renewal, replenishment or substitution of such goods, wares or
21 merchandise, or change of such time or place for such sale, or
22 change of person conducting the sale, shall be unlawful and
23 shall render such permit void. No person in contemplation of
24 conducting any such sale or special sale, or during the contin-
25 uance of such sale, shall order any goods, wares or merchandise
26 for the purpose of selling them at such sale, and any unusual
27 purchase, or additions to the stock of such goods, wares or
28 merchandise, within sixty (60) days before the filing of such
29 application for a license to conduct such a sale shall be pre-
30 sumptive evidence that such purchase or additions were made in
31 contemplation of such sale and for the purpose of selling them
at such sale.

1 Each sale of goods, wares or merchandise as were not inven-
2 toried and described in said original application shall constitute
3 a separate offense under this section.

4 The City Manager is further empowered to make such rules
5 and regulations for the conduct and advertisement of such sale
6 or special sale as in his opinion will serve to prevent decep-
7 tion and to protect the public.

8 Section 6. POWER TO REVOKE: The City ^{Manager} shall have the power
9 to revoke at any time any permit granted in accordance with
10 this section whenever any such sale or special sale is being con-
11 ducted in violation of any of the provisions of this section
12 or in such manner as to deceive or defraud the public, or if:

13 (a) The holder of any such permit has made any material
14 misstatement in the application for such permit;

15 (b) He has been guilty of any fraudulent practice, or prac-
16 tices, in the conduct of the sale authorized by such permit;

17 (c) He has failed to include in the inventory required by
18 the provisions of this section the goods, wares or merchandise
19 required to be contained in such inventory;

20 (d) He has added, caused to be added, or permitted to be
21 added any goods, wares or merchandise not described in the orig-
22 inal inventory;

23 (e) He has violated any of the provisions of this section
24 or of the laws pertaining to advertising.

25 No permit shall be revoked for any cause above enumerated,
26 until a written complaint has first been filed with the City
27 Manager setting forth in ordinary, concise language the charge
28 made against the permittee. Such complaint shall be verified
29 by the oath of the person making the charge, such verification
30 to be in the form prescribed by the Code of Civil Procedure for
31 verified pleadings in civil actions. Service of such complaint

1 and notice of hearing shall be in the manner prescribed in
2 Ordinance Number 667, Fourth Series, and shall follow the proced-
3 ure of said Ordinance as far as applicable. In all matters of
4 applications for and revocation of permit, the City Manager
5 may designate his executive secretary to take testimony.

6 Section 7. LOSS OF INDENTITY. Any removal of any goods, wares
7 or merchandise inventoried and described in the original appli-
8 cation form from the place of sale mentioned in such application
9 shall cause such goods to lose their identity as the stock of
10 any of the sales defined herein, and no permits thereafter will
11 be issued for the conducting of a sale of any such goods wares
12 or merchandise in such manner as to identify them with the store,
13 store name, store owner or location referred to in the original
14 application.

15 Section 8. ENFORCEMENT. Upon commencement and throughout
16 the duration of any sale, as herein defined, the permit issued
17 by the City Manager shall be prominently displayed near the
18 entrance to the premises. A duplicate original of the application
19 and stock list pursuant to which such permit was issued, shall at
20 all times be available to said City Manager or to his inspectors
21 and investigators and the permittee shall permit such inspectors
22 and investigators to examine all merchandise in the premises for
23 comparison with such stock list.

24 Section 9. RECORDS TO BE KEPT. Suitable books and records
25 shall be kept by the permittee and shall at all times be available
26 to the inspectors and investigators. At the close of business each
27 day the stock list attached to the application shall be revised and
28 those items disposed of during such day shall be so marked thereon.

29 Section 10. Exemptions. The provisions of this section shall
30 not apply to or affect the following persons:

31 (a) Persons acting pursuant to an order or process of a court
of competent jurisdiction;

(b) Persons acting in accordance with their powers and

1 duties as public officers such as sheriffs and marshals;

2 (c) Duly licensed auctioneers, selling at auction;

3 (d) Any publisher of a newspaper, magazine or other public-
4 ation, who publishes any such advertisement in good faith, with-
5 out knowledge of its false, deceptive or misleading character,
6 or without knowledge that the provisions of this section have not
7 been complied with;

✓ 8 (e) All warehouse sales held under the uniform warehouse
9 receipts act are exempted under this ordinance.


10 Section 11. PENALTY: Any person violating this Ordinance
11 or making any false statement in any application, renewal,
12 application or stock list filed with the City Manager shall be
13 deemed guilty of a misdemeanor, and shall, upon conviction there-
14 of, be fined in a sum of not more than Five Hundred (\$500.00)
15 Dollars, or shall be imprisoned in the City Jail for not more
16 than six months, or both, within the discretion of the court.

17
18 PASSED: June 10th, 1938.

19 EFFECTIVE: July 10th, 1938.

20
21 
MAYOR

22
23 ATTEST:

24 
25
26 CITY CLERK

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29
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