

Borough of Somerville

APPLICATION FOR GOING OUT OF BUSINESS SALE

DATE _____

OWNER'S NAME _____

ADDRESS OF FIRM CONDUCTING SALE _____

PHONE NUMBER _____

ADDRESS WHERE SALE IS TO BE CONDUCTED _____

DO YOU OWN OR LEASE THE BUILDING? _____

REASON FOR THE SALE _____

DATE SALE IS TO BE HELD _____

LICENSE MUST BE ATTACHED TO THE APPLICATION AND A COMPLETE LIST OF
INVENTORY TO BE SOLD _____

Chapter 136 SALES, SPECIAL

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[HISTORY: Adopted by the Mayor and Council of the Borough of Somerville 11-16-64 as Ord. No. 609. Section 136-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 136-1. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

BOROUGH — The Borough of Somerville.

BOROUGH LICENSE OFFICER — The Clerk of the Borough of Somerville.

FIRE AND OTHER ALTERED GOODS SALE — A sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

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 be discontinued, including but not limited to the following sales: adjuster's, adjustment, alterations, assignee's bankrupt, benefit of administrator's, benefit of creditors, benefit of trustees, building coming down, closing, creditor's committee, creditor's end, executor's, final days, forced out, forced out of **business**, insolvents' last days, lease expires, liquidation, loss of lease, mortgage sale, receiver's, trustee's, quitting **business**.

GOODS — Includes any goods, wares, merchandise or other property capable of being the object of a sale regulated hereunder.

PERSON — Any person, firm, partnership, association, corporation, company, organization or entity of any kind.

REMOVAL-OF-**BUSINESS** SALE — A sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue **business** at the place of sale upon disposal of the stock of goods on hand and will then move to and resume **business** at a new location or will then continue **business** from other existing locations.

§ 136-2. License required.

A license issued by the Borough License Officer, bearing a license number and the date on which the license was issued, shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one (1) of the following kinds, as herein defined: going-out-of-**business** sale, removal-of-**business** sale, and fire and other altered goods sale.

§ 136-3. General regulations.

- A. Established **business** requisite. Any person who has not been the owner of a **business** advertised or described in the application for a license hereunder for a period of at least six (6) months prior to the date of the proposed sale shall not be granted a license, provided that upon the death of a person doing **business** in the borough, his or her heirs, devisees, legatees or representatives shall have the right to apply at any time for a license hereunder, and further provided that a successor, assign or purchaser of a **business** shall have the right to apply at any time for a license hereunder, provided that said successor, assign or purchaser shall after the sale engage in the sale and distribution of a new and different line of merchandise from that of his or its predecessor.
- B. Interval between sales. Any person who has held a sale as regulated hereunder at the location stated in the application within one (1) year past from the date of such application shall not be granted a license.
- C. Restricted location. Where a person applying for a license hereunder operates more than one (1) place of **business**, the license shall apply only to the one (1) store or branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with it or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.
- D. Persons exempted. The provisions of this chapter shall not apply to or affect 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; duly licensed auctioneers selling at auction; any publisher of a newspaper, magazine or other publication who in good faith publishes any advertisement without actual knowledge of its false, deceptive or misleading character or without actual knowledge that the provisions of this chapter have not been complied with; any person conducting a sale of the type regulated herein on the effective date of this chapter, unless such sale is conducted for a period of more than thirty (30) days from and after such effective date, in which event such person at the lapse

of said thirty-day period shall comply with the provisions of this chapter.

§ 136-4. Application for license; fee.

- A. Written information required. A person desiring to conduct a sale regulated by this chapter shall make a written application to the License Officer, setting forth and containing the following information:
- (1) The true name and address of the owner of the goods to be sold.
 - (2) The true name and address of the person from whom the goods to be sold were purchased and the price paid therefor, and if not purchased, the manner of such acquisition.
 - (3) A description of the place where such sale is to be held.
 - (4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy.
 - (5) The dates of the period of time in which the sale is to be conducted.
 - (6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted.
 - (7) The means to be employed in advertising such sale, together with the proposed content of any advertisement.
 - (8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by applicant's records; said inventory shall be attached to and become a part of the application required under this chapter. All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment. Such inventory shall not include goods ordered in contemplation of or for the purpose of conducting any sale regulated hereunder, and any unusual purchase or additions to the stock of goods of the applicant made within sixty (60) days before the filing of an application hereunder shall be deemed to be of such character.
- B. License fee. Any applicant for a license hereunder shall submit to the License Officer, with the application for license, a license fee of sixty dollars (\$60.). Any applicant for any renewal of any license granted hereunder shall submit to the License Officer, with his application for renewal, a license fee of thirty dollars (\$30.) for the first extension and fifty dollars (\$50.) for the second extension. [Amended 6-1-81 by Ord. No. 916; 6-6-83 by Ord. No. 946; 9-8-87 by Ord. No. 1027]

§ 136-5. License period and renewal procedure. [Amended 9-8-87 by Ord. No. 1027]

The license shall authorize the sale described in the application for a period of not more than thirty (30) consecutive days, Sundays and legal holidays included, following the issuance thereof, except that the licensee shall have the right, upon payment of appropriate fees, to extend the license for two (2) additional thirty-day periods. No additional extensions may be given without special permission from the Mayor and Council and upon good cause shown.

§ 136-6. Duties of licenses.

A licensee hereunder shall:

- A. Adhere to inventory: make no additions whatsoever during the period of the licensed sale to the stock of goods set forth in the inventory attached to the application for license.
- B. Advertise properly: refrain from employing any untrue, deceptive or misleading advertising, and in any advertisement by handbills, circulars, placards, signs, notices, newspapers or publication or other advertising, include therein the number and date of his license issued by the License Officer.
- C. Adhere to advertising: conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.
- D. Keep duplicate inventory: keep available at the place of sale a duplicate of the inventory submitted with the application and present the same to inspecting officials upon request.
- E. Segregate from inventoried goods: keep any other goods separate and apart from the goods on sale and make such distinction clear to the public.
- F. Display license: display the license in a prominent place on the window of the premises where the sale is to be held so that it is clearly visible from the exterior of said premises.

§ 136-7. Violations and penalties. [Amended 5-15-78 by Ord. No. 839A]

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.) or be imprisoned for a period not exceeding ninety (90) days, or both, in the discretion of the Judge. Each day any such violation is committed or permitted to continue shall constitute a separate offense, punishable as such hereunder.