

CITY OF SAN ANSELMO
ORDINANCE NO. 465

AN ORDINANCE ADDING TO THE SAN ANSELMO MUNICIPAL CODE, TO TITLE 6 THEREOF, A NEW CHAPTER DESIGNATED AS CHAPTER 2, ENTITLED "REGULATING 'FIRE SALES', 'CLOSING OUT SALES', 'AUCTION SALES', 'LIQUIDATION SALES', AND SALES OF A SIMILAR NATURE".

The City Council of the City of San Anselmo do ordain as follows:

SECTION 6-2.01
PERMIT REQUIRED.

No person shall hereafter publish or conduct or continue to publish or conduct any sale of the type herein defined without first obtaining a permit therefor from the City Tax Collector of the City of San Anselmo in the manner hereinafter provided in this ordinance.

SECTION 6-2.02
APPLICATION FOR AND
GRANTING OF PERMIT.

No permit to conduct or to continue to conduct a sale as defined herein shall be granted except upon written application to the City Tax Collector of the City of San Anselmo, signed and verified before a person authorized to administer oaths, by the person who intends to conduct such sale, and each application shall set forth and contain the following information:

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

(B) The nature of the occupancy, whether by ownership, lease or sublease, the effective date of the termination of such tenancy;

(C) A statement of the means or the methods of advertising to be used in advertising such sale;

(D) The facts in regard to the insurance, bankruptcy, insolvency, assignment, mortgage foreclosure, administration, receivership, trusteeship, removal, or other cause advertised to be the reason for the proposed sale;

(E) An inventory or statement, in such form and in such detail as the City Tax Collector may require, setting forth the amount and description of goods, wares and merchandise to be sold at such sale, and when required by the City Tax Collector, the date of acquisition of such goods, wares or merchandise, and the persons from whom obtained and the place from which said goods were last taken.

The City Tax Collector may require that all goods, wares and merchandise listed upon the inventory or statement shall be so described in detail by manufacturer's name and lot number and the individual number of articles so numbered so that the identity of such goods with the goods listed on such inventory can be readily determined.

Upon the filing of the application, the City Tax Collector shall make or cause to be made an examination, audit or investigation of the applicant and his affairs, in relation to the proposed sale.

If the City Tax Collector finds that the statements in the application are true, that the inventory is complete, the advertising set forth is not false, fraudulent, deceptive or misleading in any respect, and that the methods to be used by the applicant in conducting the sale are not such, as, in the opinion of the City Tax Collector, will work a fraud upon the purchasers, the City Tax Collector shall issue to the applicant a permit to conduct such sale in accordance with the provisions of this article, otherwise the City Tax Collector shall deny the application and refuse said permit. The City Tax Collector may refuse a permit because of the insufficiency of the information set forth in the application, but in such event the City Tax Collector shall grant the applicant permission to file an amended application,

In the event the issuance of said permit is denied, or that said permit is revoked or suspended for violation of any of the provisions of this ordinance, the permittee shall have the right to file an appeal in writing with the City Council within ten (10) days after having been duly served with a written notice of said revocation or suspension for the permit by the City Tax Collector. After reviewing the evidence of the suspension, revocation or denial of said permit the City Council may sustain or over-rule the action of the City Tax Collector.

No application for any such permit shall be accepted by the City Tax Collector for filing unless accompanied by a filing fee computed as follows:

A fee of \$100.00; no part of said filing fee shall be refundable.

Each permit issued under the provisions of this ordinance shall have printed, written or stamped on the face thereof the following:

"This permit is granted by the City Tax Collector of the City of San Anselmo and accepted by the permittee upon the condition that such permittee comply with and abide by all the provisions of Ordinance No. _____ of the City of San Anselmo, 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 San Anselmo who shall sign as a witness.

The permit fee, herein provided for and established, shall be additional to any license required under the provisions of the Business License Ordinance of the City of San Anselmo, and the payment of the license chargeable under the provisions of said ordinance shall be a condition precedent to the granting of any permit under the provisions of this ordinance.

SECTION 6-2.03

CONDITION OF PERMIT.

Any permit issued under the provisions of this division 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 City Tax Collector may, upon a verified application therefor,

renew said permit for a period not to exceed thirty (30) days, upon the payment of a renewal fee in the amount of \$25.00, no part of which fee shall be refundable. 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 City Tax Collector shall cause an investigation to be made at once, and if satisfied of the truth of the statements therein contained, the City Tax Collector shall grant such renewal, which shall be endorsed and signed as provided for in the original permit. The City Tax Collector may renew any original permit in the manner above provided not to exceed one time for such renewal, as above set forth; provided, however, that the City Tax Collector may not issue permits or renewals which will allow the conduct of any sale, or sales, or any kind, or kinds, named in this ordinance, at any one location for more than 90 calendar days in any one 12 month period.

SECTION 6-2.04
RULES AND REGULATIONS.

Such permit shall be valid only for the advertising, representation and sale of the particular goods, wares 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 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 a sale, shall order 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 a 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 ordinance.

SECTION 6-2.05
LOSS OF IDENTITY.

Any removal of any goods, wares or merchandise inventoried and described in the original application form from the place of sale mentioned in such application shall cause such goods to lose their identity as the stock of any of the sales defined herein, and no permits hereafter will be issued for the conducting of a sale of any such goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application.

SECTION, 6-2.06
ENFORCEMENT.

Upon commencement and throughout the duration of any sale, as herein defined, the said permit shall be prominently displayed near the entrance to the premises. A duplicate original of the application and stock list pursuant to which such permit was issued shall at all times be available to the City Tax Collector, or to its duly authorized representatives, and the permittee shall permit such duly authorized representatives to examine all merchandise in the premises for comparison with such stock list.

SECTION 6-2.07
RECORDS TO BE KEPT.

Suitable books and records shall be kept by the permittee and

shall at all times be available to the duly authorized representatives. At the close of business each week the stock list attached to the application shall be revised and those items disposed of during such period shall be so marked thereon.

SECTION 6-2.08
EXEMPTIONS.

The provisions of this division of this ordinance shall not apply to or affect the following persons:

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

(B) Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshalls;

(C) Any publisher of a newspaper, magazine, or other publication, who published any such advertisement in good faith, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this division have not been complied with.

SECTION 6-2.09
DEFINITIONS.

For the purposes of this ordinance only the following words and terms shall be deemed to mean and be construed as follows:

(A) "Sale" Any Sale of, or any offer to sell, to the public, or any group thereof, goods, wares or merchandise on order, in transit or in stock, in connection with a declared purpose as set forth by advertising that such sale is anticipatory to or to avoid the termination, liquidation, revision, windup, discontinuance, removal, dissolution, or abandonment of the business of that portion of the business conducted at any location; and

All sales advertised in any manner calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location will cease, be removed, be interrupted, discontinued or changed; and

All sales advertised to be "Adjuster's Sale," "Adjustment Sale," "Assignee's Sale," "Bankrupt Sale," "Benefit of Administrator's Sale," "Benefit of Creditors' Sale," "Benefit of Trustee's Sale," "Building Coming Down Sale," "Closing Out Sale," "Creditors' Committee Sale," "Creditors' Sale," "Damaged Goods Sale," "End Sale," "Executors' Sale," "Final Days Sale," "Fire Sale," "Forced Out Sale," "Forced Out of Business Sale," "Insolvent Sale," "Insurance Salvage Sale," "Liquidation Sale," "Loss of Lease Sale," "Mortgage Sale," "Outselling Sale," "Receiver's Sale," "Reorganization Sale," "Salvage Sale," "Selling Out Sale," "Smoke Sale," "Smoke and Water Sale," "Trustee's Sale," "Quitting Business Sale," "Warehouse Liquidation Sale," "Warehouse Bankruptcy Sale," "Wholesale Closing Out Sale," "We Quit Sale," "We Give Up Sale," "Fixture for Sale" or advertised by any other expression or characterization closely similar to any of the foregoing and calculated to convey the same meaning; and

All sales advertised in a manner calculated to indicate that the goods, wares or merchandise to be sold, or any part thereof, have been involved in any business failure or have been derived from a business which has failed, been closed, discontinued or liquidated; and

All sales accompanied by notices or advertising indicating that the premises are available for purchase or lease or are otherwise to be vacated; and

All sales accompanied by advertising indicating a business emergency or failure affecting the seller of any previous holder of the goods to be disposed of, and all sales advertised to be an "auction sale" or advertised by any other expression or characterization closely familiar to said phrase and calculated to convey the same meaning.

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

(C) "Permit" shall mean a permit issued pursuant to this ordinance.

(D) "Permittee" shall mean any person to whom a permit has been issued pursuant to this ordinance.

(E) "Person" shall mean and include any person, firm, association or corporation.

SECTION 6-2.10 (PENALTY).

Any person, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction therefor, shall be punishable by a fine of not more than \$500.00, or by imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment. Such persons shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed or continued by such person, and shall be punishable as herein provided.

SECTION 6-2.11 VALIDITY AND SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid.

SECTION 6-2.12 CONFLICT.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 6-2.13

This ordinance shall be published once in full fifteen (15) days after final passage in the Rock Valley Times, a newspaper of general circulation, printed, published and circulated in said City, and shall be in full force and effect thirty days from and after its final passage.

Wm. Tranchini
Mayor

ATTEST:

Arta Gannon
City Clerk

The foregoing Ordinance No. 465 was read and introduced at a regular meeting of the City Council on 13th, the 13th day of September, 1960, and was thereafter at a regular meeting on the 11th day of October, 1960, duly passed and adopted by the following votes:

AYES: Councilmen Rouse, Smith, Little, Richmuth, Tranchesi
NOES: Councilmen none
ABSENT: Councilmen none