

APPLICATION FOR GOING-OUT-OF-BUSINESS SALES - ORDINANCE 727

No. Issued: \_\_\_\_\_

Phone Number \_\_\_\_\_

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_  
Zip Code \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Address of Applicant \_\_\_\_\_  
Zip Code \_\_\_\_\_

Name of Person in Whose Behalf Sale Is To  
Be Conducted (if other than applicant) \_\_\_\_\_

Address \_\_\_\_\_  
Zip Code \_\_\_\_\_

Date Sale Starts \_\_\_\_\_ Approx. Date Sale Ends \_\_\_\_\_  
(727.05 - Sale not to exceed more than 30 days, except Sundays and Holidays)

Please attach the following:

- (1) Complete Inventory, including the quality, kind, character and wholesale market value of the goods, wares or merchandise to be offered for sale, prepared in manner per ordinance 727.02.
- (2) Bond in the amount of two thousand five hundred dollars (\$2,500). Such bond shall not be required when the wholesale market value of the goods, wares or merchandise to be offered for sale is not in excess of five thousand dollars (\$5,000), with two or more sureties thereon who shall be freeholders within the City, or with the surety thereon a surety company authorized to do business in the State. Bond to continue in effect for a period of one year. Bond to be approved by City Solicitor per Ordinance 727.04

Date \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_

Approved \_\_\_\_\_  
Mayor of Lorain

Attachments:  
Inventory  
Bond (if required, per above)

## CHAPTER 727

### Going-out-of-Business Sales

- 727.01 License required.
- 727.02 Application for license.
- 727.03 Fee.
- 727.04 Bond required; misrepresentation.
- 727.05 Limitations on license.
- 727.06 Inventory limitation.
- 727.07 Revocation or suspension of license.
- 727.99 Penalty.

#### CROSS REFERENCES

Auctions- see BUS. REG. Ch. 711

#### **727.01 LICENSE REQUIRED.**

No person in the business of the retail sale of goods, wares or merchandise shall, without first obtaining a license as hereinafter provided, sell, offer for sale, announce or advertise for sale such goods, wares or merchandise when such sale is described or referred to either directly or indirectly in form or in substance as a going-out-of-business sale, removal, loss, termination, loss or expiration of lease, closing out, liquidation, creditors, damaged goods, forced sale, distressed stock or by any other term which shall reasonably lead the public to believe that the owner or offerer of such goods, wares or merchandise, either by choice or necessity, will no longer continue to engage in business at the same location.

Nothing in this section shall be deemed to apply to any person who sells, offers for sale, announces or advertises for sale goods, wares or merchandise at a reduction in price when such reduction in price is made in the normal course of business operations, nor to any person executing a process or order of a court of competent jurisdiction, nor to a creditor's sale conducted by a licensed auctioneer which does not exceed one day's duration. (Ord. 8283. Passed 5-7-62.)

#### **727.02 APPLICATION FOR LICENSE.**

Each applicant for a license required by Section 727.01 shall make an application therefore to the Mayor not later than thirty days prior to the advertising or offering for sale of any goods, wares or merchandise. Such application shall be on forms provided by the Mayor which shall include, in addition to the name and address of the applicant, the name and address of the person in whose behalf such sale will be conducted, if such be other than the applicant, the date when such sale shall commence and the complete inventory, including the quality, kind, character and wholesale market value of the goods, wares or merchandise to be offered for sale.

The information shall be prepared in the following manner:

- (a) A listing of all goods, wares or merchandise which has been in stock fifteen days or longer prior to the date of such application.

- (b) A listing of all goods, wares or merchandise received in stock within the fifteen days immediately prior to the date of such application.
- (c) A listing of all goods, wares or merchandise which has been or will be ordered and placed in stock during the pendency of such sale.
- (d) Such other information relative to the business as may be deemed necessary by the Mayor.

If the inventory itemized in the original application is not disposed of within the required time, the Mayor may, as hereinafter provided, renew such license. (Ord. 8283. Passed 5-7-62.)

### **727.03 FEE.**

Each application for a license or license renewal for any thirty-day period or part thereof shall be accompanied by a fee of one hundred dollars (\$100.00). (Ord. 8283. Passed 5-7-62.)

### **727.04 BOND REQUIRED; MISREPRESENTATION.**

Each applicant hereunder shall execute and file with the Mayor a good and sufficient bond of two thousand five hundred dollars (\$2,500), except that such bond shall not be required when the wholesale market value of the goods, wares or merchandise to be offered for sale is not in excess of five thousand dollars (\$5,000), with two or more sureties thereon who shall be freeholders within the City, or with the surety thereon a surety company authorized to do business in the State. The bond shall be to the approval of the City Solicitor and shall be conditioned upon faithful observance of all the conditions of this chapter and shall also indemnify any purchaser who suffers any loss by reason of misrepresentation in a sale licensed hereunder.

The bond shall continue in effect for a period of one year. The licensee shall notify the Mayor of any suit filed as a result of the operations licensed. Any purchaser claiming to have been damaged by misrepresentation in the sale may maintain an action at law against the licensee making such misrepresentations and may join as party defendant the surety on such bond as herein provided. (Ord. 8283. Passed 5-7-62.)

### **727.05 LIMITATIONS ON LICENSE.**

No such sale as is referred to in Section 727. 01 shall be licensed or permitted for a period of more than thirty days, Sundays and legal holidays excepted. The thirty days shall be consecutive, except as to Sundays and legal holidays. If the licensee does not sell the quantity of merchandise listed in the application for a license, he may make application for extension of such license to the Mayor and if, upon investigation, the Mayor is satisfied as to the truth of the statements contained in the application for renewal, he shall issue a renewal license for a period not exceeding thirty days. A maximum of two such renewals may be granted.

No license shall be issued to any person to conduct a sale at the same location where the applicant has terminated a prior sale licensed hereunder within a period of eighteen months subsequent to the termination of the prior sale, nor shall a license be issued to a purchaser of stock at a sale licensed hereunder for a period of eighteen months subsequent to such purchase if the purchaser continues to conduct business under the same firm name as that used by the seller of such stock without having

adopted a reasonable means of advertising the change in ownership to the public or where no bona fide change in ownership has taken place and the purchase was a sham transaction intended to deceive the public.

No license shall be issued to any person who shall not have been for a period of sixty days next preceding such sale continuously engaged in the City in the business of selling goods, wares or merchandise at retail at the same location.

No person who has been convicted of violating any of the provisions pertaining to a sale licensed hereunder shall be issued a license to conduct such a sale or be employed in any manner in the conduct of such a sale for a period of two years subsequent to such conviction. (Ord. 8283. Passed 5-7-62.)

#### **727.06 INVENTORY LIMITATION.**

No addition shall be made to the stock of goods, wares or merchandise set forth in the inventory attached to the application for the license required hereunder, and nothing shall be offered for sale or sold at any such sale which is in addition to the stock of goods, wares or merchandise described in such inventory. Under no circumstances shall the inventory offered for sale exceed the average inventory carried by the applicant over the preceding five years or, if the applicant has been in business for a lesser period of time, the inventory offered for sale shall not exceed the average inventory carried for the period of time the applicant has been in business. Any abnormal purchases during the year prior to the application for a license shall be cause for refusal to issue the license. (Ord. 8283. Passed 5-7-62.)

#### **727.07 REVOCATION OR SUSPENSION OF LICENSE.**

The Mayor, upon recommendation of the Chief of Police, or upon his own initiative, may at any time revoke or suspend a license granted hereunder for any violation of this chapter or of any law or ordinance relating to the conduct of such business. (Ord. 8283. Passed 5-7-62.)

#### **727.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) and may be imprisoned for not more than thirty days, or both. Each separate day of operation in violation of this chapter shall constitute a separate offense. (Ord. 8283. Passed 5-7-62.)