

**AN ORDINANCE OF THE CITY OF EUREKA REPEALING TITLE XI, CHAPTER 116,  
SECTIONS 116.01 THROUGH 116.99**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:**

Section 1.

The following Chapter is hereby repealed Title XI, Chapter 116: Going out of Business Sales, Sections 116.01 through 116.99

~~CHAPTER 116: GOING OUT OF BUSINESS SALES~~

~~Section~~

~~—116.01— Permit required~~

~~—116.02— Permit application; hearing~~

~~—116.03— Issuance of permit~~

~~—116.04— Records of the Chief of Police~~

~~—116.05— Stock additions and uninventoried articles~~

~~—116.06— Examination of records of permittee~~

~~—116.07— Revocation or suspension of permit~~

~~—116.08— Exemptions~~

~~—116.09— Violations~~

~~—116.99— Penalty~~

~~§ 116.01 PERMIT REQUIRED.~~

~~—It shall be unlawful for any person to:~~

~~—(A) Advertise, represent, or hold out that any sale of goods, wares, or merchandise is:~~

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~~—(1) A bankruptcy, mortgage, insolvent's, assignee's, executor's, administrator's, receiver's, trustee's, or any removal or closing out sale;~~

~~—(2) A sale of goods, wares, or merchandise damaged by fire, smoke, or water;~~

~~—(3) A sale of goods from the stock of a bankrupt, receiver, trustee, receivership, or trusteeship; or,~~

~~—(4) Anticipatory to or to avoid the termination, closing, liquidation, revision, windup, discontinuance, conclusion, or abandonment of the business in connection with such sale; or,~~

~~—(B) Advertise or make any representation in any manner as reasonably to convey to the public the belief that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including, but not limited to, sales advertised, held out, or represented as "Adjuster's Sale," "Adjustment Sale," "Administrator's Sale," "Alteration Sale," "Assignee's Sale," "Bankrupt Sale," "Benefit of Administrator's Sale," "Benefit of Trustee's Sale," "Building Coming Down Sale," "Closing Sale," "Closing Out Sale," "Damaged Goods Sale," "End Sale," "Executor's Sale," "Final Days Sale," "Fire Sale," "Forced Out Sale," "Forced Out of Business Sale," "Insolvent Sale," "Last Days Sale," "Lease Expires Sale," "Liquidation Sale," "Loss of Lease Sale," "Mortgage Sale," "Receiver's Sale," "Removal Sale," "Reorganization Sale," "Salvage Sale," "Smoke Sale," "Smoke and Water Sale," "Trustee's Sale," "Quitting Business Sale," or "Wholesale Cleaning Out Sale," and also including, but not limited to, sales the advertisement of which contains the word "creditor" or "creditors", unless he shall have first made application for and received a permit to conduct such sale from the Chief of Police.~~

~~(63 Code, § 6-7.01) (Ord. 2798, passed ---) Penalty, see § 116.99~~

~~§ 116.02 PERMIT APPLICATION; HEARING.~~

~~—(A) Application.~~

~~—(1) Any person desiring such a permit shall make an application therefor to the Chief of Police and shall at the time of filing such application pay a filing fee in the amount of \$50 to the City Clerk.~~

~~—(2) Such application shall be in writing and under oath and shall contain the following information:~~

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~~—(a) The names of all persons connected with or interested in such sale;~~

~~—(b) All the facts in regard to the bankruptcy, mortgage, insolvency, assignment, administration, receivership, trusteeship, or removal by reason of which such sale is to be conducted or, with regard to the closing out of the stock of goods, wares, or merchandise, or any particular line or part thereof, a statement as to the reason for such closing out or the reason for the injury caused to such goods, wares, or merchandise by fire, smoke, or water, and showing all the facts in regard to the proposed sale;~~

~~—(c) A complete, accurate, and detailed inventory fully identifying and describing the goods, wares, or merchandise to be sold at such sale, including the following:~~

~~—— 1. A statement of the name and address of the persons from whom the goods, wares, or merchandise so to be sold was obtained; and,~~

~~—— 2. The date of delivery of such goods, wares, or merchandise to the applicant, the place from which delivered and the name of the party making the delivery; and,~~

~~—(d) The place and manner in which such sale is to be conducted, the kind of sale it will be represented to be, and the manner in which it will be advertised.~~

~~(‘63 Code, § 6-7.02)~~

~~—(B) Hearing. The Chief of Police may require a hearing upon five days' written notice to the applicant, stating the time, place, and purpose of such hearing, for the purpose of determining whether any unusual purchases and additions to the stock of such goods, wares, or merchandise have been made within 60 days prior to the filing of the application for a permit to conduct such sale, and if, after hearing, it is determined by the Chief of Police that any such purchases or additions have been so made during such period, the Chief of Police shall refuse to issue a permit therefor.~~

~~(‘63 Code, § 6-7.04)~~

~~(Ord. 2798, passed —)~~

#### ~~§ 116.03 ISSUANCE OF PERMIT.~~

~~—(A) Original permit. If the Chief of Police shall be satisfied that the proposed sale is of the character which the applicant desires to conduct and advertise, and that neither the applicant nor any of its officers, directors, or owners have violated this or any other law of~~

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~~the city, the Chief of Police shall issue a permit to the person applying for the same authorizing him to advertise and conduct a sale of the particular kind mentioned in the application, according to the requirements of this chapter, for a period not to exceed 60 days; provided, however, the applicant may thereafter obtain a supplemental permit as provided in this section.~~

~~—(B) Supplemental permit. A permit supplemental to that originally issued shall be issued to the applicant by the Chief of Police for an additional period of not to exceed 60 days upon the same terms and conditions of such original permit and upon the payment of the fee prescribed therefor provided it shall be made to appear upon a written application under oath that all the goods, wares, and merchandise described in the original inventory have not been sold. Such application shall be accompanied by a complete inventory of such goods, wares, and merchandise which have not been sold.~~

~~—(C) Removal of goods. No permit shall be issued pursuant to the provisions of this chapter if any of the goods, wares, or merchandise in the inventory shall have been removed from the place of sale mentioned in the application after having been previously inventoried as required by the provisions of this chapter, and any removal of such goods, wares, or merchandise shall cause such goods, wares, or merchandise to lose their identity as bankrupt, mortgaged, insolvent's, assignee's, executor's, administrator's, receiver's, or trustee's stock of goods, wares, and merchandise, or a stock of goods, wares, and merchandise damaged by fire, smoke, or water, and no permit shall thereafter be issued to conduct a sale of any such goods, wares, or merchandise so removed.~~

~~(63 Code, § 6-7.03) (Ord. 2798, passed —)~~

#### ~~§ 116.04 RECORDS OF THE CHIEF OF POLICE.~~

~~—The Chief of Police shall endorse upon the permit application the date of its filing, shall preserve the same as a record, and shall make an abstract of the facts set forth in such application in a book kept for that purpose, properly indexed, containing the name of the person asking for such permit, the nature of the proposed sale, the place where such sale is to be conducted, its duration, the inventory value of the goods, wares, and merchandise to be sold, and a general statement as to where the same came from. He shall also make in such book a notation as to the issuance or refusal of the permit applied for, together with the date of the same, and shall endorse on the application the date the permit therein applied for was granted or refused. Such application and abstract shall be prima facie evidence of all statements therein contained.~~

~~(63 Code, § 6-7.05) (Ord. 2798, passed —)~~

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~~§ 116.05 STOCK ADDITIONS AND UNINVENTORIED ARTICLES.~~

~~—It shall be unlawful for any person carrying on or conducting any sale for which a permit has been obtained pursuant to the provisions of this chapter to add, during the continuance of such sale, any goods, wares, or merchandise, for the purpose of selling the same, to the stock of goods, wares, or merchandise described and inventoried in his original application for such permit, and no goods, wares, or merchandise shall be sold at or during such sale, excepting the goods, wares, or merchandise described and inventoried in such original application. Each and every addition of goods, wares, or merchandise, for the purposes of sale, to such stock of goods, wares, or merchandise described and inventoried in the application, and each sale of such goods, wares, or merchandise which was not inventoried and described in the application shall constitute a separate violation of the provisions of this chapter.~~

~~(63 Code, § 6-7.06) (Ord. 2798, passed ---) Penalty, see § 116.99~~

~~§ 116.06 EXAMINATION OF RECORDS OF PERMITTEE.~~

~~—The Chief of Police shall at all times have the power to make an examination or investigation of the business and the books, records, and accounts, and other papers pertaining thereto, of any person permitted or authorized to conduct such sale.~~

~~(63 Code, § 6-7.07) (Ord. 2798, passed ---)~~

~~§ 116.07 REVOCATION OR SUSPENSION OF PERMIT.~~

~~—Every permit issued pursuant to this chapter shall be subject to revocation at any time in the manner provided in this section. Whenever it shall appear to the Council that there is a reasonable ground for such action, an order to show cause why such permit should not be revoked shall be given the holder thereof. Such order shall contain a brief statement of the reasons therefor and shall fix a time and place when the permittee may appear and be heard, with witnesses, in his own behalf. Such order may be delivered to the permittee personally or may be left in a conspicuous place at, or with the person in charge of the place of business, if any, where the privileges of the permit shall be exercised. At the time and place fixed in such order, or at any time to which the matter may be continued, the Council shall hear and pass upon all matters within the scope of such order, and, if after such hearing the Council is satisfied that proper notice has been given and that such permittee has violated any law of the city or of the state or United States, or that the permittee is not a~~

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~~fit person to be trusted with the privileges granted by such permit, whether the conduct upon which such finding is based constitutes a public offense punishable in the courts or not, the Council may, by order made on motion, suspend or revoke such permit. During the period of suspension or after revocation, as the case may be, such permit shall be void and without force or effect. In making any such order, the Council may authorize the refund of all or any portion of the fee paid therefor. After any such permit shall have been revoked, neither the holder thereof nor any person acting for him directly or indirectly shall be entitled to another permit to carry on the same or any similar sale in the city unless the application for such permit shall be specifically approved by the Council.~~

~~(63 Code, § 6-7.08) (Ord. 2798, passed ---)~~

#### ~~§ 116.08 EXEMPTIONS.~~

~~—(A) The provisions of this chapter shall not apply to sheriffs, constables, executors, administrators, receivers, trustees under court or private trusts, or other public or court officers, or to any other person, acting upon the license, direction, or authority of any court selling goods, wares, or merchandise in the course of his official duties.~~

~~(63 Code, § 6-7.09)~~

~~—(B) The provisions of this chapter shall not be deemed to apply to any publisher of a newspaper, magazine, or other publication who publishes such advertisement in good faith, without knowledge of its false, deceptive, or misleading character, or without knowledge that the provisions of this chapter have not been complied with.~~

~~(63 Code, § 6-7.10)~~

#### ~~§ 116.09 VIOLATIONS.~~

~~—Any person making a false statement in the application for such permit, or any person who shall hold, conduct, or carry on, or advertise, represent, or hold out, any sale of goods, wares, or merchandise to be a bankrupt, mortgage, insolvent, assignee's, executor's, administrator's, receiver's, or trustee's sale, or removal or closing out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, or water, or a sale of goods from the stock of a bankrupt receiver, trustee, receivership or trusteeship, without having first complied with the provisions of this chapter, shall have committed a violation of this chapter.~~

~~(63 Code, § 6-7.10) (Ord. 2798, passed ---) Penalty, see § 116.99~~

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~~§ 116.99 PENALTY.~~

~~—Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding \$1,000.~~

~~(63 Code, § 6-7.10) (Ord. 2798, passed ---)~~

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2023 by the following vote:

AYES: COUNCILMEMBERS  
NOES: COUNCILMEMBERS  
ABSENT: COUNCILMEMBERS

\_\_\_\_\_  
Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the \_\_\_\_ day of \_\_\_\_\_, 2023, and hereby approved.

\_\_\_\_\_  
Kim Bergel, Mayor

*Approved as to Administration:*

*Approved as to form:*

\_\_\_\_\_  
Miles Slattery, City Manager

\_\_\_\_\_  
Autumn Luna, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Pamela J. Powell, City Clerk