

Going Out of Business Sale Instructions

1. Businesses must have an active Business License and fill out a “Going out Of Business Sale” application prior to beginning this closure event.
2. Businesses are subject to all ordinances of the City of Greenville, including, but not limited to, the sections of the ordinance below.

ARTICLE VII. - GOING OUT OF BUSINESS SALES

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Sec. 8-211. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means the selling of products, the providing of services, or both, in exchange for payment in cash or other valuable consideration. It also means any person, as defined herein, who is engaged in business.

Going out of business means the permanent or indefinite cessation of business operations.

Going out of business sale means the offering of products or services with the representation by advertising or otherwise that the business is going to cease operations soon. Ordinarily going out of business sales imply that the products and services are being offered at a price significantly below that previously charged or at a price significantly below that ordinarily charged by others. However, it is not necessary that the price of products and services actually be reduced, or advertised as reduced, in order for a going out of business sale to be subject to this article, it being sufficient that the phrase "going out of business," "closing" or like wording be used to indicate that the products or services are offered in anticipation of a cessation of business activity.

Inspector means the license inspector of the city.

License means a license issued pursuant to this article.

Licensee means any person to whom a license has been issued pursuant to this article.

Person means an individual, an organization, a partnership, corporation, or other business entity.

Publish, publishing, advertisements and advertising mean any and all means of conveying to the public notice of a sale, or notice of intention to conduct a sale, whether by word of mouth, newspaper advertisement, magazine advertisement, handbill, circular, pamphlet, written notice, printed notice, printed display, billboard display, poster, radio or television announcement, radio or television program, recordings, Internet, or any and all other means, including oral, written or printed means.

Sale means the sale or an offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, removal, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. The term shall also include any sale advertised, either specifically or in substance, to be a fire sale, smoke and water damage sale, adjustment sale, creditor's sale, trustee's sale, bankrupt sale, save-us-from-bankruptcy sale, insolvent sale, insurance salvage sale, mortgage sale, assignee's sale, adjustor's sale, loss-of-lease sale, receiver's sale, forced-out-of-business sale, or removal sale, and any and all sales advertised in such a manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand the business will cease and be discontinued.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Cross reference— Definitions generally, § 1-2.

Sec. 8-212. - Findings.

Council finds there is a potential harm to the public and bona fide operating businesses if unscrupulous business operative's holdout to the public that they are offering items at a "going out of business sale," which counts both a cessation of business activities and drastically reduced rates. When such sales are prolonged, the potential harm increases. In order to limit the opportunity for misunderstanding and misrepresentation in such sales, council finds it appropriate to require the registration of such sales and to limit their duration.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-213. - Exemptions.

The provisions of this article 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, bailiffs or marshals.
- (c) Duly licensed auctioneers selling at auction.

- (d) Executors, guardians, assignees of insolvent debtors, bankrupts or other persons required by law to sell such property.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-214. - License required.

No person shall publish or conduct any sale coming under the provisions of this article without first having:

- (a) A current city of Greenville business license; and
- (b) A going out of business license in the name of the business.

No going out of business license shall be granted to any business operation which has not been in operation for at least six months prior to the date of the going out of business license application. In addition, any person managing or overseeing a going out of business sale for another person must also have a city of Greenville business license and a going out of business license.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-215. - License fee.

There is no fee required for a going out of business license.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-216. - Displaying of license; advertising.

Upon commencement of any sale, the license issued under this article by the city of Greenville shall be prominently displayed at or near the entrance to the premises. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued, and the wording and scope of such advertisement shall not vary from the wording and scope as indicated in the application.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-217. - Expiration of licenses.

- (a) A license issued pursuant to this article shall be for a period not to exceed 60 days from the starting date. The conduct of a going out of business sale after the license has expired is a violation of this article.
- (b) An otherwise valid business license shall also expire at the end of the 60-day period provided for in subsection (a) for any business which has held itself out as ceasing operations by a going out of business sale.
- (c) Notwithstanding the foregoing, the otherwise valid business license of a person who manages or supervises a going out of business sale for another business shall not automatically expire at the conclusion of the 60-day period, but shall continue to be valid until its expiration or cancellation for other reasons.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-218. - Reopening prohibited.

No business undertaking to have a going out of business sale shall do so with the intent to reopen elsewhere in the greater Greenville vicinity. No business having conducted a going out of business sale shall reopen at any location in the city with the same principals owning the same type of business, or one which is substantially similar, for a period of six months from the last day of the going out of business sale. Nothing in this section shall preclude a business intending to move from one location to another from advertising a clearance sale or moving sale for purposes of reducing inventory in anticipation of the planned move, provided such sale is not advertised as a going out of business sale. Nothing in this section shall preclude a business owner, manager, or employee from accepting a position with similar business as a manager or employee, so long as the principals of the business are different.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Sec. 8-219. - Enforcement penalties.

The city manager or the city manager's designee shall enforce this article. Any violation of this article shall subject the person convicted to the penalties provided in city Code section 1-5. Each day, or portion thereof, of a continuing or periodic violation shall be a separate violation, and each violation shall be subject to the prescribed penalties.

(Ord. No. 2012-96, Exh. A, 11-26-12)

Secs. 8-220—8-250. – Reserved



Going Out Of Business Sale Application

This application must be fully completed and returned.

1. Business Name, Billing Address, Suite #, Phone and E-mail address:

2. Street Address and Phone:

3. Date Sale is to Begin:

4. Federal Id or Social Security Number:

5. Ownership (check one):
____ Corporation ____ Individual ____ LLP
____ Partnership ____ LLC

6. Business Category:

Please answer the following:

- Where is the going out of business sale to be held? _____
- What form of advertisement will be used? (Please include proposed language to be used in ads)

- What is the purpose and scope of the sale?

- Do you own, lease, or sublease? _____
- Will a third party be administering the going out of business sale? If so, who is the third party?

Please note:

- *This license is valid for a period not to exceed 60 days.
- *A third party that is managing or overseeing the "Going out of Business" sale must also have a City of Greenville business license and a "Going out of Business" license.
- *The going out of business sale license must be displayed prominently at or near the entrance of the premises.

Name of Preparer: _____ Daytime Phone: _____

This is to certify that the above is a true statement of the business done or transacted at or through the above location. I am familiar with the City ordinance providing for penalties and revocation of this license for making fraudulent or false statements in this application. The books of this business are available for inspection by authorized agents of the city. The issuance of a Going out of Business Sale License is conditioned upon strict compliance with the ordinances of the City of Greenville and failure to comply may result in revocation in addition to other remedies.

Business, firm or corp. name

X _____
Signature of applicant and title

Date