

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2020 Legislative Session

Bill No. CB-18-2020

Chapter No. 20

Proposed and Presented by The Council Chair (by request – County Executive)

Introduced by Council Members Turner, Hawkins, Glaros, Harrison, Davis,
Dernoga, Franklin and Taveras

Date of Introduction June 16, 2020

BILL

1 AN ACT concerning

2 “Going Out of Business” Sales

3 For the purpose of repealing Division 3 of Subtitle 14 of the Prince George’s County Code.

4 BY repealing:

5 SUBTITLE 14. MORALS AND CONDUCT.

6 Sections 14-118, 14-119, 14-120, 14-121, 14-122,

7 14-123, 14-124, 14-125 AND 14-126,

8 The Prince George's County Code

9 (2019 Edition).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 11 Maryland, that Sections 14-118, 14-119, 14-120, 14-121, 14-121, 14-122, 14-122, 14-123,
 12 14-124, 14-125, and 14-126 of the Prince George's County Code be and the same are hereby
 13 repealed:

14 **[SUBTITLE 14. MORALS AND CONDUCT.**

15 **DIVISION 3. “GOING OUT OF BUSINESS” SALES.] RESERVED.**

16 **Sec. 14-118. [Definitions.] Reserved.**

17 [(a) The following words and terms, when used in this Division, shall have the following
 18 meanings unless the context clearly requires a different meaning. The meaning ascribed to the
 19 singular is applied also to the plural.

20 (1) Advertise shall mean to publish, circulate, disseminate, or place before the public
 21 in any way or through any media whatever, for the purpose of the sale of goods, wares and

1 merchandise, and shall specifically, although not exclusively, include advertising by outside or
2 inside signs, including neon or other electrical signs, advertising by radio, telephone, television,
3 newspaper, magazine, book, notice, circular, pamphlet, letter, handbill, poster, placard card,
4 price tag or card, label or any other similar or dissimilar to the foregoing.

5 (2) Director shall mean the Director of Permitting, Inspections, and Enforcement.

6 (3) Going Out of Business Sale shall mean and include any sale which is publicly
7 advertised to be a termination of business by the owner or operator of said business, his agent or
8 agents, or a cessation of the operation of said business, or a cessation of the operation of said
9 business under its then known name, or a transfer to a new name, and shall include specifically,
10 although not exclusively, "Quitting Business Sale," "Benefit of Creditors Sale," "Building
11 Coming Down Sale," "Benefit of Trustees Sale," "Creditors Committee Sale," "Creditors Sale,"
12 "Force Out Sale," "Assignee Sale," "Forced Out of Business Sale," "Insolvent Sale,"
13 "Liquidation Sale," "Loss of Lease Sale," "Mortgage Sale," "Out-selling Sale," "Selling Out
14 Sale," "We Quit Sale," "We Give Up Sale," "Fixtures for Sale," "Retiring Our Name Sale,"
15 "Changing Our Name Sale," and any other advertising or designation by any other expression or
16 characterization closely similar to any of the foregoing and calculated to convey substantially the
17 same meaning, all sales accompanied by notices or advertising indicating that the premises are
18 available for purchase or lease, or are otherwise to be vacated, all sales advertised in any manner
19 calculated to convey, to the public the information or belief that upon the disposal of the goods to
20 be placed on sale the business being conducted at any location will cease, or be discontinued, or
21 otherwise to be vacated or transferred, surrendered, or handed over to a successor in business or
22 conducted under a new name, any sale, advertised, or represented as anticipatory, or to avoid the
23 termination, liquidation, revision, windup, discontinuance, conclusion, dissolution, or
24 abandonment of the business conducted at any location.

25 (4) Persons shall mean an individual, partnership, copartnership, association, trust,
26 firm, corporation, or any agent or employee thereof.]

27
28 * * * * *

29 **Sec. 14-119. [Permit Required.] Reserved.**

30 [It shall be unlawful for any person to advertise and conduct a "Going Out of Business"
31 sale as defined herein, without first having obtained a permit from the director.]
32

1 **Sec. 14-120. [- Same; application.] Reserved.**

2 [(a) Any person desiring to advertise and conduct a "Going Out of Business Sale," as
3 defined herein, shall make a written application therefor to the director, upon a form provided by
4 the director for that purpose.

5 (b) In addition to such other information as the director may reasonable deem necessary
6 for purposes of the implementation, administration and enforcement of this Section, the
7 Application shall state the following information:

8 (1) The name of the applicant and, if the applicant is a partnership, the name and
9 address of each partner; or, if the applicant is a corporation, the names and addresses of the
10 principal officers of the corporation and the state in which incorporated, or the name and address
11 of the authorized designated representative for the State of Maryland and the state in which
12 incorporated;

13 (2) A description by street location, address and type of building, of the location at
14 which such sale is to be conducted; and,

15 (3) A full and complete statement of the facts in regard to the "Going Out of
16 Business" sale including the reason such sale is to be conducted, the manner in which such sale
17 will be conducted, and the date of the commencement of the sale and any advertising associated
18 therewith.

19 (c) Every application shall be signed and certified that the information given thereon is
20 true and correct. The signature shall be that of the applicant, if the applicant is an individual; or if
21 the applicant is a partnership or corporation, the signature shall be that of the officer or partner
22 thereof.]

23 **Sec. 14-121. [- Application; investigation, denial.] Reserved.**

24 [(a) Upon receipt of the completed application, the director shall make or cause to be made
25 an examination or investigation of the applicant and all the facts contained in said application in
26 relation to the proposed sale.

27 (b) The director may deny or refuse to issue a permit to an applicant if, on the basis of said
28 investigation, the director finds:

29 (1) That the applicant, either directly or indirectly, and within one (1) year prior to the
30 date of the filing of the application, has conducted a sale in connection with which he advertised
31 or represented that the entire business conducted at the particular location was to be closed out or

1 terminated;

2 (2) That the applicant was previously granted a permit hereunder within one (1) year
3 preceding the date of the filing of the application, where such permit was based upon an
4 application setting forth that the entire business conducted at a particular location was to be
5 closed out or terminated;

6 (3) That the applicant has previously been convicted of a violation of this Section
7 within a period of three (3) years preceding the date of the filing of the application; or,

8 (4) That the applicant has willfully and deliberately stated false information on the
9 application.

10 (c) The director shall not deny or refuse to renew a permit hereunder without first
11 affording the applicant an opportunity for a hearing thereon. At least fifteen (15) calendar days
12 prior to the date set for the hearing, the director shall notify all parties to the proceedings in
13 writing of the date, time and place set for the hearing and the charge made, and afford all parties
14 the opportunity to be heard in person and by counsel in reference thereto. The written notice
15 shall be served by delivery of the notice to all parties by registered or certified mail. Within ten
16 (10) working days following the hearing, the director shall render a decision and the reasons
17 therefor in writing and shall forward a copy of the same to all parties by certified or registered
18 mail.]

19 **Sec. 14-122. [– Permit; issuance, conditions.] Reserved.**

20 [(a) When the director is satisfied that all of the statements in the application are true and
21 that the said proposed sale is of the character as represented therein, and that the required permit
22 fee has been paid, the director shall issue a numbered permit to the applicant authorizing said
23 applicant to advertise and conduct the sale as described in said application, which permit shall be
24 issued under the following terms:

25 (1) Said permit shall authorize the type of sale, and any advertising associated
26 therewith, as named and described in the application therefor at the place named therein and only
27 by the applicant for a period of not more than one hundred and twenty (120) consecutive
28 calendar days following the effective date of said permit; and

29 (2) Upon the commencement of said sale, or any advertising associated therewith,
30 and for its duration, the permit issued hereunder shall be prominently displayed on the premises
31 by the applicant.]

1 **Sec. 14-123. [- Exemptions.] Reserved.**

2 [(a) The provisions of this Division shall not apply to:

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

5 (2) Persons acting in accordance with their powers and duties as public officers, such
6 as sheriffs; or,

7 (3) Any publisher of a newspaper, magazine, or any operator of a radio or television
8 broadcasting station who publishes or broadcasts any such advertisement in good faith without
9 knowledge of its false, deceptive and misleading character, or without knowledge that the
10 provisions of this Division are not being complied with.]

11 **Sec. 14-124. [- Same; fee.] Reserved.**

12 [Every applicant for a permit, as required hereunder, shall pay to the director a permit fee in
13 the amount of Ten Dollars (\$10.00) for each business location in the county where the applicant
14 intends to advertise and conduct a "Going Out of Business" Sale.]

15 **Sec. 14-125. [- Appeals.] Reserved.**

16 [Any party aggrieved by a decision of the director with respect to the denial of a permit
17 shall have the right to appeal any such decision to the Board of Appeals for Prince George's
18 County, Maryland, within ten (10) calendar days after receipt of a denial decision by the director.
19 Appeals to the Board of Appeals from denial decisions of the director shall be on the record
20 before the director.]

21 **Sec. 14-126. [- Penalty.] Reserved.**

22 [Any person required to obtain a permit under this Section who advertises and conducts a
23 "Going Out of Business" Sale, as defined herein, without first having obtained a permit from the
24 director, or continues to advertise and conduct said sale after the permit therefor has expired,
25 shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not
26 exceeding One Thousand Dollars (\$1,000.00) or incarceration up to six (6) months in jail, or
27 both such fine and imprisonment.]

28 * * * * *

29 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
30 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
31 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of

1 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
2 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
3 Act, since the same would have been enacted without the incorporation in this Act of any such
4 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
5 or section.

6 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
7 calendar days after it becomes law.

Adopted this 14th day of July, 2020.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Council Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.
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