

Ordinance No. 019-2023

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida Providing Amendments To Chapter 94. Sales At Article II. Auctions And Auctioneers By Deleting Section 94-31. Night Sales Prohibited And Section 94-32. Prohibited In Season On Certain Streets, By Amending Section 94-33. Permit Required And By Renumbering Said Section, By Renumbering Section 94-34. Permit Limitation, By Amending Section 94-35. Application And Section 94-36. Standards For Issuance And By Renumbering Said Sections, By Deleting Section 94-37. Notice Of Approval Or Denial, By Amending Section 94-38. Appeal Procedure And By Renumbering Said Section, By Renumbering Section 94-39. Duties of Permittee And Section 94-40. Possession, By Deleting Section 94-41. Revocation, And By Adding The Following New Sections 94-38. False Information Prohibited In Application, 94-39. Permits Nontransferable And 94-40. Waiver Of Provisions; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

BE IT ORDAINED by the Town Council of the Town of Palm Beach as follows:

Section 1 –

Chapter 94. Sales is hereby amended at Article II. Auctions and Auctioneers and at Article III. Closing-Out Or Distress Sales as follows:

**ARTICLE II. AUCTIONS AND AUCTIONEERS**

~~Sec. 94-31. Night sales prohibited.~~

~~No permit shall be issued and it shall be unlawful for any person to conduct a sale at public auction in the town between the hours of 6:00 p.m. and 8:00 a.m.~~

~~Sec. 94-32. Prohibited in season on certain streets.~~

~~It shall be unlawful to hold or conduct any auction sale between November 1 and April 30 of any year, in buildings fronting on any of the following designated streets within the town:~~

~~(1)On Worth Avenue, between County Road and Lake Drive.~~

~~(2)On Hibiscus Avenue Street, between Peruvian Avenue and Worth Avenue.~~

- ~~(3) On Coconut Row, between Peruvian Avenue and Worth Avenue.~~
- ~~(4) On Ocean Boulevard, between Barton Avenue and Gulf Stream Road.~~
- ~~(5) On County Road, between Worth Avenue and Wells Road.~~
- ~~(6) On Royal Palm Way.~~
- ~~(7) On Bradley Place, between Royal Poinciana Way and Wells Road.~~
- ~~(8) On Sunrise Avenue, between Bradley Place and Ocean Boulevard.~~

**Sec. 94-3133. Permit required.**

No person shall engage in, participate in, aid, form, or start any auction unless a permit shall have first been obtained from the town clerk. This auction permit shall not be required for any auction held in correlation with a charitable solicitation permit.

**Sec. 94-3234. Permit limitation.**

No more than two permits per calendar year shall be issued to conduct an auction at any location or address in town.

**Sec. 94-3335. Application.**

(a) *Required.* A person seeking the issuance of an auction permit shall file an application with the town clerk's office ~~on forms provided by the town.~~

(b) *Filing.* A completed application for an auction permit, providing all information required herein, shall be filed with the town clerk's office. If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 48 hours after such change. Before a permit is issued pursuant to this article, there shall be paid to the town an administrative processing fee, in accordance with the fee schedule adopted by the town, not less than 30 days nor more than 90 days before the date on which it is proposed to conduct the auction.

(c) *Contents.* ~~The application for an auction permit shall set forth the following information:~~

- ~~(1) The name, address and telephone number of the person seeking to conduct such an auction.~~
- ~~(2) The purpose of the auction.~~
- ~~(3) A general description of the items to be auctioned.~~

- ~~(4) If the auction is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.~~
- ~~(5) The date on which the auction is to be conducted.~~
- ~~(6) The exact hours the auction is to be conducted.~~
- ~~(7) The name of or type of auction.~~
- ~~(8) The exact location of the auction.~~
- ~~(9) The approximate number of participants and spectators.~~
- ~~(10) A detailed description of the activity or activities, including whether or not the auction event requires support facilities such as traffic control, parking volume, crowd control.~~
- ~~(11) The signature of the applicant.~~
- ~~(12) The name, address and telephone number of the person who will be responsible for the conduct of the auction.~~
- ~~(13) An application fee adopted by resolution of the town council, as may be amended from time to time.~~

**Sec. 94-3436. Standards for issuance.**

The town clerk's office shall issue an auction permit when from a consideration of the application and from such other information as may otherwise be obtained, the town clerk determines that:

- (1) The applicant has agreed in writing to abide by all provisions set forth in this article.
- (2) All required information is set forth in the application and is in accordance with all provisions set forth in this article.
- (3) The concentration of persons and vehicles at assembly points of the auction location will not interfere with the proper fire and police protection of or ambulance services to areas contiguous to such assembly points of the auction as determined by the chief of police or his designee and the chief of fire-rescue or his designee.
- (4) The conduct of the auction will not interfere with the movement of police and fire rescue vehicles and equipment en route to a fire or the movement of emergency medical services equipment en route to an emergency as

determined by the chief of police or ~~his~~ designee and the chief of fire-rescue or ~~his~~ designee.

- (5) The conduct of the auction will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to the place of the auction as determined by the chief of police or ~~his~~ designee.
- (6) The conduct of the auction will not result in damage to town-owned property as determined by the director of public works or ~~his~~ designee or constitute a hazard to the safety of other persons within the immediate vicinity of the auction as determined by the chief of police or ~~his~~ designee and the chief of fire-rescue or ~~his~~ designee.
- (7) No event or auction is scheduled elsewhere in the town where the town's resources required for that event or auction are so great that the deployment of resources for the proposed auction would have an immediate and adverse effect upon the welfare and safety of persons and property as determined by the chief of police or ~~his~~ designee and the chief of fire-rescue or ~~his~~ designee.
- (8) The auction will be conducted within a commercial zoning district of the town.
- (9) The auction will be conducted by a licensed auctioneer.
- (10) The goods or services to be auctioned shall be the same or similar to the licensed use of the facility within which the auction is to be held as determined by the director of the planning, zoning, and building department or ~~his~~ designee, in the permit application review process. For example, a licensed real estate office would be eligible to conduct an auction of real estate, but not jewelry. Likewise, a licensed jewelry store would be eligible to auction jewelry, but not real estate.
- (11) The granting of the permit will not cause more than two auctions to be held within a calendar year at the location or address where the auction is proposed to be conducted.

**~~Sec. 94-37. Notice of approval or denial.~~**

~~The town clerk's office shall act upon an application for an auction within 15 days after the filing thereof and must notify the applicant of the approval or denial of the application within that same period. If the town clerk or designee denies an application, a written notice stating the reasons for denial shall be sent to the applicant by mail and made available by the town for inspection within the 15-day period specified above.~~

**Sec. 94-3538. Appeal procedure.**

~~The town manager or his designee shall have the authority to revoke an auction permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If an auction permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. Any person aggrieved shall have the right to appeal the denial of an auction permit to the town council. The appeal shall be filed within five days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal at the next regular monthly meeting of the town council subsequent to the notice of appeal.~~

**Sec. 94-3639. Duties of permittee.**

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

**Sec. 94-3740. Possession.**

The person heading or leading such an auction shall carry the auction permit upon his or her person during the conduct of the auction and shall be present at the auction.

~~**Sec. 94-41. Revocation.**~~

~~The town manager or his designee shall have the authority to revoke an auction permit issued under this division upon violation of the provisions applicable to auction permittees. If an auction is conducted in violation of the terms of the permit, the permit shall be determined to be null and void and may be immediately terminated. The revocation of a permit may be appealed in the same manner and under the same time limitations as a permit denial.~~

**Sec. 94-3840. False information prohibited in application.**

No person shall knowingly falsify or misrepresent any information or representations made in the permit application.

**Sec. 94-3941. Permits nontransferable.**

Permits issued under this article shall be nontransferable.

**Sec. 94-4042. Waiver of provisions.**

The town council may in its discretion waive any requirements of this article.

**Section 2 – Severability.**

If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance are hereby declared severable.

**Section 3 – Repeal Of Ordinances Or Parts Of Ordinances In Conflict.**

All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this ordinance are hereby repealed.

**Section 4 – Effective Date.**

This ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading the 10<sup>th</sup> day of October 2023; and for the Second and Final Reading on this 14<sup>th</sup> day of November 2023.

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Danielle H. Moore, Mayor

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Margaret A. Zeidman, Town Council President

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Bobbie D. Lindsay, President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Edward Cooney, Town Council Member

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Kelly Churney, Acting Town Clerk

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Lewis S.W. Crampton, Town Council Member