

## CHAPTER 2. AUCTIONS AND AUCTIONEERS

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### 5-2-1. License.

It shall be unlawful for any person to sell or offer to sell at public auction in the City any merchandise, or to keep, conduct or operate an auction house or a transient auction house in the City for the purpose of selling or offering for sale any inventory of stock or merchandise, without first obtaining a license in writing approved by the Department.

(Ord. 2019-26, 11-20-2019) (Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

### 5-2-2. License application.

Application for a license required by this Chapter shall contain the following:

(1) The name of the applicant, his residence and the address of the proposed place of sale;

(2) A statement that neither fraud nor deception of any kind is contemplated nor will the same be practiced and that neither the sale, the reasons given therefor, nor the goods to be sold have been or will thereafter be fraudulently or falsely advertised or in any way whatsoever misrepresented as far as the public auction is concerned;

(3) Detailed statements or representations proposed to be made or advertised regarding the goods to be sold;

(4) The length of time for which the license is desired;

(5) A statement as to whether or not the applicant has previously engaged in a like or similar business, designating the place and time where the same was conducted; and,

(6) A true and correct detailed inventory listing the articles proposed to be sold by auction and giving any

identifying numbers or marks which may be upon the articles to be sold, indicating opposite the description of each article whether the same is new or used, and listing each of the articles described in said inventory with a number; provided, however, that no articles need be listed in the inventory which have a reasonably anticipated retail value or fifty dollars (\$50.00) or less. (Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

### 5-2-3. License fee.

The fee for licenses required by auctioneers pursuant to this Chapter shall be established in accordance with the license fees set forth in Section 5-1-10.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

### 5-2-4. Exemptions.

The provisions of this Chapter shall not apply to any auction held for charitable or benevolent purposes, or as a part of a church, fair, festival or bazaar.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

### 5-2-5. Bond required. (Repealed.)

(Ord. 2012-32, 12-05-2012)

### 5-2-6. False bidding - Auctioneer or officer to be present.

No person shall act at any sale by auction as a by-bidder or booster to bid in behalf of the auctioneer or owner, or to run up the price of the article to be sold, or to make any false bid. The licensee, or if the licensee is a corporation, then one of its officers, shall remain in continuous attendance at each auction held to assure compliance with this Chapter.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

### 5-2-7. Conduct generally.

Auctioneers and their assistants are forbidden to conduct their sales in such a manner as to cause people to gather in crowds on the sidewalks so as to obstruct the same; nor shall they use obscene language in crying their sales, nor make or cause to be made noisy acclamations such as the ringing of bells, blowing of whistles or otherwise (though not enumerated here) through the streets in advertising their sales; and no bellman or crier, drum, fife, or other musical instrument or noise-making means of attracting attention of the passersby, except the customary auctioneer's flags, shall be employed or suffered to be used at or near any place of auction whatsoever.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-8. Fraud.**

It shall be unlawful for an auctioneer or his assistants when selling or offering for sale at public auction any goods, wares or merchandise under the provisions of this Chapter, while describing said goods, wares or merchandise with respect to character, quality, kind of value or otherwise, to make any fraudulent, misleading, untruthful or unwarranted statements tending in any way to mislead bidders, or to substitute one article for another.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-9. Transient auction houses.**

(1) Any person or any agent, servant or employee of any person who shall sell or offer for sale at auction any goods, wares, merchandise or article of value in or from any hotel, rooming house, dwelling house, boardinghouse, store, storeroom, stall, tent, building, structure, stand or other place indoors or outdoors, and who shall occupy said place for the purpose of conducting a temporary business therein, shall be deemed a transient auction house owner for the purposes of this Chapter; and the person, or any agent, servant or employee thereof, so engaged shall not be relieved from the provisions of this Chapter by reason of association temporarily with any licensed dealer, trader, merchant or auctioneer.

(2) Transient auction houses and auction house owners shall be subject to the following additional requirements and regulations:

(A) Section 5-7a-2 (License required - Display) regarding license display;

(B) Section 5-7a-3 (Application for license);

(C) Section 5-7a-4 (Fee) for each owner, agent, and employee assisting with or participating in the transient auction house operation in Tooele City;

(D) Section 5-7a-5 (Review of application and issuance of license);

(E) Section 5-7a-6 (Denial of license and right of appeal);

(F) Section 5-7a-7 (Photographs and identity badges) for each owner, agent, and employee assisting with or participating in the transient auction house operation in Tooele City;

(G) Section 5-7a-8 (Inspections); and,

(H) Section 5-7a-9 (Deceptive soliciting practices prohibited).

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-10. Duties of auctioneer relating to owner - Commission. (Repealed.)**

(Ord. 2012-32, 12-05-2012)

**5-2-11. Marketing of merchandise - Selling un-inventoried goods.**

Before any sale is made at auction, the licensee must attach to each article to be sold, having a reasonably anticipated retail value of fifty dollars (\$50.00) or more, a card with the number of the article endorsed thereon such that the number shall correspond to the article as it is described in the inventory listed in the application on file with the Department. No article having a reasonably anticipated retail value in excess of fifty dollars (\$50.00) shall be sold at said auction unless the same is described and set forth in the inventory on file with the Department as required by this Chapter. Where a sale is held by public auction of the stock-on-hand of any merchant or auction house in accordance with the provisions of this Chapter, such sale shall not be fed or replenished.

(Ord. 2019-26, 11-20-2019) (Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-12. Representations as to quality - records required.**

All sales and all persons participating in sales must truly and correctly represent at all times to the public attending such auction the facts with respect to quality of items for sale. The licensee shall keep a complete record of all sales in excess of fifty dollars (\$50.00) made at auction, showing the name and address of each purchaser; a description of each article sold, including the number thereof, which shall correspond with the numbers shown upon the inventory on file with the Department; and the date of each such sale. The record shall at times be open to inspection by the Department.

(Ord. 2019-26, 11-20-2019) (Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-13. Transfer of license prohibited.**

The license granted under the provisions of this Chapter shall not be transferable nor shall the same be loaned or used by any person other than the one who has been licensed.

Licenses issued pursuant to this Chapter may be revoked by the City pursuant to Sections 5-1-28 and -29. Upon revocation of the license, the licensee shall cease to operate thereunder.

(Ord. 2019-26, 11-20-2019) (Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)

**5-2-14. Violation as misdemeanor.**

Violation of the provisions of this Chapter is a Misdemeanor punishable as provided in Section 5-1-33.

(Ord. 2012-32, 12-05-2012) (Ord. 1983-22, 12-07-1983)