

Application for Auctioneer's License

Date: _____

\$5,000 Bond needed Copy of Driver's License _____

Business Name: _____

Name of Auctioneer: _____ **DOB** _____

Residence Address: _____

Business Address: _____

Address of Proposed Sale By Auction: _____

Date of Auction: _____ Time: _____

Duration of License: _____

List Other License Held:

Location	Date	By Whom	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

List Applications Refused:

Location	Date	By Whom	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

List Convictions:

Location	Date	By Whom	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

References:

Name of Two (2) Local Property Owners: _____

Attach inventory Sheet to Application

Subscribed and Sworn to Before me this _____ Day of _____ 200__

Notary Public or Comm. Of Deeds _____

Signature of Applicant

Investigation: Satisfactory or Unsatisfactory _____
Chief of Police: _____

Date License Issued: _____
Date License Expires: _____

Chapter 77. AUCTIONS AND AUCTIONEERS

§ 77-1. License required.

§ 77-2. Issuance, application, fee and revocation of license.

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§ 77-8. Misrepresentation.

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§ 77-10. Attendance of licensee required.

§ 77-11. Exclusions.

§ 77-12. Penalties for offenses.

[HISTORY: Adopted by the Common Council of the City of Amsterdam 10-5-1954. Amendments noted where applicable.]

GENERAL REFERENCES

Pawn shops and secondhand dealers — See Ch. 169.

§ 77-1. License required.

No personal property (goods, wares and merchandise) shall be sold at auction in the City of Amsterdam, New York, except in compliance with the provisions of this chapter. It shall be unlawful to sell or cause or permit to be sold at auction any personal property (goods, wares and merchandise) in the City of Amsterdam, New York, unless such sale is conducted by an individual who has applied for and obtained an auctioneer's license from the City Clerk.

§ 77-2. Issuance, application, fee and revocation of license.

A. The City Clerk is hereby authorized to grant or renew an auctioneer's license for any period of time not exceeding 30 days, which application shall be filed with the City Clerk not later than 30 days prior to the proposed sale by auction, to any individual applying therefor, on a form approved by the City Clerk, upon payment by the applicant of the fees provided in § 77-3 of this chapter and upon filing by the applicant of the bond required by § 77-4 of this chapter. In addition, an application fee of \$5 is required.

[Amended 7-5-1988]

B. The form on which such application shall be made for an auctioneer's license shall require the following information:

(1) The name of the applicant.

(2) The residence and business address of the applicant.

(3) The length of time for which an auctioneer's license is desired.

- (4) A statement as to whether or not the applicant holds or has held an auctioneer's license from any state, municipality, governing body or licensing authority; a list of such licenses and a statement of the time, place and by whom issued; a statement as to whether any state, municipality, governing body or licensing authority has ever refused to issue or to renew an auctioneer's license to the applicant, together with a full and accurate statement as to the reasons for any such refusal; and a statement as to whether any state, municipality, governing body or licensing authority has ever revoked an auctioneer's license held by the applicant, together with a full and accurate statement as to the reasons for any such revocation.
 - (5) A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or violation of any municipal ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.
 - (6) A photograph of the applicant taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner, except that the City Clerk may waive this requirement with respect to an application for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter who has in a previous application under this chapter complied with this requirement.
 - (7) The fingerprints of the applicant and the names of at least two reliable property owners of the County of Montgomery, State of New York, who will certify as to the applicant's good moral character and business responsibility or, in lieu of the names of references, any other available evidence as to the good moral character and business responsibility of the applicant as will enable an investigator to properly evaluate such moral character and business responsibility, except that the City Clerk may waive this requirement with respect to an application for renewal of an auctioneer's license by any individual holding an unexpired auctioneer's license issued under this chapter, who has in a previous application under this chapter complied with this requirement.
 - (8) A sworn statement or inventory of the stock on hand and the stock to be offered at auction, the quality, kind or grade of each item, the wholesale market value thereof and the name of the owner of the merchandise for at least one year prior to the date of the proposed auction.
 - (9) Such other and further information as the City Clerk may require shall be furnished by the applicant.
- C. Before issuing an auctioneer's license to any individual applying therefor, the City Clerk shall refer the application to the Chief of Police, who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, except that the City Clerk may waive this requirement with respect to an application for renewal of an auctioneer's license by any individual holding an unexpired auctioneer's license issued under this

chapter, if an investigation of such applicant's moral character and business responsibility has previously been made under this section in connection with a prior application for an auctioneer's license under this chapter. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the City Clerk whether or not the moral character and business responsibility of the applicant is satisfactory.

D. An auctioneer's license may be revoked by the City Clerk or an application for issuance or renewal of such license may be refused by the City Clerk if he determines, after notice and hearing, that:

- (1) The applicant or license holder is not an individual of good moral character and business responsibility;
- (2) The application of the applicant or license holder contains any false, fraudulent or misleading material statement;
- (3) The applicant or license holder has made any false, fraudulent or misleading material statement in the course of conducting an auction sale of or in offering for sale at auction any real or personal property (goods, wares and merchandise) in the City of Amsterdam;
- (4) The applicant or license holder has perpetrated a fraud upon any person, whether or not such fraud was perpetrated in the conduct of an auction in the City of Amsterdam;
- (5) The applicant or license holder has violated any of the statutes of the State of New York relating to auctions or auctioneers;
- (6) The applicant has been convicted of any crime or misdemeanor involving moral turpitude; or
- (7) The applicant or license holder has conducted an auction sale of or offered for sale at auction any real or personal property (goods, wares and merchandise) in the City of Amsterdam in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

E. Notice of the hearing provided for in § **77-2D** above shall be given, in writing, to the applicant or license holder, as the case may be. Such notice shall be mailed, postage prepaid, to the applicant or license holder, as the case may be, at his last-known address at least five days prior to the date set for hearing. The applicant or license holder, as the case may be, shall have the right to be represented at such hearing by counsel.

F. Any individual aggrieved by the action of the City Clerk in refusing to issue any license or in revoking any license already issued shall have the right to appeal to the Council of the City of Amsterdam. Such appeal shall be taken by filing with the Council or person designated by it, within 14 days after the notice of the action complained of

has been mailed, postage prepaid, to such individual's last known address, a written statement setting forth fully the grounds of appeal. The Council shall set a time and place or hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 77-2E. The applicant shall have the right to be represented at such hearing by counsel. The decision and order of the Council on such appeal shall be final and conclusive.

§ 77-3. License fees.

[Amended 7-5-1988; 6-3-2008 by Ord. No. 2008-4]

The license fee which shall be charged by the City Clerk for such license shall be \$25 per occasion. The City Clerk shall charge a licensing fee of \$100 per year for auctions held periodically at a set location.

§ 77-4. Bond.

[Amended 7-5-1988]

Every applicant for an auctioneer's license shall file with the City Clerk a surety bond running to the City of Amsterdam in the amount of \$5,000, with surety acceptable to and approved by the Corporation Counsel, conditioned that said applicant, if issued an auctioneer's license, will comply fully with all the provisions of the ordinances of the City of Amsterdam and the statutes of the State of New York regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or permit any person in his employ to practice any such fraud or deceit and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or other wrongful act on the part of the licensee, his agent or employees in the conduct of any auction or in the exercise of the calling of the auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State of New York, which conforms to the above requirements, may be permitted by Corporation Counsel, in his discretion, in lieu of a bond.

§ 77-5. Auctions prohibited on public property; effect of prior conviction.

- A. It shall be unlawful to conduct an auction sale of personal property (goods, wares and merchandise) on any of the streets, sidewalks or public property of the City of Amsterdam.
- B. No person who has been convicted of a violation of any of the terms and provisions of this chapter shall be granted a license for such sale or sales or shall act as an auctioneer or be employed in any manner at or in connection with any auction licensed hereunder for a period of five years after such conviction.

§ 77-6. Labeling of articles.

It shall be unlawful for a person licensed hereunder to offer for sale by auction any article to which there is not attached a card, ticket or label containing a correct statement plainly written or printed in English, specifying the kind, type and quality of the merchandise offered and, in the case of jewelry, specifying the kind and quality of the metal of which said article is made or composed and the percentage, carat or purity of such metal. If such articles are plated or overlaid, then such label shall contain a statement of the kind of plate. When precious stones are sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name, weight and quality of such stone or stones. When semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name of said stones. When imitations of precious or semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, said imitations shall be described or defined as synthetic or imitations of said stones as they purport to represent. When watches or clocks are sold, the true names of the manufacturers shall be stated, in writing, and no parts of the movements or mechanism thereof shall be substituted or contain false or misleading names or trademarks; neither shall secondhand or old movements be offered for sale in new cases without a statement to that effect. Used and rebuilt watches shall be so indicated by tag or label. Such ticket or label shall remain secured to such article of merchandise and shall be delivered to the purchaser as a true and correct description and representation of the article sold and shall be deemed prima facie evidence of intention to defraud in case such statement is not a true and correct description and representation of such article sold.

§ 77-7. Inventory limitations.

During any such sale by auction no additions whatsoever shall be made to the stock of merchandise set forth in the inventory attached to the application for license, and nothing shall be offered for sale or sold at any such sale by auction which is an addition to the stock of merchandise described in said inventory or which has been added to the applicant's stock within a period of 30 days prior to the date the applicant filed application for license. Under no circumstances shall the inventory offered for sale at auction exceed by 50% the average inventory carried by the applicant over the preceding five years, or the inventory offered for sale by auction shall not exceed by 50% the average inventory carried for the period of time applicant has been in business. Any abnormal purchases during the year prior to the application for license shall be cause for refusal to issue license.

§ 77-8. Misrepresentation.

It shall be unlawful for any licensee, his agents or employees to make any statements which are false in any particular or which have a tendency to mislead or to make any misrepresentations whatsoever, with references to any article sold or offered for sale during said auction.

§ 77-9. False bidding.

No person shall act at any such sale by auction as bidder or what is commonly known as a "capper," "booster" or "shiller," or offer to make any false bid or offer any false bid to buy or pretend to buy any article sold or offered for sale at any sale by auction.

§ 77-10. Attendance of licensee required.

The person to whom the license has been granted shall remain in continuous attendance at all times while such sale by auction is being conducted and shall be responsible for any violation of the provisions of the foregoing sections.

§ 77-11. Exclusions.

The provisions of this chapter shall not be applicable to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers or other public officers acting under judicial process, nor to the sale of real property at auction.

§ 77-12. Penalties for offenses.

[Amended 12-22-1997 by L.L. No. 3-1998]

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than \$1,000, imprisonment in the county jail for not more than one year, or both such fine and imprisonment. Each such violation shall constitute a separate offense and shall be punishable as such hereunder.