

## **5-5 AUCTIONEERS.**

### **5-5.1 License Required.**

Every auctioneer shall obtain a license by filing an application as provided by this chapter. The fee for conducting each auction shall be fifty (\$50.00) dollars per day. The Township Council may waive this fee for an auction sponsored by a nonprofit organization upon proper application to the Township Council, who may so decide based upon information in the request submitted by such nonprofit organization. (1972 Code § 6-5.1; Ord. No. 75-78 § 1; Ord. No. 1282-94 § 1)

### **5-5.2 General Regulations.**

- a. Pursuant to State law every auctioneer, upon the receipt or acceptance by him or her of any personal property for the purpose of sale at auction and before offering the same or any part thereof for sale at auction, shall write or cause to be written in a book to be kept by him or her for that purpose, the name and address of the person who employed him or her to sell such property, the name and address of the person for whose benefit, behalf or account the property is to be so sold, the name and address of the person from whom the auctioneer received or accepted the property, the name and address of the owner of the property immediately prior to its receipt or acceptance, the location with street number, if any, of the property immediately prior to its receipt or acceptance, the place with street number, if any, in which the property is to be kept until sold or offered for sale at auction, the place and street number, if any, in which the property is to be sold or offered for sale at auction, a description of the property, the quantity thereof and the distinctive markings thereon, if any, and the terms and conditions upon which the auctioneer receives or accepts the property for sale at auction.

As used herein, the words "personal property" and "property" shall mean any goods, wares, works of art, commodity, compound or thing, chattels, merchandise or personal property which may be lawfully kept or offered for sale.

Nothing herein contained shall apply to the sale of real property at auction.

- b. Such books and entries therein shall at all reasonable times be open to the inspection of the Chief of Police, the County Prosecutor, and any other person who shall be duly authorized in writing for that purpose by any or either by them, and who shall exhibit such written authorization to the auctioneer.
- c. As provided by State law, any person who violates the requirements of paragraphs a. and b. of this subsection shall be guilty of a misdemeanor.
- d. Every general auctioneer shall, before any license is issued to him or her, enter into a bond with sureties sufficient to be approved by the Township Attorney in the sum of one thousand (\$1,000.00) dollars and conditioned for the due observance of all ordinances of the Township of West Orange during the continuance of his or her license.
- e. All auctions shall be conducted in accordance with the provisions of the Uniform Commercial Code, N.J.S.A. 12A:2-328. If the bulk sales portion of the Code applies, as in N.J.S.A. 12A:6-108, the auctioneer shall also comply with its provisions.  
(1972 Code § 6-4.2)

### **5-5.3 Rug Auctions.**

- a. Every auctioneer who shall conduct a rug auction shall obtain a license by filing an application as provided by this section. The fee for conducting each rug auction shall be seventy-five (\$75.00) dollars per day. A rug auction is deemed to be any auction where the principal quality or value of the items being offered for sale consists of rugs, carpets, runners

or other floor covering, except that this subsection shall not apply where the rugs, carpets, runners or floor covering is part of an estate in the process of liquidation through such auction.

- b. The application for a license to conduct a rug auction shall, in addition to the information required by subsection 5-1.2 of this chapter, show that the applicant has not been convicted of violating the laws of the State of New Jersey or the provisions of this section or any other ordinance of the Township relating to auctions and auctioneers or for fraud and deceit in the conduct of auctions.
- c. Every rug auctioneer shall, before any license is issued to him or her, enter into a bond with sureties sufficient to be approved by the Township Attorney in the sum of two thousand five hundred (\$2,500.00) dollars and conditioned for the due observance of all ordinances of the Township during the continuance of his or her license.
- d. During the pendency of a sale the licensee shall file a daily report with the Township Clerk containing an itemized list of the articles sold on the previous day. Failure to comply with this provision may result in suspension of the sale pending compliance.
- e. Every article offered for sale at a rug auction shall have securely attached a tag or label upon which shall be plainly written or printed in English a true and correct statement of the kind and quality of the article. Tags or labels shall remain securely attached to the article and shall be delivered to the purchaser as a true and correct description and representation of the article sold.
- f. At each rug auction there shall be kept and maintained a sales book which must be signed by the purchaser of each article at the time of the purchase and, before any other article shall be exposed for sale, opposite a description of the article sold which shall conform to the description on the tag or label required by paragraph e. of this subsection. Failure to keep and maintain such sales book shall be sufficient cause for immediate revocation of the license. Sales books shall be open and available for inspection during business hours.
- g. No person shall act or employ another to act as a by-bidder or what is commonly known as a "capper" or "booster" at any auction sale or to make or accept any false or misleading bid or pretend to buy or sell any article sold or offered for sale at any auction.
- h. The rug auctioneer shall retain in his or her possession proceeds of any sale for at least forty-eight (48) hours. If any purchaser shall within forty-eight (48) hours make a claim against the licensee upon the ground that the article or thing sold to him or her at auction was not as represented and shall offer to return the article or thing purchased, then the licensee shall either return the proceeds of the sale or deposit them with the Chief of Police, provided that if the purchaser does not commence an action within fifteen (15) days the proceeds so deposited shall be returned to the licensee. This paragraph shall not be construed to prevent an action on the bond by the purchaser.

(1972 Code § 6-5.3; Ord. No. 1283-94 § 1)