

CHAPTER 112: AUCTIONS AND AUCTIONEERS

SECTION

112.001	Definitions
112.005	License Required
112.010	Application for License
112.015	Investigation of Applicant
112.020	Refusal or Revocation of License; Appeal
112.025	License Fees; Bond
112.030	Term of License
112.035	Place of Conducting Auction
112.040	Duties of Auctioneer
112.045	Certain Conduct Prohibited
112.050	Auctions Prohibited on Streets, Sidewalks and Public Property
112.055	Use of Loudspeakers; Auction Prohibited on Sunday and at Certain Times
112.060	Exemptions from Auction Laws
112.997	Severability
112.999	Penalty

Sec. 112.001 Definitions.

An "auctioneer" is hereby defined as any person who sells or offers for sale real or personal property at public or private auction for another or for himself. Any person who sells his own real or personal property in a public or private auction is an auctioneer within the meaning of this section. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.005 License required.

It shall be unlawful for any person to act as auctioneer or to carry on the business of auctioneer in the City without first having obtained a license so to do as herein provided. (Ord. 16-60, J. 5, p. 206, passed 3/28/60) Penalty, see Sec. 112.999

Sec. 112.010 Application for license.

(A) Any person desiring a license hereunder shall make application to the City Clerk in writing on forms to be provided by the City which application form shall require the following information:

(1) The name of the applicant.

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

(3) A statement as to whether or not the applicant holds or has held an auctioneer's license from any state, municipality, or governing body or licensing authority; a list of such licenses and a statement of the time, place and person 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.

(4) A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or violation of any statute or ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.015 Investigation of applicant.

Before issuing an auctioneer's license to any individual applying therefor, the City Clerk shall refer the applicant 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 in his discretion 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 ordinance 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 ordinance. 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 his recommendations as to whether or not a license should be issued to the applicant together with a detailed statement of the reasons therefore. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.020 Refusal or revocation of license; appeal.

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

(1) That the applicant or license holder is not an individual of good moral character and business responsibility; or

(2) That the application of the applicant or license holder contains any false, fraudulent or misleading material statement; or

(3) That 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 in the City; or

(4) That 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; or

(5) That the applicant or license holder has violated any of the statutes of the State of Illinois relating to auctions or auctioneers; or

(6) That the applicant has been convicted of any crime or misdemeanor involving moral turpitude; or

(7) That the applicant or license holder has conducted an auction sale of or offered for sale at auction any real or personal property in the City 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.

(B) Notice of the hearing provided for in sub-paragraph (A) 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 5 days prior to the date set for hearing. The applicant or license holder shall have the right to be represented at such hearing by Counsel. Any individual aggrieved by the action of the City Clerk in refusing to issue any license or in revoking any license or special permit already issued or in refusing to renew such license shall have the right to appeal to the Council of the City of Highland Park. Such appeal shall be taken by filing with the Council 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 for hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in sub-paragraph (B) above. The appellant 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. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.025 License fees; bond.

(A) Before obtaining an auctioneer's license every applicant for an auctioneer's license shall:

(1) Pay to the City Collector of the City an annual license fee at the rate set forth in the Annual Fee Resolution. No license shall be issued for less than the full annual fee herein provided. **(Ord. 35-03, J. 29, p. 134, passed 5/27/03)**

(2) File with the City Clerk a surety bond running to the City at the rate set forth in the Annual Fee Resolution with surety acceptable to and approved by the City Clerk conditioned that the applicant if issued an auctioneer's license will comply fully with all the provisions of the ordinances of the City and the statutes of the State of Illinois 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 suffer 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 Illinois which conforms to the above requirements shall be accepted by the City Clerk in his discretion in lieu of the bond. (Ord. 16-60, J. 5, p. 206, passed 3/28/60, **Ord. 35-03, J. 29, p. 134, passed 5/27/03**)

Sec. 112.030 Term of license.

An auctioneer's license issued pursuant to this Chapter shall be valid only for the calendar year in which it is issued. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.035 Place of conducting auction.

(A) No auction sale of personal property shall be conducted within any area of the City which is zoned for residential use except upon the issuance of a special permit therefore by the City Clerk and in accordance with the express terms of such special permit; provided, however, that in no event shall personal property other than that owned by the occupant or owner of the premises on which the auction is to take place and used on or about such premises, be sold at auction in an area zoned for residential use.

(B) Application for a special permit to conduct an auction sale of personal property within residentially zoned areas in the City shall be made to the City Clerk on a form to be provided by him upon which shall be stated the nature and quantity of the goods to be sold and the number of days during which it is desired to conduct such auction sale. The City Clerk shall issue such special permit upon the payment of the fee at the rate set forth in the Annual Fee Resolution, which fee shall be in addition to and not in lieu of the fees and bond provided for in section 112.025. Such special permit shall specify the place or places at which the auction sale is to be held and the number of days for which such special permit is valid. The provisions of section 112.020 are hereby made applicable in the cases of special permits as fully as if incorporated herein. **(Ord. 35-03, J. 29, p. 134, passed 5/27/03)**

(C) No special permit shall be issued to any individual except one to whom an auctioneer's license has been issued under the provisions of this Chapter.

(D) A special permit issued pursuant to the provisions of this section shall be valid only for a period of not more than 7 days from the date of issue. (Ord. 16-60, J. 5, p. 206, passed 3/28/60) Penalty, see Sec. 112.999

Cross reference:

Zoning Code, see Chapter 150

Sec. 112.040 Duties of auctioneer.

It shall be the duty of every auctioneer before beginning any auction sale of real or personal property to state fully the terms and conditions upon which the sale will be made and to announce to the persons present the character, quality and description of the property offered for sale. The aforesaid duty includes, but is not limited to, the making of the statement as to whether or not a right to bid is reserved by or on behalf of the seller. (Ord. 16-60, J. 5, p. 206, passed 3/28/60) Penalty, see Sec. 112.999

Sec. 112.045 Certain conduct prohibited.

(A) No auctioneer or other person acting with such auctioneer's knowledge and consent or connivance shall knowingly with the intent to induce any person to purchase any real or personal property there offered for sale or any part thereof, make any false representation or statement as to the ownership, character or quality of the property so offered for sale or as to the circumstances of the owner or pretended owner of such property.

Such a statement made without the knowledge of its truth or falsity is a false representation hereunder.

(B) No auctioneer shall exhibit and offer for sale at auction any article and induce its purchase by any bidder and then afterwards substitute any article in lieu of that offered to and purchased by the bidder.

(C) No auctioneer shall procure or conspire with any person to make a fictitious bid at any auction sale of real or personal property nor shall auctioneer himself fictitiously raise any bids in any such auction sale. (Ord. 16-60, J. 5, p. 206, passed 3/28/60) Penalty, see Sec. 112.999

Sec. 112.050 Auctions prohibited on streets, sidewalks and public property.

It shall be unlawful to conduct an auction sale of personal property on any of the streets, sidewalks, alleys or public property of the City. (Ord. 16-60, J. 5, p. 206, passed 3/28/60) Penalty, see Sec. 112.999

Sec. 112.055 Use of loudspeakers; auctions prohibited on Sunday and at certain times.

(A) It shall be unlawful to announce or advertise any auction sale in the City by means of any music, loud-speakers, sound trucks, mechanical amplifying equipment or other loud noises, nor shall any of the foregoing conduct or equipment be permitted in the conduct of an auction sale in such a manner as to constitute either a public or a private nuisance.

(B) It shall be unlawful to conduct an auction before the hour of 9:00 a. m. or after the hour of 4:00 p. m. (Ord. 16-60, J. 5, p. 206, passed 3/28/60; amended Ord. 45-89, J. 18, p. 085, passed 7/24/89) Penalty, see Sec. 112.999

Sec. 112.060 Exemptions from auction laws.

The provisions of this Chapter shall not be applicable to auction sales:

(A) Conducted by referees or trustees in bankruptcy, executors, administrators, receivers or other public officers acting under judicial process;

(B) By a homeowner, or by a member of the immediate family of a home-owner, acting as auctioneer, of items of personal property owned by and used in or about the home of such homeowner;

(C) Conducted over a period of not more than three working days by a person, firm or corporation doing business from a permanent location in the course of going out of business at the location at which the sale is to be conducted, of merchandise and store fixtures owned by and used in or about said business at such location. (Ord. 16-60, J. 5, p. 206, passed 3/28/60; amended Ord. 27-70, J. 7, p. 624, passed 4/13/70)

(D) After application to and approval by the City Manager, the conduct of an auction solely for charitable purposes by charitable not-for-profit corporations or charitable associations of items of personal property donated to them. **(Ord. 85-13, J. 39, p.296-297, passed 8/12/13)**

Sec. 112.997 Severability.

The provisions of this Chapter are hereby declared to be severable if any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)

Sec. 112.999 Penalty.

Whoever violates any of the provisions of this Chapter shall be fined not less than \$10.00 nor more than \$200.00 or imprisoned for a term not to exceed 6 months or by both such fine and imprisonment. (Ord. 16-60, J. 5, p. 206, passed 3/28/60)