



VILLAGE OF JOHNSON CITY

243 Main St., Johnson City, NY 13790 • 607-798-7861 • www.villageofjc.com

Application for a Auctioneer's License

Name: _____

Date of Birth: _____ Age: _____

Home Address: _____

Home Telephone #: _____ Cell#: _____ Work #: _____

Business Name if applicable: _____

Business Address: _____

Business Telephone #: _____ Cell#: _____ Work #: _____

Present Occupation: _____

Are you a citizen of the United States? Yes _____ No _____

Are you a resident of New York State? Yes _____ No _____

List your highest education level: _____

List other occupations in the last 5 years: _____

If previously licensed as an auctioneer, when & where: _____

Was any previous license ever cancelled or revoked? Yes _____ No _____

If yes, please explain: _____

I hereby certify that I will produce a bond to the Village of Johnson City, NY executed by a duly authorized surety company in the penalty of five thousand dollars (\$5,000.00), conditioned that I will faithfully observe the laws of the State of New York and the ordinances of the Village of Johnson City, now in effect or hereafter enacted, and that I will faithfully perform the duties as auctioneer and render such accounts and pay such debts as may be required of me by law.

The undersigned, being duly sworn, deposes and says that he/she is the owner/applicant or authorized agent of the owner/applicant and that everything contained in this application is an accurate statement and representation of the proposal.

Sworn to this _____ day of _____, 20_____

Signature

VILLAGE USE ONLY

Date Received: _____ Fee: \$ _____ Receipt #: _____ License # _____

Date Referred to Police: _____ Police Approval: Yes _____ No _____

Police Reviewer – Signature & Title: _____

Approval by Village Clerk: Yes _____ No _____ Date of Issuance: _____ Expiration Date: _____

Chapter 104, AUCTIONS

§ 104-1. Definitions.

When used in this chapter, the following terms shall mean and include the following:

PERSONAL PROPERTY - All goods, wares, merchandise, commodities, compounds, things, chattels, jewelry and all other tangible personal property of whatsoever form or nature, but does not include real property.

PUBLIC AUCTION - Any public officer to sell personal property to the highest bidder or to the person offering to pay the highest price therefor, and shall be without qualifications or reservations, unless at the time of the offer of each article or parcel and before any bids are asked thereon a minimum price therefor be publicly stated.

SALE AT PUBLIC AUCTION - Shall not include judicial sales, sales by public officers in the manner prescribed by law, sales pursuant to statute to satisfy liens on the property sold and resales pursuant to statute of property retaken under a conditional sales contract.

§ 104-2. Applicability to judicial sales.

Nothing contained in this chapter shall prohibit judicial sales by auctioneers without a license.

§ 104-3. Applicability to regular retail business.

No license shall be necessary under the provisions of this chapter for the operation of a regular retail business.

§ 104-4. Applicability to auctions for charitable purposes.

A. Nothing in this chapter shall prohibit auction sales for charitable purposes by civic, religious or fraternal organizations, provided that the following requirements are fulfilled:

- (1) A written application setting forth compliance with this section is filed with the Village Clerk, who is hereby authorized to issue a permit to conduct such auction to such applicant without payment of a fee.
- (2) A permit as authorized by Subsection A(1) is issued prior to the holding of the auction.
- (3) All proceeds are used for charitable purposes, except that an auctioneer duly licensed under this chapter may be paid.
- (4) All items sold at the auction are donated.

B. All the provisions of § 104-20 except those pertaining to a filed inventory shall apply to auctions held under this section.

§ 104-5. Licensed auctioneer to conduct auctions.

No sale at public auction of any personal property, as defined in this chapter, shall be held within the village unless such sale be directly conducted by an auctioneer licensed pursuant to the provisions of this chapter.

§ 104-6. Application for license.

Every applicant for a license as auctioneer shall present to the Village Clerk a written application signed and duly verified by him or her, which application shall contain the following information:

- A. The applicant's full name, age, residence by street, number and place and present occupation.
- B. Whether the applicant is a citizen of the United States and a resident of the State of New York.
- C. The applicant's qualifications, including education and business engaged in during the past five (5) years.
- D. Where and when the applicant has been previously licensed as an auctioneer.
- E. Whether any previous license as auctioneer was canceled or revoked.
- F. Such further facts as may be required by the Village Clerk to show the good character, competency and integrity of the applicant.

§ 104-7. Bond required; amount; approval.

The applicant for an auctioneer's license shall also present to the Village Clerk with his or her application for such license a bond to the village executed by a duly authorized surety company in the penalty of five thousand dollars (\$5,000.), conditioned that he or she will faithfully observe the laws of the state and the ordinances of the village then in effect or thereafter enacted and that he or she will faithfully perform his or her duties as such

auctioneer and render such accounts and pay such debts as may be required of him or her by law. Such bond shall be approved by the Village Attorney.

§ 104-8. License fee; term of license.

The fee for a general auctioneer's license for one (1) year is hereby fixed at and shall be the sum of one hundred dollars (\$100.), and except where a general auctioneer's license is issued, the fee for an auctioneer's license is hereby fixed at and shall be the sum of three dollars (\$3.) for the first day and three dollars (\$3.) for each successive day during which such auction shall be conducted. Said fee shall be payable to the Village Clerk before the granting of the permit provided for in § 104-11.

§ 104-9. Issuance of license.

If the Village Clerk is satisfied as to the good character, competency and integrity of the applicant and upon payment of the license fee and approval of the bond as required herein, such Clerk shall issue to the applicant an auctioneer's license, authorizing him or her to conduct auction sales in the village as provided by law and by this chapter.

§ 104-10. License not to authorize certain sales.

No license issued as herein provided shall have or permit any person to whom such license is issued the right of privilege of conducting a transient sale of bankruptcy or damaged stocks.

§ 104-11. Permit required to conduct auction.

No person shall sell, dispose of or offer for sale at public auction or cause to be sold, disposed of or offered for sale at public auction within the village any livestock or any personal property except used household furniture and effects purchased from or sold on account of a householder who has actually used such furniture and effects in his or her household in the village without a permit by the Board of Trustees to hold such sale, which permit shall fix the time of commencement and the duration of such sale.

§ 104-12. Application for permit.

- A. Required. Any person intending to sell at public auction any personal property, as defined in this chapter, within the village except used household furniture and effects purchased from or sold on account of a householder who has actually used such furniture and effects in his or her household in the village shall make application to the Board of Trustees for a permit to hold such sale at public auction, and if such permit is granted, the sale may be conducted as provided in this chapter.
- B. Form, contents, time of filing. Such permit application shall be in writing and shall be verified and must be filed with the Village Clerk not less than fifteen (15) days before the time for the commencement of any such sale. The permit application shall contain the following information:
 - (1) The name and address of the applicant.
 - (2) The name and address of the public auctioneer.
 - (3) The street and length of time for which it is desired to conduct such sale.
 - (4) The place or places within the village at which for the two (2) years last preceding the filing of said application the applicant has continuously conducted his or her business.
- C. Verification. Such application shall be verified by the applicant if he or she is an individual or, if the applicant is a partnership, by one (1) of the partners or, if such applicant is a corporation, by an officer of such corporation.

§ 104-13. Statement of inventory to be attached to permit application.

There shall be attached to the permit application provided for herein a written sworn inventory of the personal property to be offered for sale, specifying as to each item the quantity, quality, kind and grade and the material of which it is composed, with a distinctive number for each item, and that each and every article contained in said inventory is a part of the stock of goods of said person and has been a part of the stock of goods of said person for a period of at least ninety (90) days prior to the date of the filing of said application, and that no property purchased, procured or placed in stock specifically for such public auction is included therein, and is the property of the seller and not subject to conditional bills of sale or chattel mortgages or pledge and that all property listed in the inventory is free and clear of all conditional bills of sale, chattel mortgages, liens or encumbrances except as specifically listed in the inventory.

§ 104-14. Examination of property specified in inventory.

The Board of Trustees before issuing a permit to conduct an auction shall have the right, either personally or by such person duly authorized by them, to examine the personal property specified in the inventory to be offered for sale to determine whether said inventory correctly sets forth the items to be sold.

§ 104-15. Restrictions upon issuance of permit.

No permit shall be issued to any person to conduct a sale at public auction unless each and every article contained in the inventory of the property to be sold has been a part of the stock of goods of said person for a period of at least ninety (90) days prior to the date of the filing of the permit application with the Village Clerk and unless the person applying for such permit shall have been for a period of at least two (2) years preceding the date of the filing of such application continuously engaged in business in the village, dealing in the same kind of personal property as is to be offered for sale at such public auction.

§ 104-16. Term of permit.

No permit shall be issued to conduct a sale at public auction for a longer period than fifteen (15) consecutive days, Sundays and legal holidays excepted, at any one (1) place in the village, and a period of at least twelve (12) months must have elapsed after the conclusion of any auction sale conducted before another permit shall be issued to the same applicant or to any person for a sale to be conducted at the same place, except that the Board of Trustees, in its discretion, may extend such period of fifteen (15) days for an additional period of fifteen (15) days which shall run consecutively from the date of the expiration of the first fifteen-day period, Sundays and legal holidays excepted.

§ 104-17. Revocation of license and/or permit.

- A. Generally. The Mayor may revoke any license granted to a public auctioneer or any permit for the conduct of any sale at public auction issued pursuant to the provisions of this chapter if he or she shall have cause to believe that the holder of such auctioneer's license and/or permit to conduct such sale is violating any statute of the state relative to auctions and auctioneers or any provision of this chapter. A conviction by a court of competent jurisdiction of such offense or recovery upon a bond pursuant to the provisions of this chapter shall be conclusive evidence of such violation.
- B. Notice and hearing. The Mayor may, upon the complaint of any person, cause notice to be served upon the holder of an auctioneers' license and/or holder of a permit to conduct a sale, specifying the grounds of complaint or reason assigned for the revocation of such auctioneer's license and/or permit to conduct a sale, which notice shall fix a time and place at which the Mayor shall hear the evidence of the person making such complaint and such other evidence as may be presented to him or her or be in his or her possession, and the holder of such auctioneer's license and/or the holder of such permit to conduct a sale shall have an opportunity to be heard in his or her own defense. If the Mayor shall believe that sufficient grounds therefor exist, he or she shall revoke such auctioneer's license and/or such permit to conduct a sale.
- C. Fee not to be refunded. Whenever any auctioneer's license and/or permit to conduct a sale at public auction has been revoked, no refund of any unearned portion of the fee for such license and/or permit shall be made to the holder thereof.

§ 104-18. Hours during which sale may be conducted.

Sales at public auction shall be held only between the hours of 9:00 a.m., and 6:00 p.m., unless a special permit is issued by the Board of Trustees authorizing sales during other times. Application for a special permit shall state the reasons why a special permit is requested and shall be directed to the Board of Trustees and filed with the Village Clerk. The application shall be separate and distinct from any other application required under this chapter or any other section of the Code of Ordinances.

§ 104-19. Tagging, identification of articles offered for sale.

There shall be attached securely to each article to be offered for sale a tag or label, upon which shall be plainly written or printed in the English language a true and correct statement of the kind and quality of the material or substance of which such article is made or composed and the distinctive number of such article on the itemized inventory filed with the Village Clerk; if said article is one of those commonly classed as jewelry or articles commonly carried by persons engaged in the jewelry business, the tag shall state the percentage or carat of

purity of such material; in case the article is plated or overlaid, a true statement of the kind of plate and the percentage of purity thereof and the kind of material or metal under the plating; if the article is one commonly known as precious, semiprecious, synthetic or imitation stones, the true names, weight, quality and color of said stones; if watches or clocks, the true name of the manufacturers, the number of jewels and adjustments and the country of manufacture; and if any of such articles or part thereof is used or is secondhand, the length of time the same has been in use and in a conspicuous place on said tag the words "secondhand" or "used." Said tag in each and every case shall remain upon the article and be delivered with the article to the purchaser.

§ 104-20. Acts prohibited during sale at public auction generally.

In addition to acts prohibited elsewhere in this chapter, no auctioneer or any other person shall commit any of the following acts during sales at public auction:

- A. False representations. Make any false representations as to the character, quality or condition, value or ownership of any property offered for sale or falsely represent that such property is in whole or in part bankrupt or insolvent stock or damaged goods or goods saved from fire.
- B. Substitution. Substitute any other article for the article sold to a bidder.
- C. Withdrawal of article from sale after receipt of bid; bids by unqualified persons. Bid in or withdraw from sale any article after receiving a second bid therefor or receive any bid from a person not a bona fide bidder at such sale or any person acting as a "capper," "booster" or "shiller."
- D. Employment of means to attract attention. Employ or permit to be employed any bellman, crier, instrument of music or means of attracting the attention of passersby other than a sign or flag.
- E. Providing entertainment. Conduct a sale where entertainment for the prospective bidders is provided on the premises where the sale is conducted.
- F. Compliance with chapter. Open or conduct any public auction sale until all the provisions of this chapter have been complied with and a permit for such sale obtained from the Board of Trustees.

§ 104-21. Sale of property not included in inventory.

It shall be unlawful for any auctioneer or any other person, through such auctioneer, to sell, dispose of or offer to sell or dispose of any personal property as defined in this chapter at a sale at public auction which has not been included and described in the inventory with the application for a permit to hold such sale.

§ 104-22. Private sales prohibited.

- A. During the time when and while an auction sale is being conducted, no sales of any property, whether or not it is a part of the inventoried property, shall be permitted within the same room or in any room opening therefrom by private sale or otherwise than by public auction sale.
- B. No property not included in the inventory filed as hereinbefore required shall be sold or offered for sale at public auction or private sale during the time that such auction sale is being conducted in the same room or in a room opening therefrom.

§ 104-23. Sale to be to highest bidder.

When any article or combination of articles is offered for sale at public auction, unless the auctioneer states a minimum price therefor before any bid or offer is asked, the article or combination of articles shall be sold to the person whose bid or offer is the highest offered if there is more than one (1) bid or offer therefor.

§ 104-24. Report of articles sold.

At or before 10:00 a.m. of each morning during the continuation of an auction sale, the person conducting the same shall file or cause to be filed with the Village Clerk a complete list of the articles sold at such sale on the previous day, showing the names and addresses of the purchasers and the true price received for each article sold, attaching to such record an affidavit that the same is a true and correct statement of all sales made on such previous day and that no other articles were sold on said day. Such daily reports shall be kept on file by the Village Clerk and open for public inspection.