

Chapter 5-30

AUCTIONS AND AUCTIONEERS

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Section 5-30-01DEFINITION

Every person who shall at public outcry offer for sale, either as principal or agent, to the highest bidder on the spot, any article or merchandise or property, shall be deemed an auctioneer and every such sale shall be deemed an auction. Provided, however, that nothing in this Chapter shall apply to judicial sales nor to sales by executors, administrators, or trustees under court order, or regular auctions as hereinafter defined, or to auction sales of jewelry, precious stones, etc. (Ord. 1630, Sec. 1; 1936 Code, Sec. 2-201; 1952 Code, Sec. 11-201)

Section 5-30-02CLASSIFICATION

For the purpose of regulation, auctions shall be divided into three (3) classes as follows:

- A. Class 1, Regular Auctions
Regular auctions shall be those conducted in a fixed place of business which shall be known and advertised as an auction house; provided, however, that it shall be unlawful for regular auction houses to conduct temporary auction sales of Japanese, Chinese or Oriental goods, wares or merchandise, bankrupt or damaged goods, whether the same shall be their own property or whether they sell the same as agents or employees of others.
- B. Class 2, Temporary Auctions
Temporary auctions shall be auctions temporarily conducted for the sale of Japanese, Chinese and/or Oriental goods, wares or merchandise. All sales of Japanese, Chinese and/or Oriental goods, wares or merchandise and of bankrupt or damaged goods, shall be deemed and defined to be temporary if they consist of stocks, wares or merchandise brought to the City and so offered within a year of their arrival, or when the party conducting said sale cannot give satisfactory evidence to the contrary to the Clerk.

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C. Class 3, Closing-Out Auctions

Closing-out auctions shall be auctions of stock on hand conducted by persons retiring from business; provided, however, that no license shall be issued for a closing-out auction unless the person applying for such license shall have been continuously in business in the City as a retail or wholesale merchant for the period of three (3) years next preceding such sale. (Ord. 1630; Sec. 2; 1936 Code, Sec. 2-202; 1952 Code, Sec. 11-202)

Section 5-30-03LICENSE REQUIRED

It shall be unlawful for any person to engage in conducting an auction, whether of his own goods or as agent of another, without first securing a license so to do. (Ord. 1630, Sec. 3; 1936 Code, Sec. 2-203; 1952 Code, Sec. 11-203)

Section 5-30-04APPLICATION

Any person desiring to engage in business as an auction house or to conduct an auction, shall make application to the Clerk at least thirty (30) days prior to the opening of such place of business or of such sale, on blanks to be furnished by the Clerk, which application shall contain the name and address of the applicant, the address of the place where such auction house or auction is to be conducted, the names of the auctioneers and such other and further pertinent information as the Clerk may require. Said application shall be accompanied by payment to the Clerk of a daily non-refundable license fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule for each day such auction is supposed to be held.

In case of an application for a license to conduct a Class 2 or Class 3 auction, in addition to the foregoing information, the applicant shall also furnish to the Clerk a certified itemized inventory list of the stock of goods or property to be sold at auction with a description and/or identifying marks, if any.

(6419, Amended, 09/20/2005; 1630, Added, 01/01/1936, Ord. 1630, Sec. 4; 1936 Code, Sec. 2-204; 1952 Code, Sec. 11-204)

Section 5-30-05DUTY OF CLERK

Upon the filing of such application, it shall be the duty of the Clerk to make, or cause to be made, an investigation of the applicant, his auctioneer, and of the place where such auction is to be conducted. The City Clerk is authorized to perform or request criminal history checks of any applicant including a national background check by the Federal Bureau of Investigation. Pursuant to Idaho Code Section 67-3008 the City Clerk may forward an applicant's fingerprints through the Idaho Department of Law Enforcement to the Federal Bureau of Investigation Identification Division for a national background check. Unless otherwise provided for by law, criminal history records shall not be disseminated to a private entity. If, upon such investigation it shall appear to the Clerk that the applicant and his auctioneers are persons of good character, and that the place where such auction is to be conducted is a proper place therefor and the auction can be carried on in such place with safety to the public, the Clerk shall approve the application, otherwise he/she shall reject the same. Upon receipt of the application and license fee, and if after his/her investigation the Clerk approves the application, he/she may issue a license for such auction, specifying the Class thereof and dates therefor, which dates must be within the terms of this Chapter. (Ord. 1630, Sec. 5; 1936 Code, Sec. 2-205; 1952 Code, Sec. 11-205)

(6148, Amended, 04/30/2002; 5011, Amended, 06/09/1987)

Section 5-30-06ATTRACTING ATTENTION UNLAWFULLY

No auctioneer shall ring a bell or permit the same to be rung, in or about or in front of the

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premises where he is conducting a sale before, after or during such sale. Neither shall he permit music, singing or loud noise, or soliciting, to be made for the purpose of attracting the public. (Ord. 1630, Sec. 6; 1936 Code, Sec. 2-206; 1952 Code, Sec. 11-206)

Section 5-30-07 FRAUD AND FALSE BIDDING

It shall be unlawful for any person to act or to 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 to pretend to buy or sell any article sold or offered for sale at any auction. (Ord. 1630, Sec. 7; 1936 Code, 2-207; 1952 Code, Sec. 11-207)

Section 5-30-08 REGULATION OF CLASS 3 AUCTIONS

All closing-out auctions, as in this Chapter defined, shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty (30) days in all from the commencement of said sale. No license shall be issued for a closing-out auction unless it shall appear that the applicant is in good faith disposing of his stock for the purpose of retiring from business and the applicant shall certify that he is making application for such license in good faith for the purpose of enabling him to retire from business and shall also furnish satisfactory evidence to the Clerk that the property proposed to be sold is a bona fide part of the applicant's stock in trade and was not secured, purchased or brought into his place of business for or in anticipation of such sale. Any false or fraudulent statement or representation made by any applicant for the purpose of procuring a license shall be a violation of this Chapter. It shall be unlawful for any person during the progress of such sale to replenish his stock by substitution, "fill-ins", leaders or goods of any character whatsoever, and at the close of each day's business and before the opening of the next day's sale, the licensee shall file with the Clerk an itemized list of the articles sold on the previous day's sale, which list shall identify such articles on the inventory filed with the application as heretofore provided. Failure to file such sales list shall be deemed a violation of this Chapter and the right to conduct further sale under such license shall be suspended during such delinquency; provided, that the full time list shall continue to run during such delinquency. (Ord. 1630, Sec. 8; 1936 Code, Sec. 2-208; 1952 Code, Sec. 11-208)

Section 5-30-09 SALES BOOK TO BE KEPT

At any closing-out 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. Failure to keep and maintain such sales book shall be sufficient cause for the immediate revocation of the license. In the event that a sale has been declared to have been made, but no purchaser comes forward and signs the sales book, then the next bidder shall have the right to sign the sales book at the bid originally made by such bidder and to demand and receive the article exposed for sale. (Ord. 1630, Sec. 9; 1936 Code, Sec. 2-209; 1952 Code, Sec. 11-209)

Section 5-30-10 HOURS OF SALE

It shall be unlawful to conduct any auction sale between the hours of six o'clock (6:00) P.M. and eight o'clock (8:00) A.M. of the following day, nor shall any auction be held during the month of December and no permit shall be granted extending the right to hold any auction between the first day of December and the thirty-first day of December in any year. (Ord. 1630, Sec. 10; 1936 Code, Sec. 2-210; 1952 Code, Sec. 11-210)

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Section 5-30-11 REVOCATION OF LICENSE (Rep. by Ord. 4683, 8-16-82)

Section 5-30-12 SAVING CLAUSE; PENALTY

That each and every section of this Chapter is independent of all other sections, and the holding of one section to be void shall in nowise affect any other section of this Chapter.

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor. (Ord. 1630, Sec. 12, 13; 1936 Code, Sec. 2-212, 2-213; 1952 Code, Sec. 11-212, 11-213)

Section 5-30-13 AUCTIONEER'S LICENSE REQUIRED

No person shall offer any goods, wares, or merchandise of any kind or description for sale at public auction within the limits of the City, without first paying a non-refundable license fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule; provided, that this Section shall not apply to sheriff's or constables' under judicial process. (1922 Code, Sec. 521; 1936 Code, Sec. 7-201; 1952 Code, Sec. 11-301)
(6419, Amended, 09/20/2005)

Section 5-30-14 AUCTIONEER'S LICENSE ISSUANCE

Any person desiring an auctioneer's license shall make application therefor in writing duly signed to the City Clerk stating whether or not such license is to be used generally or for some particular or specified purpose, which application shall be filed with the Clerk and if in the opinion of the Clerk said applicant is a fit and proper person to pursue the business of auctioneer, the Clerk shall order the issuance of a license upon the payment of the fee herein provided. (1922 Code, Sec. 522; 1936 Code, Sec. 7-202; 1952 Code, Sec. 11-302)
(5011, Amended, 06/09/1987)

Section 5-30-15 CANCELLATION (Rep. by Ord. 4683, 8-16-82)

Section 5-30-16 PENALTY

Any person violating any of the provisions of this Chapter shall be deemed guilty of an infraction and shall be punishable by a fine of Fifty Dollars (\$50.00) excluding court costs and fees. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100) and for which no period of incarceration may be imposed. There is no right to a trial by jury of a citation or complaint for an infraction and such trials shall be held before the court without a jury. A second and any subsequent conviction for a violation of the provisions of this chapter within five years shall constitute a misdemeanor, punishable by a fine not exceeding three hundred dollars (\$300), or by imprisonment in the county jail not exceeding six (6) months, or both. A separate offense shall be deemed committed on each day during or which a violation occurs or continues.

(1922 Code, Sec. 524; 1936 Code, Sec. 7-204; 1952 Code, Sec. 11-304)
(6191, Amended, 10/08/2002)

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