

Chapter 167: AUCTIONS AND AUCTIONEERS

[HISTORY: Adopted by the City Council of the City of Vineland 12-16-1952 as Ord. No. 47 (Ch. 11 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Violations and penalties — See Ch. 1, Art. II.

Advertising — See Ch. 148.

Special sales — See Ch. 386.

§ 167-1. Definitions.

In the interpretation of this chapter, the following words and phrases, unless the context shows another sense to be intended, shall be held to have the following meanings:

AUCTION BLOCK — The stand or platform from which the public auction sales are conducted.

GOODS — Any goods, wares, works of art, commodity, compound or thing, chattel, merchandise or personal property which may be lawfully kept or offered for sale.

PERSONAL PROPERTY and PROPERTY — Any goods, wares, works of art, commodity, compound or thing, chattels, merchandise or personal property which may be lawfully kept or offered for sale.

PERSON, APPLICANT or LICENSEE — Includes any individuals, copartners, corporations or associations, and wherever a statement or account is required to be made or done by a corporation, the same shall be effected by its duly authorized officer.

RETAIL SALE — Any sale or offer to sell other than through bidding.

§ 167-2. License required.

No person shall act as a public auctioneer and no person shall engage in the auction business, in whole or in part, or cause to be held any public auction or vendue within the limits of the City of Vineland without first having had and obtained a license as hereinafter provided for so doing.

§ 167-3. License application. [Amended 1-11-1977 by Ord. No. 1065]

- A. Before any license is granted, as set forth in this chapter, the applicant shall make application therefor to the Director of the Department of Licenses and Inspections, in writing and under oath, on a form to be provided by the Director of the Department of Licenses and Inspections. Such application shall state:
- (1) The full name of the applicant.
 - (2) His residential address.
 - (3) The length of time of continuous bona fide residence in the city immediately prior to making application.
 - (4) The places where the applicant has resided for a period of three (3) years immediately prior to making the application.
 - (5) Whether any person or corporation other than the applicant has any interest, directly or indirectly, in the license applied for or in the business to be conducted and, if so, state the name, residence and interest of said person or corporation.
 - (6) If the applicant is a corporation, so state:
 - (a) The location of the registered office in New Jersey and the name of the registered agent.

- (b) The date and state of incorporation.
 - (c) The names and residences of all stockholders, directors and officers.
 - (7) The address of place of business.
 - (8) Whether the applicant has ever been convicted of a crime.
 - (9) The experience the applicant has had as an auctioneer or as a person engaged in the auction business.
 - (10) The place and the time that the applicant has been so engaged as an auctioneer or in the auction business.
 - (11) The names of the persons or bonding company to furnish the bond as hereinafter required.
- B. Such applicant shall also furnish references of two (2) resident freeholders of the city as to the applicant's character and integrity and shall also answer such questions and interrogations as may be propounded by the Director of the Department of Licenses and Inspections seeking to determine the applicant's fitness, integrity and character.

§ 167-4. Investigation of applicant.

The Director of Public Safety shall investigate or cause to be investigated each and every application filed as aforesaid and is hereby vested with the sole discretion of either granting or refusing to grant a license.

§ 167-5. Bond.

The Director of Public Safety shall, as a condition precedent to the granting of the license to engage in the auction business, require the applicant to enter into a bond to the city, with two (2) responsible freeholders or sureties, or, in lieu thereof, the bond of a surety company authorized to do business under the laws of this state; such bond to be approved by the City Solicitor and to be in the sum of two thousand dollars (\$2,000.), conditioned for the due observance of all such ordinances of the city as are in force or may be passed respecting the conduct or operation of the auction business at any time during the continuance of such business; such bond for the benefit of any person who shall have recovered a judgment against anyone responsible under and by virtue of this chapter, by reason of any damage sustained by such person as a result of having purchased any article or commodity at a public auction sale conducted or operated by the licensee, due to fraud or deceit practiced in effecting such purchase or sale to such person; and such bond to be for the protection of persons and property and for the preservation of the safety and property of the city and its inhabitants and as may now or hereafter be required by any state law or municipal ordinance or regulation. *Editor's Note: Former § 11-5, Residence requirements, which immediately followed this section, was repealed 4-27-1976 by Ord. No. 1017.*

§ 167-6. Character of applicant.

No license required by this chapter shall be issued to any person unless the Director of Public Safety shall be satisfied that the applicant is a person of good moral character.

§ 167-7. Duration of license.

Every license required by this chapter which shall be granted shall entitle the licensee to operate in the City of Vineland from the date of the issuance of such license to the first day of January following the issuance thereof; and all renewals of such licenses shall be for a period of one (1) year from the first day of January to the first day of January of the succeeding year. No license shall be renewed unless all the terms and conditions of this chapter have been fully complied with.

§ 167-8. License fees.

The annual fee for the license required by this chapter shall be fifty dollars (\$50.) for public auctioneers and a like amount for any establishment conducting a public auction business. The fees shall be payable upon the presentation of the application and shall be returned in the event that such license is not granted. If the term for which such licenses are granted shall be less than one (1) year, the fees shall nevertheless be fifty dollars (\$50.).

§ 167-9. Suspension or revocation of license.

The Director of Public Safety, upon his own motion or upon the verified complaint, in writing, of any person, shall investigate the actions of any licensee, and said Director shall have the power to suspend, after notice and hearing, for the unexpired portion of license period or for a period less than the unexpired portion of the license period, or to revoke any license issued under the provisions of this chapter where the licensee, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

- A. Willfully making any false promise or willful misrepresentation.
- B. Pursuing a flagrant and continued course of willful misrepresentation or the making of false promises through agents, salesmen, advertisements or otherwise.
- C. Failure to account for or to pay over any moneys belonging to others coming into the possession of the licensee.
- D. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty.
- E. Violation of any of the provisions of this **chapter**.

§ 167-10. Sale by licensed auctioneer.

No person, except a licensed auctioneer or such a person authorized by § 167-12 of this chapter, shall sell or offer for sale any goods or merchandise in any manner similar to that of a public auction or by public outcry, even though no competitive bids are solicited.

§ 167-11. Display of auctioneer's name during sale.

Each auctioneer shall, during the sale, cause his name to be conspicuously displayed on a sign at the place where he is conducting an auction sale, and only the name of the licensed auctioneer actually selling at the sale shall be displayed on or about the premises.

§ 167-12. Presence of auctioneer required.

No licensed establishment shall operate without a licensed public auctioneer, except that each licensed establishment may conduct its own business on such licensed premises through its proprietor or one (1) of its proprietors, if a partnership, or one (1) of its officers, if a corporation, without any further license.

§ 167-13. Bona fide bids; terms of sale.

It shall be unlawful for any auctioneer to accept anything other than bona fide bids, and such auction sales are to be so conducted as to dispose of merchandise to the highest bidder, unless terms otherwise are publicly announced immediately before the sale.

§ 167-14. Misrepresentation of merchandise.

It shall be unlawful for any auctioneer, in describing goods or merchandise that are being auctioned, to directly or indirectly, either by act of commission or omission, knowingly misrepresent the goods or merchandise being auctioned.

§ 167-15. Books and records.

Every auctioneer or person engaged in the business of selling goods at auction in the city, whether acting in his own behalf or as the officer, agent or representative of another, shall, upon the receipt or acceptance by him of any personal property or goods for the purpose of sale at auction, before offering the same or any part thereof for sale at auction, write or cause to be written in a book to be kept by him for that purpose the following information:

- A. The name and address of the person who employed him to sell such goods at auction.
- B. The name and address of the person for whose benefit, behalf or account the property is to be so sold.
- C. The name and address of the person from whom the auctioneer received or accepted the property.
- D. The name and address of the owner of the property immediately prior to such receipt or acceptance.
- E. The location and the street number, if any, of the property immediately prior to its receipt or acceptance.
- F. The date of the receipt of acceptance.
- G. The place, with the street number, if any, in which the property is to be kept until sold or offered for sale at auction.
- H. The place, with street and number, if any, in which the property is to be sold or offered for sale at auction.
- I. A description of the property, the quantity thereof and the distinctive marks thereon, if any.
- J. The terms and conditions upon which the auctioneer receives or accepts the property for sale at auction.

§ 167-16. Applicability.

Nothing herein contained shall apply to the sale of real property at auction nor to sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers or other public officers acting under judicial process; nor shall this chapter be applicable to auction sales of jewelry or sales of farm and garden products or poultry and eggs conducted by farmers' cooperative associations or egg or poultry cooperative associations.

§ 167-17. Inspection of books.

The books and entries therein made as provided by the preceding section shall, at all reasonable times, be open to the inspection of the Director of the Department of Public Safety and the Chief of Police of the city and of any person who shall be duly authorized, in writing, for that purpose by either of them and who shall exhibit such written authorization to the auctioneer.

§ 167-18. Hours of operation.

It shall be unlawful to hold any public auction sale between the hours of 12:00 midnight and 9:00 a.m. of weekdays. It shall be unlawful to hold any public auction sales on Sunday.

§ 167-19. Name of auctioneer to appear on advertisements.

Every advertisement of an auction sale to be held in the city shall have the name of the auctioneer conducting such sale appended or signed thereto.

§ 167-20. Capping or shilling; blind packages.

- A. It shall be unlawful for any auctioneer to use or employ or permit to be used or employed what is commonly known as a "capper" or shill or fake bidders.
- B. It shall be unlawful to sell what are commonly known as "blind packages" or articles which cannot be seen by bidders before the bids are made.

§ 167-21. Sales on streets and sidewalks.

No licensed auctioneer or other person shall sell or attempt to sell at public auction any goods chattels or personal property in or upon any street or sidewalk in the city.

§ 167-22. Retail sales from auction block.

No merchandise shall be sold at retail from the auction block.

§ 167-23. Attracting attention to sale.

It shall be unlawful for any auctioneer to engage in what is commonly called "barking," "ballyhooing," ringing of a bell or the use of any other noise device in order to attract people passing the place where any auction is being conducted to enter the place of business.

§ 167-24. Violations and penalties.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than two hundred dollars (\$200.) or by imprisonment for not more than ninety (90) days, or both such fine and imprisonment, in the discretion of the court. *Editor's Note: See Art. II, General Penalty, of Ch. 1, General Provisions, for additional provisions.*