



TOWN OF LANCASTER, MASSACHUSETTS
BOARD OF SELECTMEN
Town Hall, 695 Main Street, P.O. Box 293
Lancaster, MA 01523-0293
Tel: 978-365-3326 Fax: 978-368-8486

Annual Fee - \$100.00
Day Permit Fee - \$25.00

Selectmen's Office
Date Received

APPLICATION FOR AUCTIONEER'S PERMIT

Name of Applicant _____ Phone No. _____

Legal Residence: _____

Mailing Address: _____

Name of Auctioneer: _____

Address: _____

License Number: _____

Date(s) of auction (*Not to exceed 10 days for Special Permit*) _____

Hours Auction to be conducted: _____

Location of Auction _____

Will food/beverages be served? Y or N _____. If yes, you must obtain a permit from the Board of Health.

General Description of Goods to be auctioned _____

Estimated value of goods to be auctioned _____

The applicant certifies that all state tax returns have been filed and all state and local taxes have been paid as required by law and further agrees to comply with the terms of the Permit and applicable law, and all rules and regulations promulgated thereto. The Applicant further certifies that the information contained in this application is true and accurate and also authorizes the Permitting Authority or its agents to conduct whatever investigation is necessary to verify the information contained in this application.

Signature of Applicant

Date

Permit Fee must be submitted with this form. Make check payable to *Town of Lancaster*. Mail Application Form and check to: *Board of Selectmen, P.O. Box 293, 695 Main Street, Lancaster, MA 01523*. Attach a copy of State Auctioneer's License to this Application.

AUCTIONEERS LICENSING
SUMMARY of M.G.L. CHAPTER 100, §§1-13

§ 1. Definitions

In this chapter, the following words and terms, unless the context otherwise requires, shall have the following meanings: --

"Auction" or "Public auction", any sale, coming within its ordinary meaning, by public outcry, including in addition thereto, any sale by public outcry where property is offered first at a stated price and thereafter successively or gradually at lower prices until an acceptor or purchaser is found.

"Auctioneer", any person who, for a fee, commission, profit or any other valuable consideration, or with the intention or expectation of receiving the same, by means of, or process of, an auction or sale at auction, offers, negotiates or attempts to negotiate, a listing contract, sale, purchase or exchange of goods, chattels, merchandise, real or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction.

"Auctioneering", the business or act of selling real, personal or mixed property by successive, competitive bids.

"Deputy director", the deputy director of standards in the office of consumer affairs and business regulation.

"Goods", any chattels, livestock, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale.

"Local auction permit agent", the person or persons so designated in a city by the mayor or in a town by the board of selectmen, or upon a failure to so designate or in the absence, incapacity or unavailability of any person or persons so designated, the chief of police.

"Person", individuals, associations, partnerships and corporations, and the officers, directors and employees of a corporation.

§ 2. Auctioneers; licenses

Except as otherwise provided, no person shall engage in the business of or act as an auctioneer in the commonwealth, directly or indirectly, either temporarily or as an incident to any other transaction, unless licensed under the provisions of this chapter.

§ 3. Applications for licenses; acceptance of license; service of process

Any person desiring to be licensed as an auctioneer shall make written application, under oath, to the deputy director on a form provided by him. Said application shall set forth the name and address of the applicant and of any other person having a financial interest, direct or indirect, in the business to be conducted by the applicant. Said application shall be accompanied by evidence satisfactory to the deputy director that the applicant is a citizen of the United States, has attained the age of eighteen years, has successfully completed a course of study at a school recognized by the deputy director, and has successfully completed a written examination in accordance with the provisions of section three A of this chapter. Said application shall be accompanied by a license fee in the amount of one hundred dollars, or such other amount as the secretary of administration and finance pursuant to the provisions of section three B of chapter seven shall establish, together with two letters of recommendation for licensure signed by a licensed auctioneer, and elected public official, or member of the Massachusetts bar.

Said application shall be further accompanied by a bond upon the applicant in the sum of ten thousand dollars, or such other amount as provided by regulation, payable to the deputy director or his successors with sureties approved by the deputy director, and conditioned upon applicant's compliance with the provisions of this chapter. Said bond shall guarantee the payment of all fines and penalties incurred by applicant as a licensee for his violations of the said provisions, and also guarantee the payment or satisfaction of any final judgments on claims by creditors against the licensee arising in connection with business conducted under a license granted under this chapter. All such payments under said bond being limited to the amount of said bond. Such a creditor's claim, however, must have been duly filed by giving written notice to the deputy director prior to the expiration of sixty days from the return or surrender of said license or date of the filing of an affidavit of loss of the license held by the licensee against whom the claim is made.

The acceptance by an applicant of a license issued by the deputy director to him as a licensee shall be deemed equivalent to an appointment by the licensee of the deputy director, or his successors in office, to be the licensee's true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him under said license. Any process against the licensee so served shall, if said licensee is notified as hereinafter provided, be of the same legal force and validity as if served on him personally, and the mailing by the deputy director of a copy of such process to said licensee at his last address, as appearing on the deputy

director's records, shall be sufficient notice to him of such service. Service of such process shall be made by delivering or mailing duplicate copies thereof together with a fee of two dollars to the office of the deputy director, and the deputy director shall forthwith send one of said copies by mail, postage prepaid, addressed to the defendant licensee named in such process at his last address as appearing on the deputy director's records.

An affidavit of the deputy director, or of any person authorized by him to send such copy, that such copy has been mailed shall be prima facie evidence thereof. One of the duplicates of such process, certified by the deputy director as having been delivered to the office of the deputy director, shall be sufficient evidence of service upon him as attorney for the licensee named as defendant in the process.

§ 3A. Written examination

There shall be a written examination process to license auctioneers in the commonwealth. Such examination shall be administered by an independent testing service designated by the deputy director. All fees and costs required for examination shall be paid by the applicant directly to the independent testing service. Such examination shall be administered no less than one time per year at a location to be determined by the designated independent testing service subject to the approval of the deputy director. Such examination shall be conducted by the designated independent testing service under the direct supervision of the deputy director. No license shall be issued to any person who has not demonstrated through said written examination that he possesses the following:

- (1) appropriate knowledge of technical terms commonly used in or related to auctioneering;
- (2) an understanding of the problems likely to be encountered in carrying out an auction;
- (3) appropriate reading comprehension, writing and spelling skills, knowledge of basic mathematics;

(4) understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state licensed auctioneer; provided, however, that an auctioneer licensed by the commonwealth as of July first, nineteen hundred and ninety-six shall retain such license.

§ 3B. Licensing of nonresidents; exemption from written examination

A nonresident individual may be licensed as an auctioneer upon conforming to all pertinent provisions of this chapter, provided that the division may exempt from the written examination prescribed in section three A an auctioneer duly licensed in any other state of the United States under the laws of which there are equivalent requirements for licensure.

§ 3C. Validity of license; time period

A license shall be valid for a period of one year from the date of issue unless sooner suspended or revoked and shall be renewed by the division annually thereafter without examination, upon payment of the fee prescribed in section three. Applications for renewals of licenses shall be signed and sworn to by the applicant and shall be made on forms furnished by the division. Such application forms shall be mailed by the division to each auctioneer registered with the division, together with notice of the expiration of his license, not less than thirty days prior to such expiration.

§ 4. Denial of applications; hearing; grounds

No license application conforming to the requirements of sections three and three A shall be denied except after a public hearing held by the deputy director in accordance with and subject to the provisions of chapter thirty A. No such application shall be denied except upon a finding by the deputy director after said hearing of one or more of the following grounds for denial: (a) that the applicant has been convicted of a felony; (b) that the applicant has followed a continuous and flagrant course of misrepresentations or the making of false promises, through agents, advertising or otherwise, in the conduct of auctioneering or otherwise; or (c) that the applicant has failed to meet or has violated any of the requirements for licensees set forth in this chapter. Upon denial of an application, the deputy director shall surrender to the applicant the bond filed with his application within the time set forth.

§ 5. Licenses; issuance

Each license issued by the deputy director shall bear a number, shall be valid for one year from the date of its issuance, may be renewed upon application to the deputy director on a form provided by him, shall not be transferable, and may be exercised only by the licensee; provided, however, that the licensee may employ agents to conduct auctioneering under licensee's immediate direction and control.

§ 6. Suspension or revocation of licenses; cancellation; replacement licenses

Prior to its expiration date, a license may be suspended or revoked by the deputy director in accordance with the procedure and on the grounds set forth in section four, or may be terminated by voluntary surrender by the licensee.

Upon the expiration, termination or surrender of a license, the licensee shall deliver the license to the deputy director who shall cancel the license, endorse the date of expiration, termination or surrender and shall, after a sixty-day period from the date of delivery or after all claims made against the licensee have been satisfied or settled, surrender the licensee's bond and so notify the surety on the bond.

If a license is lost, misplaced or destroyed, the licensee shall file an affidavit to that effect and the deputy director shall issue a replacement license, clearly identified as such on the license and in the records of the deputy director.

§ 7. Records

The deputy director shall keep on file, in convenient form and open to public inspection, all license applications and copies of licenses issued and shall annually publish a list of names and addresses of all auctioneers licensed by him, and the names of all persons whose licenses have been revoked, suspended or surrendered during the period and the specific time for which such suspension, revocation or surrender became effective.

§ 8. Licensees; account of goods sold; sales and use taxes

Each licensee shall keep a complete and accurate account of all goods and chattels sold by him, including the names and addresses of the persons from whom they were received. Each licensee shall be responsible for the reporting and collection of sales and use taxes for all sales made by him.

§ 9. Prohibited practices

No licensee or other person shall: (a) sell or offer for sale at auction goods known by him to be owned by a minor; (b) advertise an auction or goods for sale at an auction in the commonwealth without including the number of the license issued by the deputy director as a part of the advertisement; (c) advertise for sale or sell goods at auction falsely representing that said goods are, in whole or in part, bankrupt or insolvent stock or damaged goods saved from fire, or otherwise falsely represent or mislead any person as to their origin, history or condition; (d) sell, offer for sale or give away in connection with an auction, any goods as prize packages, gifts, premiums or bonus or otherwise as an inducement to purchase any other goods; (e) sell, offer for sale or dispose of goods at auction by chance or lot, or without first exhibiting to prospective bidders all such goods, including those in packages, bundles or containers, except as to auctions of unclaimed articles; (f) employ or knowingly allow, directly or indirectly, any person to act at any auction as a "capper" or "by bidder" or in any like capacity, for the purpose of bidding up the price of any goods in competition with bona fide bidders or for the purpose of encouraging or enticing bona fide bidders to purchase, or for the purpose of stimulating competitive bidding or sales; or personally act in such capacity; (g) make or knowingly accept any false bid to buy, or pretend to sell or buy goods; or (h) knowingly allow any individual who is not licensed to call for bids; provided, however, that an auctioneer may allow an individual who is not licensed to call for bids when such individual is under the direct supervision of an auctioneer licensed in accordance with the provisions of this chapter.

§ 10. Special or annual auction permits

No person shall conduct an auction without a special or annual permit issued by the city or town in which the auction is to be conducted. Application for such a permit shall be filed with the local auction permit agent and shall contain the name of the applicant; the name, address and license number of the auctioneer; the hours between which the auction is to be conducted; the location of the auction; and a general description of the goods to be auctioned. As to a special permit, the estimated value of the goods and the date or dates, not to exceed ten, on which the auction shall be held shall also be included.

Within six business days of the filing of an application for a special permit, the local auction permit agent shall either approve the permit subject to stated reasonable terms and conditions relating to public safety as he may establish, or deny the application on stated grounds, which must be reasonable grounds relating to public safety. Failure of an agent to act within the six business day period shall constitute approval of the application. Upon approval, express or implied, the applicant shall tender to the city or town treasurer the permit fee established by said agent, which fee shall be reasonable.

No person shall be eligible for an annual permit unless he maintains a regular place of business for the conduct of auctioneering in the city or town. Said permit shall be issued or denied on the same terms applicable to a special permit, except that an application which

is not acted upon within fourteen days of the date of filing with the local auction permit agent shall be deemed approved. Each annual permit issued shall be valid for a term of one year commencing on the date of the express or implied approval of the application therefor. Any applicant for a special or annual permit who is aggrieved by the action of the local auction permit agent on his application shall be entitled to a public hearing by the appointing authority of the agent in accordance with the provisions of chapter thirty A.

§ 11. Certain auctions not subject to chapter

The provisions of this chapter shall not apply to any auction held or conducted by an order or judgment of any court of the commonwealth or of the United States or by any officer of a municipality, county or state of the United States; sales held by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, lien holders, assignees for the benefit of creditors; sales by any other person specifically authorized by law to sell real, personal or mixed property; casual and isolated sales by an owner of his own goods; and any auction held or conducted by any resident member of a charitable, educational, religious or other nonprofit organization within the commonwealth; provided, however, that any person acting as agent for any of the foregoing shall be subject to all of the provisions of this chapter except section ten.

§ 12. Violations of chapter; punishment

Any person violating any of the provisions of this chapter may be fined not more than one thousand dollars or by imprisonment for not more than six months, or both.

§ 13. Alteration, amendment or repeal of rules and regulations

The division may make and, from time to time alter, amend or repeal rules and regulations for the conduct of auctioneers in the commonwealth not inconsistent with this chapter or any other general or special law.