

## TITLE 3 CHAPTER 4

### AUCTION AND AUCTIONEERS

#### SECTION:

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3-4-1: **LICENSE REQUIRED; FEES:** No personal property (goods, wares or merchandise) shall be sold at auction in the City except in compliance with the provisions of this Chapter. It shall be unlawful to sell or cause or permit to be sold at auction any personal property (goods, wares or merchandise) in the City unless such sale is conducted by an individual who has applied for and obtained an auctioneer's license from the City Council and the owner of such personal property (goods, wares or merchandise) has secured a permit for such auction sale.

The fees for an auctioneer's license shall be as follows: twenty five dollars (\$25.00) per quarter (1/4) year, or one hundred dollars (\$100.00) per year, payable in advance and no license shall be granted for a shorter period than one-quarter (1/4) year. Provided, however, that when such license is utilized in conjunction with, and is an integral part of, a regularly conducted retail business in the City employing a State licensed auctioneer in good standing, and the fee for said license shall be twenty five dollars (\$25.00) per year, payable in advance.

#### 3-4-2: **ISSUANCE AND REVOCATION OF LICENSE:**

(A) The City Council is hereby authorized to grant or renew an auctioneer's license for any period of time not exceeding one year to any individual applying therefor on a form to be provided by the City Clerk upon payment by the applicant of the fees provided for in Section 3-4-1 hereof.

(B) The form on which application shall be made for an auctioneer's license shall require the following information:

1. Name of applicant.
2. Residence and business address of the applicant.
3. The length of time for which an auctioneer's license is desired.

4. A statement as to whether or not the applicant holds an auctioneer's license from the State of Idaho, and if the auctioneer's license has ever been revoked by any governmental body, a full statement of the reasons and circumstances surrounding such revocation.
5. A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or violation of any City ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefore.

(C) Before issuing an auctioneer's license to any individual applying therefore, the City Council shall refer the application to the Law Enforcement Officer of the City who shall cause to be made such investigation of the applicant's character and business responsibility as he/she deems necessary for the protection of the public good.

(D) An auctioneer's license may be revoked by the City Council or an application for issuance or removal of such license may be refused by the City Council, if they determine, after notice and hearing:

1. That the applicant or license holder is not an individual of good character and business responsibility; or
2. That the application of the applicant or license holder contains any false, fraudulent or misleading material statements; 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 (goods, wares or merchandise) on prior occasions; 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 Idaho relating to auctions; 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 or, or offered for sale at auction, any real or personal property (goods, wares or merchandise) 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.

(E) Notice of the hearing provided for in subsection (D) 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, at his last known address at least five (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.

3-4-3: PERMIT REQUIRED, LOCATION:

(A) No auction sale or personal property (goods, wares or merchandise) shall be conducted within the limits of the City except upon issuance of a permit therefore by the City Council and in accordance with the express terms of such permit.

(B) Application for a permit to conduct an auction sale of personal property (goods, wares or merchandise) within the limits of the City shall be made to the City Clerk on a form to be provided by the Clerk upon which shall be stated the name of the auctioneer to conduct the sale, 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 and such application must be accompanied by a tax receipt from the Tax Collector's office of Cassia County, Idaho showing that the personal property tax on the property to be sold has been paid. The City Council will issue such permit upon the payment of a fee of Twenty Five Dollars (\$25.00) per day, which fee shall be in addition to and not in lieu of the fees and bond provided for in Sections 3-4-1 and 3-4-4 of this Chapter. Such permit shall specify the place and the number of days for which such permit is valid.

(C) The City Council may refuse to issue or renew such permit or may revoke any permit already issued, if they determine that there is good and sufficient reason for such refusal or revocation after holding a hearing as provided in Section 3-4-2 (E) of this Chapter.

(D) A permit shall only be issued to any individual or owner of personal property (goods, wares or merchandise) who shall employ licensed auctioneers at such sale.

3-4-4: BOND REQUIRED: Prior to the issuance of a permit to hold an auction sale, the person securing a permit shall file with the City Clerk a surety bond running to the City in the amount equal to the assessed valuation as contained on the Cassia County Assessor's valuation of such property with surety acceptable to and approved by the City Council, conditioned that the permittee, if issued a permit for an auction sale, will fully comply with all the provisions of the ordinances of the City and the Statutes of the State of Idaho regulating and concerning auctions and auctioneers and will not practice or permit or allow any auctioneer to practice any fraud or deceit upon bidders or purchasers of property at any auction sale, and will pay all damages which will be sustained by any person by reason of any fraud, deceit or negligence or any other wrongful act on the part of any permittee, his agent or employee, in the conduct of any auction or in the exercise of the calling of any auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State of Idaho which conforms to the above requirements may be permitted by the Council in lieu of the bond.

3-4-5: RESTRICTIONS:

(A) Location: It shall be unlawful to conduct an auction sale of personal property (goods, wares or merchandise) on any of the streets, sidewalks or public property of the City.

(B) Night Auctions: It shall be unlawful to offer for sale at auction or sell at auction any goods, wares or merchandise between the hour of ten o'clock (10:00) p.m. and eight o'clock (8:00)

a.m. or on holidays as prescribed by Idaho Code, or on Sundays.

3-4-6:           EXCEPTIONS: The provisions of this Chapter shall not be applicable to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction, nor sales by licensed pawnbrokers of unredeemed pledges, nor sales for charitable purposes by churches, lodges, fraternities, benevolent societies or nonprofit corporations, nor shall this Chapter apply to auction sales regularly conducted as an adjunct to, and as an integral part of, any retail business establishment located in the City and maintaining regular and reasonable business hours, open to the public, comparable to other retail business handling similar merchandise in the City and employing an auctioneer duly licensed by the State of Idaho and City who must conduct all said auction sales. All auction sales by retail establishments referred to herein must be conducted indoors on the same premises utilized daily for the conduct of the firm's business, and must not be conducted on Sunday or on Monday, Tuesday, Wednesday, Thursday and Saturday after the hour of six o'clock (6:00) p.m. of said days, or on Friday after the hour of nine o'clock (9:00) p.m. of said day.

3-4-7:           PENALTY: Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined as provided in Section 1-4-1 of this Code. Each such violation shall constitute a separate offense and shall be punishable as such hereunder, and each such individual sale of an article of merchandise shall constitute a separate offense and violation of this Chapter and shall be punishable as such hereunder.