

## Chapter 85, AUCTIONS AND AUCTIONEERS

[HISTORY: Adopted by the Board of Trustees of the Village of Horseheads 9-18-1975 as L.L. No. 5-1975. Amendments noted where applicable.]

### GENERAL REFERENCES

**Peddling and soliciting -- See Ch. 171.**

**Outdoor sales -- See Ch. 192.**

#### **§ 85-1. License required; duration.**

- A. No personal property (goods, wares or merchandise) shall be sold at auction in the Village of Horseheads 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 Village of Horseheads unless such sale is conducted by an individual who has applied for and obtained an auctioneer's license from the Board of Trustees of the Village of Horseheads.
- B. The Village Manager of the Village of Horseheads is hereby authorized to grant or renew an auctioneer's license for any period of time not exceeding one (1) year to any individual applying therefor on a form to be provided by the Village Clerk of the Village of Horseheads upon payment by the applicant of the fees provided for in this chapter.

#### **§ 85-2. Application requirements.**

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

- A. The name of the applicant.
- B. The residence and business address of the applicant.
- C. The length of time for which an auctioneer's license is desired.
- D. A statement as to whether or not the applicant holds or has held an auctioneer's license from any state, municipality, governing body or licensing authority; a list of such licenses and a statement of the time, place and by whom issued; a statement as to whether any state, municipality, governing body or licensing authority has ever refused to issue or to renew an auctioneer's license to the applicant, together with a full and accurate statement as to the reasons for any such refusal; and a statement as to whether any state, municipality, governing

body or licensing authority has ever revoked an auctioneer's license held by the applicant, together with a full and accurate statement as to the reasons for any such revocation.

- E. A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or violation of any local law of the Village of Horseheads, and, if so, the nature of the offense and the punishment or penalty assessed therefor.
- F. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two by two (2 x 2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner, except that the Village Manager of the Village of Horseheads may waive this requirement with respect to an application for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter who has in a previous application under this chapter complied with this requirement.
- G. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the County of Chemung, State of New York, who will certify as to the applicant's good moral character and business responsibility or, in lieu of the names of references, any other available evidence as to the good moral character and business responsibility of the applicant as will enable an investigator to properly evaluate such moral character and business responsibility, except that the Village Manager of the Village of Horseheads may waive this requirement with respect to an application for renewal of an auctioneer's license by any individual holding an unexpired auctioneer's license issued under this chapter who has in a previous application under this chapter complied with this requirement.

**§ 85-3. Investigation of applicant.**

Before issuing an auctioneer's license to any individual applying therefor, the Board of Trustees of the Village of Horseheads shall refer the application to the Chief of Police, who shall cause to be made such investigation of the applicant's moral character and business responsibility as the Chief of Police deems necessary for the protection of the public good, except that the Board of Trustees may waive this requirement with respect to an application for renewal of an auctioneer's license by any individual holding an unexpired auctioneer's license issued under this chapter if an investigation of such applicant's moral character and business responsibility has previously been made under this section in connection with a prior application for an auctioneer's license under this chapter. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the Board of Trustees and the Village Manager of the Village of Horseheads whether or not the moral character and business responsibility of the applicant is satisfactory.

**§ 85-4. Revocation of license.**

- A. An auctioneer's license may be revoked by the Board of Trustees of the Village of Horseheads or an application for issuance or renewal of such license may be refused by the Board of Trustees of the Village of Horseheads if it determines, after notice and hearing:
- (1) That the applicant or license holder is not an individual of good moral character and business responsibility;
  - (2) That the application of the applicant or license holder contains any false, fraudulent or misleading material statement;
  - (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 such auction, any real or personal property (goods, wares or merchandise);
  - (4) That the applicant or license holder has violated any of the statutes of the State of New York relating to auctions or auctioneers;
  - (5) That the applicant has been convicted of any crime or misdemeanor involving moral turpitude; or
  - (6) That the applicant or license holder has conducted an auction sale of, or offered for sale at auction, any real or personal property (goods, wares or merchandise) in the Village of Horseheads 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.
- B. Notice of the hearing provided for 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 as the case may be, at his or her last known address at least five (5) days prior to the date set for hearing. The applicant or license holder, as the case may be, shall have the right to be represented at such hearing by counsel.

**§ 85-5. Appeals.**

Any individual aggrieved by the action of the Village Manager of the Village of Horseheads in refusing to issue any license or in revoking any license or special permit already issued shall have the right to appeal to the Board of Trustees of the Village of Horseheads. Such appeal shall be taken by filing with the Board of Trustees of the Village of Horseheads, within fourteen (14) days after notice of the action complained of has been mailed, postage prepaid, to such individual's last known address a written statement setting forth fully the grounds of appeal. The Board of Trustees shall set a time and place for a hearing on such appeal, and notice of such

hearing shall be given to the appellant in the same manner as provided above. The appellant shall have the right to be represented at such hearing by counsel. The decision and order of the Board of Trustees on such appeal shall be final and conclusive.

**§ 85-6. Fees.** EN(1)

The fees for an auctioneer's license shall be as set by resolution of the Board of Trustees from time to time. EN(2)

**§ 85-7. Bond and insurance.**

Every applicant for an auctioneer's license shall file with the Village Clerk of the Village of Horseheads a surety bond running to the Village of Horseheads in the amount of one thousand dollars (\$1,000.), with surety acceptable to and approved by the Village Manager, conditioned that said applicant, if issued an auctioneer's license, will comply fully with all the provisions of the ordinances and local laws of the Village of Horseheads and the statutes of the State of New York regulating and concerning auctions and auctioneers, will render true and strict accounts of all his or her sales to any person or persons employing him or her to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him or her at any auction sale or permit any person in his or her employ to practice any such fraud or deceit and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or other wrongful act on the part of the licensee or his or her agent or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State of New York which conforms to the above requirements may be permitted by the Village Manager, in his or her discretion, in lieu of a bond.

**§ 85-8. Special permit required.**

No auction sale of personal property (goods, wares or merchandise) shall be conducted within any of the residential areas of the Village of Horseheads except upon the issuance of a special permit therefor by the Village Manager and in accordance with the express terms of such special permit.

**§ 85-9. Application.**

Application for a special permit to conduct an auction sale of personal property (goods, wares or merchandise) within the residential areas of the Village of Horseheads described above shall be

made to the Village Clerk on a form to be provided by the Village Clerk, upon which shall be stated the following:

- A. The nature and quantity of the goods to be sold.
- B. The number of days during which it is desired to conduct such auction sale.

**§ 85-10. Special permit fee.** EN(3)

The Manager of the Village of Horseheads shall issue such special permit upon the payment of a fee as set by resolution of the Board of Trustees from time to time, which fee shall be in addition to and not in lieu of the fees provided for in this chapter. EN(4)

**§ 85-11. Conditions for issuance or renewal of permit.**

- A. No such special permit shall be issued to any individual except one to whom an auctioneer's license has been issued under this chapter.
- B. Such special permit shall specify the place or places within the residential areas of the Village of Horseheads to which it pertains and the number of days for which such special permit is valid.
- C. Such special permit shall be issued upon a determination by the Village Manager that there is good and sufficient reason for the issuance of such special permit.
- D. The Village Manager may refuse to issue or renew such special permit if he or she determines that there is good and sufficient reason for such refusal.

**§ 85-12. Revocation of permit.**

- A. The Village Manager may revoke any special permit already issued if he or she determines that there is good and sufficient reason for such revocation.
- B. A special permit can be revoked upon failure to comply with its terms.

**§ 85-13. Appeal procedure.**

Any individual aggrieved by the action of the Village Manager in refusing to issue or renew or in revoking any such special permit shall have the right to appeal to the Board of Trustees of the Village of Horseheads in the manner prescribed in this chapter for appeal of the denial or

revocation of an auctioneer's license. Upon the revocation of any such special permit by the Village Manager and the communication of the fact of such revocation to the special permit holder, and pending the decision of an appeal from such revocation by the Board of Trustees of the Village of Horseheads in the event that such an appeal is taken, it shall be unlawful for any individual to conduct any sale at auction in accordance with the terms of such special permit.

**§ 85-14. Sales on streets restricted.**

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 Village of Horseheads without prior approval of the Board of Trustees.

**§ 85-15. Penalties for offenses.** EN(5)

Any person committing an offense against any provision of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

**§ 85-16. Exceptions.**

The provisions of this chapter shall not be applicable to auction sales conducted under order of court in cases of bankruptcy, holders of repossessed goods, wares or merchandise or public officers acting under judicial process nor the sale of real property under auction or occasional sales by duly recognized charities, the public proceeds of which shall be utilized for charitable purposes.

## **Endnotes**

### **1 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

### **2 (Popup - Popup)**

Editor's Note: The current fee schedule is on file in the village offices.

### **3 (Popup - Popup)**

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