

# THE CHARTER TOWNSHIP OF GARFIELD

## ORDINANCE NO. 61

### Auctions and Auctioneers Ordinance

An ordinance to regulate auctions and auctioneers within the geographic boundaries of the Charter Township of Garfield, enacted pursuant but not limited to Public Auctions Act, Public Act 224 of 1955, as amended (MCL 446.51 et seq.) and the Uniform Commercial Code, Public Act 174 of 1962, as amended (MCL 440.2328), to require the registration of auctioneers and the permitting of auctions, and to prescribe penalties and enforcement remedies for the violation of this ordinance.

#### **THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:**

##### **Section I: Title**

This ordinance shall be known and cited as the Garfield Township Auctions and Auctioneers Ordinance.

##### **Section II: Intent**

It is in the interest of the public morals and welfare and of the taxing authorities to regulate auctions and auctioneers for the preventing of deceit, misrepresentation and fraud in the selling of goods, wares, real estate, general merchandise, livestock and personal property.

##### **Section III: Legal Basis**

This Ordinance is enacted pursuant to the statutory authority granted by the Public Auctions Act, Public Act 224 of 1955, as amended (MCL 446.51 et seq.) and the Uniform Commercial Code, Public Act 174 of 1962, as amended (MCL 440.2328), authorizing the Township Board to adopt ordinances and regulate sales at public auction in order to secure the public health, safety and general welfare.

##### **Section IV: Definition**

The term "auction" or "auction sale," as used in this article, shall mean the offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

##### **Section V: Exempt Sales**

The provisions of this article shall not extend or apply to the following sales:

- 1) Sales at public auction of livestock, farm machinery, farm produce, used household goods and other similar items if sold in connection with a so-called farm or estate sale;
- 2) Sales under mortgage foreclosure, or sales under the direction of a court or court officers;
- 3) Sales by or on behalf or under authority of the township, county, state, United States, or any political subdivision, branch, board, agency or commission of such governmental bodies;
- 4) Sales made in pursuance of judgment, decree, order or authority of any court or seizure of any officer;
- 5) Sales by receivers appointed by law or by a general assignment for the benefit of creditors.
- 6) Sales conducted solely for charitable purposes where none of the proceeds are paid to the auctioneer.

## **Section VI: Registration Required**

No person shall engage in the trade or business of a general auctioneer within the township without first having obtained a registration therefor from the township clerk unless otherwise exempted by Section V of this Ordinance.

## **Section VII: Application for Registration; Fee**

Except as otherwise provided in this ordinance, it shall be unlawful for any person to act as an auctioneer at any auction sale of personal property within the township until such auctioneer has registered with the township clerk in accordance with the provisions of this ordinance. An applicant for an auctioneer's registration shall file with the township clerk an application and pay an annual fee in an amount established by resolution of the Township Board. The application shall contain all of the following information:

- 1) The applicant's name, residence, post office address and business place, if any;
- 2) Evidence of the applicant's county auctioneer's license.
- 3) The place where the applicant intends to conduct such sales if on a continual basis;
- 4) Whether or not the applicant is to be self-employed for the purpose of selling his or her own property;
- 5) If the applicant is to be employed by others on a continual basis, the name and address of the general employer;
- 6) Evidence of the applicant's reputation as to honesty, fair dealing and good moral character.

## **Section VIII: Bond**

Before an auctioneer's registration is issued, the applicant for such registration shall furnish to the township clerk an annual surety bond in the amount established by resolution of the township board. This surety bond shall be conditional for the due observance, during the time of the registration, of the laws of the state and township. Any person aggrieved by the auction of any such registration shall have a right of action on the surety bond for the recovery of money or damages, or both.

## **Section IX: Permit Required**

Except as otherwise provided in this ordinance, it shall be unlawful for any person to sell, dispose of or offer for sale at public auction within the township any personal property whatsoever, unless and until such person and the person acting or intending to act as auctioneer has first obtained a permit from the township clerk in accordance with all the provisions, regulations and requirements of this article.

## **Section X: Application for Permit**

The holding of any auction not exempted by Section V of this Ordinance shall require a permit. Such permit shall be requested from the Township Clerk no later than ten (10) days prior to the date of the auction. Permits shall be granted only to applicants holding a current auctioneer's registration with the township.

The applicant shall provide the following information to the township clerk and pay a fee in an amount established by resolution of the township board.

- 1) Any person desiring to engage in the business of auctions shall at least ten (10) days prior to any single proposed auction sale, and at least ten (10) days prior to the opening and commencement of any auction business on a continuing or any other basis, file with the township clerk an application in writing duly verified by the applicant. The application shall state the following facts:

- a) The name, residence and post office address of the person making the application, and if a firm or corporation, the name and post office address of the firm or officers of the corporation, as the case may be;
  - b) The address at which the auction sale or sales will be conducted;
  - c) The name, residence and post office address of the auctioneer who shall conduct such sale or sales;
  - d) A detailed inventory of all new merchandise to be offered for sale and a valuation thereof;
  - e) A detailed inventory of all other personal property to be offered for sale and a valuation thereof;
  - f) If it is proposed to conduct auction sales on any other basis than a single sale of property on hand at the time of application, the applicant shall submit a statement covering the kind and nature of property to be offered for sale and a fair estimate of the average value of property to remain on hand for sale from day to day;
  - g) If the license applied for covers only the sale or property then on hand the statement shall disclose whether the sale will be with or without reservation;
  - h) Whether the auction will be conducted with or without reservation.
- 2) Where the license applied for covers a continuing business the sale shall be conducted without reservation.

#### **Section XI: Renewal**

All applications for renewals of licenses under this division shall clearly state any changes regarding information contained in the original application, any new conditions that may affect the issuance of a license and any other information the township clerk may request.

#### **Section XII: Fraudulent Practices**

At any sale by auction, no person shall act as a "bidder" or what is commonly known as a "capper", "booster" or "shill" or offer or make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale by auction.

#### **Section XIII: False Representations**

It shall be unlawful for any person to sell or attempt to sell by auction or to advertise for sale any personal property by falsely representing the whole or a part thereof to be bankrupt or insolvent stock, or damaged goods, or goods saved from fire or to make any false statements as to the previous history or character of such property.

#### **Section XIV: Appearance Tickets**

The appointed officers of the Grand Traverse County Sheriff's Department, or such other officials that are designated by the township board, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2). Appearance tickets shall be in such form as determined by legal counsel and shall be in conformity with all statutory requirements.

#### **Section XV: Civil Infraction**

Any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

**Section XVI: Severability**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

**Section XVII: Effective Date**

This ordinance shall take effect upon publication following its adoption.

Moved to approve by: Molly Agostinelli;                      Seconded by: Jeane Blood

The following voted:

**YEAS:**                      Chuck Korn, Kay Schumacher, Jeane Blood, Bob Featherstone, Molly Agostinelli, Denise Schmuckal, Kit Wilson

**NAYS:**                      None

**ABSTAIN:**                None

**ABSENT:**                None

I hereby certify that the foregoing was duly adopted by the Township Board of the Garfield Charter Township, Grand Traverse County, Michigan, at its regular meeting on the 8<sup>th</sup> day of June, 2010 and that (7) seven members of the Township Board were in attendance and (7) seven voted for the adoption of the Ordinance.

  
**Kay Schumacher, Clerk**

The Charter Township of Garfield  
3848 Veterans Drive  
Traverse City, Michigan 49684

INTRODUCED: May 25, 2010  
ADOPTED:        June 22, 2010  
EFFECTIVE:      June 29, 2010