

Authority: Item 7, Planning Committee
Report 17-005 (PED17045)
CM: March 29, 2017
Wards: (City Wide)

Bill No. 054

CITY OF HAMILTON

BY-LAW NO. 17-054

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law deletes and replaces Schedule 2 – Auctioneers;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule 2 of By-law No. 07-170 is repealed and replaced with Appendix “A” attached hereto.
2. Despite the repeal of Schedule 2 under section 1:
 - a. the Schedule shall continue to apply to proceedings in respect of offences that occurred before its repeal; and,
 - b. all licences issued under the Schedule that are in effect at the time of the repeal shall be deemed to be licences as issued under this Schedule, with all necessary modifications, and all the rules, requirements and regulations of this Schedule shall apply.
3. This By-law comes into force on the day it is passed.

PASSED this 29th day of March, 2017.

F. Eisenberger
Mayor

R. Caterini
City Clerk

SCHEDULE 2

AUCTIONEERS

DEFINITIONS

1. In this Schedule:
“**auctioneer**” means any person who sells or offers for sale by auction goods; and,
“**auction**” means a publicly held sale where goods, are sold to the highest bidder.

APPLICATION OF THE SCHEDULE

2. This Schedule does not apply to:
 - (a) a person conducting an auction on behalf of a service club or similar organization to raise money for charitable purposes;
 - (b) a sheriff or court bailiff acting under a court procedure;
 - (c) a municipality conducting an auction under the tax sale provisions of the *Municipal Act, 2001*;
 - (d) a person registered under the *Real Estate and Business Brokers Act*, who is selling real estate by public auction; or,
 - (e) a person licensed under the *Livestock Community Sales Act*, who is conducting a community livestock sale.

GENERAL PROHIBITIONS

3. No person shall act as or hold himself or herself out to be an auctioneer or shall engage in the business of an auctioneer unless he or she holds a current and valid auctioneer licence under this Schedule.
4. No owner of land shall permit an auction to be held on their land unless the auctioneer holds a current and valid auctioneer licence under this Schedule.

REQUIREMENTS

5. Every auctioneer shall;
 - (a) prominently display their licence at the place of each auction;

- (b) include their name and licence number in all public advertisements pertaining to an auction; and,
 - (c) maintain and keep proper books of accounts for all transactions including;
 - (i) the names and addresses of the owners of the goods auctioned;
 - (ii) the names and addresses of the purchasers of any goods;
 - (iii) a description of the goods to be auctioned;
 - (iv) the prices at which the goods were sold; and,
 - (v) the dates of payment and amounts paid to the owners for the goods sold, or the dates of return of unsold goods to the owners.
6. (1) All books of accounts, not including the names and addresses of the owners of the goods auctioned or the names and addresses of the purchasers of any goods, kept by an auctioneer shall be open at all times during reasonable hours to inspection by an enforcement agency.
- (2) An auctioneer shall disclose the names and addresses of the owners of the goods auctioned or the names and addresses of the purchasers of any goods to an enforcement agency upon the enforcement agency making a request in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.
7. At the conclusion of an auction, every auctioneer shall;
- (a) account for the proceeds and pay them to the person entitled to them, less proper commissions and charges; and,
 - (b) return the goods to the person entitled to receive them, provided that nothing contained in this Schedule shall in any way affect or invalidate the claim of any auctioneer for goods warehoused by them, and on which they have made advances.
8. No auctioneer shall;
- (a) permit any disorder in the place of the auction;
 - (b) conduct or permit to be conducted any mock auction;

- (c) make or permit to be made any misrepresentation as to the nature, content, quantity, or value of any goods which may be offered for sale by them;
- (d) give away articles or sell articles for nominal amounts for the purpose of stimulating bidding;
- (e) do any act that may confuse a purchaser as to the amount to be paid for any goods;
- (f) by deceit stimulate or raise bids or cause the stimulation or raising of bids; or,
- (g) sell or put up by auction, any goods on a reserve-bid basis without having announced clearly to those in attendance at the auction the fact of such reserve bid.