



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 21, 2017
SUBJECT/REPORT NO:	Business Licensing By-law 07-170 – Review and Replacement of Auctioneers (Schedule 2) (PED17045)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext. 6656 Ken Leendertse (905) 546-2424 Ext. 3059
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Business Licensing By-law 07-170 be amended by replacing Auctioneers (Schedule 2) with the draft By-law attached as Appendix “A” to Report PED17045 which has been prepared in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Auctioneers are licensed by the City to protect consumers, mitigating the risk to those purchasing the goods, by establishing proper business practices including having auctioneers keep books of accounts that may be examined for investigative purposes.

The primary objectives of reviewing the City’s Business Licensing By-law 07-170 (“Licensing By-law”) are to modernize our approach, increase clarity and ease of understanding and remove unnecessary regulation. This Report proposes changes to Auctioneers (Schedule 2) in line with the overall objectives of the Business Licensing By-law review.

Alternatives for Consideration – N/A

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The review and rewrite of the Business Licensing By-Law is a key element of the Planning and Economic Development Department's on-going Open for Business initiative. The primary objective of rewriting the By-law is to delete duplication, increase clarity and ease of understanding/clarify intent, remove unnecessary regulation and improve overall readability. In addition, the rewrite will reflect new policy and regulatory initiatives and address emerging issues and trends within the Hamilton community, including the Sharing Economy.

FINANCIAL- STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: The proposed changes to Auctioneers(Schedule 2) will have little to no impact on staff time, as administration and enforcement of this Schedule is still required.

Legal: N/A

HISTORICAL BACKGROUND

The *Municipal Act, 2001* provides Council with the authority to regulate any business, wholly or in part, carried out within its jurisdiction, including the authority to license. The justifications for licensing certain types of businesses generally relate to the health and safety of the community, consumer protection and nuisance control.

In 2000, a Licensing Implementation Team comprised of representatives from the Cities of Hamilton and Stoney Creek and the Towns of Flamborough, Dundas and Glanbrook and the Regional Health Unit were tasked with reviewing the existing Licensing By-laws and incorporating them into one By-law for the new amalgamated municipality. There has been no comprehensive Business Licensing By-law review since amalgamation. The Licensing Section of the Licensing and By-law Services Division identified the need to modernize the Business Licensing By-law. The current Business Licensing By-law is a compilation of amendments passed by Council over many years and contains licensing categories that require updates. Upon examination of Auctioneers (Schedule 2), it was determined that this Schedule should remain as it continues to be a useful tool to mitigate risk and ensure that the municipal purpose of consumer protection is achieved.

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initiatives and address emerging issues and trends within the Hamilton community, including the Sharing Economy.

POLICY IMPLICATIONS AND LEGISLATIVE REQUIREMENTS

N/A

RELEVANT CONSULTATION

Corporate Services – Finance and Administration
Legal Services

ANALYSIS AND RATIONALE FOR RECOMMENDATION

After reviewing Auctioneers (Schedule 2), it was determined that updating was required. No additional burdens have been imposed on auctioneers.

Appendix “B” attached to Report PED17045 shows the number of Auctioneers’ licences held each year in the City of Hamilton from 2002 to 2015.

Appendix “C” attached to Report PED17045 compares the licensing practices amongst 31 Ontario municipalities regarding Auctioneers. It shows that 23 other municipalities have a similarlicensing category.

Since 2001, there have been no complaints, investigations, charges or convictions under this license category involving Auctioneers.

Although the *Consumer Protection Act* (“CPA”) applies to most Ontario businesses, there is a list of exceptions, one of which is “selling your goods / services through an auction.” This gap at the Provincial level is filled by the municipal issuance of an auctioneer’s licence. The requirements that an Auctioneer must adhere to in the *Sales of Goods Act* provides an extra layer of consumer protection for the public.

Initial consultation with the Auctioneers Association of Ontario and nine auctioneers who held licences in 2016 revealed consumer protection concerns respecting unlicensed auctioneers performing auctions within the City. With the objective of addressing these concerns, as well as modernizing the Schedule, the following changes are being proposed.

The proposed Schedule includes the requirement that the Licence be prominently displayed at the place of each auction and the Licence Number be included in all advertisements of auctions. Along with allowing consumers to easily identify Auctioneers, this will aid Municipal Law Enforcement Officers when it comes to enforcement. In addition, no owner can permit an auction to be held on their land unless

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the Auctioneer holds a current and valid Auctioneer Licence from the City. The requirements in the proposed Schedule seek to discourage individuals from conducting auctions without a licence.

ALIGNMENT TO THE 2016-2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Draft By-law and Schedule 2 – Auctioneers

Appendix B: Total Number of Licences: 2001-2015

Appendix C: Best Practices Amongst Ontario Municipalities

Appendix D: Fee Comparison Amongst Ontario Municipalities

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