

Licence

Chapter 559 Auctioneers

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Article 1 - Short Title

559.1.1 Citation

This Chapter may be cited and known as the "Auctioneers By-law."

Article 2 - Interpretation

559.2.1 Singular - plural - masculine - feminine

Whenever the singular is used in this Chapter, it shall also be construed to mean the plural, and whenever the masculine is used, it shall also mean the feminine.

Article 3 - General Provisions

559.3.1 Operation - without licence - prohibited

No person shall carry on the business, calling or occupation of auctioneer within the boundaries of the City of Woodstock without a licence as described in this Chapter. (See Set Fine)

559.3.2 Application - licence - transfer - form

All applications for auctioneer licences shall be made to the Clerk or designate in writing on the prescribed form. By-law 8532-09, May 7, 2009.

559.3.3 Criminal records check

Auctioneer licence applicants are required to provide a criminal records check from their local police department. By-law 8705-11, August 11, 2011.

559.3.3.1 Insurance – Minimum Requirement

No person shall operate as an auctioneer in the City of Woodstock without first having produced a certificate of insurance confirming that a general liability policy in the amount of \$2,000,000 is in force. By-law 9227-18 – August 9, 2018.

559.3.4 Referral - to Fire Chief - Chief Building Official

Auctioneer licence applications may be referred to the Fire Chief and/or the Chief Building Official, if deemed appropriate by the Clerk or designate, to ascertain if the premises in which the applicant intends to carry on business is suitable for said business.

559.3.5 Accounts - books - maintained - open for inspection

All persons licensed under this Chapter shall keep proper books of accounts which shall be available at all times during reasonable hours for inspection by duly appointed Municipal By-law Enforcement Officers or the Woodstock Police Services Department.

559.3.6 Licence fee - with application

The licence fee for an auctioneer licence for all or part of any calendar year shall be \$90 and such payment shall accompany any application for a licence. By-law 8892-14, January 16, 2014.

559.3.7 Contravention - criminal offence - revocation

Any person who holds a licence pursuant to this Chapter and is convicted of a breach of this Chapter, or any offence under the Criminal Code of

Canada, may, at the discretion of the Clerk or designate, have his licence revoked or suspended for such time as the Clerk or designate may determine.

559.3.8 Licence - expiry - February 15 - year of issue

Each licence granted under this Chapter shall be for one year from February 15 in the current year and expire on the 15th of February one year after issue or sooner if the licence so indicates in the year for which the licence was issued, regardless of when such issuing took place.

559.3.9 Quality - value - misrepresentation - prohibited

No auctioneer shall knowingly or willfully make or permit to be made any misrepresentation as to the quality or value of any goods, wares or merchandise which may be offered for sale by him.

559.3.10 Goods - wares - disposal by auction - limitations

No auctioneer shall offer for sale or cause to be sold within the City of Woodstock any goods, wares or merchandise brought into the City of Woodstock for the purpose of disposing of same by auction sale, except:

- a) goods, wares or merchandise brought into the City of Woodstock from the County of Oxford; and
- b) livestock brought from any location.

559.3.11 Exemption

An auctioneer who conducts an auction from a premise that is owned or operated by the auctioneer is exempt from the provisions of Section 559.3.10 provided that such location is zoned to allow such a business.

559.3.12 Auction - on streets - prohibited

No auctioneer shall conduct a sale on/or in any street or park in the City of Woodstock.

559.3.13 Sale - stock of merchant - restricted

No auctioneer shall sell by auction the stock of a merchant except for the purpose of closing out a business in which the owner has been engaged continuously for a period of not less than one year.

559.3.14 Sale - stock of merchant - days - limited

No auctioneer shall conduct an auction of the stock of a merchant closing out a business for more than one day for every year that the owner has carried on the same business continuously and in no case shall the period exceed six days.

559.3.15 Sale - stock of merchant - additional stock - prohibited

No goods, wares or merchandise shall be added to the stock of a merchant

for the purpose of sale by auction.

559.3.16 Sound equipment - disturbance - prohibited

No auctioneer shall use any sound equipment, loud speaker or similar device emitting sound which may cause a disturbance to any person located in the area of the sale.

559.3.17 Police Department - duties

The Woodstock Police Services Department shall as certain, if so requested, that the statements in an application for a licence are correct and obtain such other information relative to the application as requested and report same to the Clerk or designate.

559.3.18 Contravention

The Woodstock Police Services Department or designated Municipal By-law Enforcement Officers may prosecute any person for a breach of any provision of this Chapter. By-law 8532-09, May 7, 2009.

Article 4 -Refusal - Revocation - Suspension of Licence

559.4.1 Notice - issued - conditions set out

The Clerk shall provide a notice of refusal to issue a licence to an applicant if the conditions for issuance have not been met, the Clerk determines that, the information on the licensee's application for a licence is inaccurate, or the applicant has contravened a Section of this Chapter. If the Applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada, the Clerk may, with the consultation of the Police Department, refuse to issue a licence to an Applicant. The Clerk shall provide the applicant with the written notice of refusal to issue a licence setting out the reasons for refusal, when the right to review will expire and how to apply for a review.

559.4.2 Notice - how served

The notice shall be served personally or by registered mail to the applicant at the address shown on the application.

559.4.3 Application - not filed - expired without notice

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to a review will expire without further notice.

559.4.4 Licence fee returned - not granted - review expired

The Clerk shall return the licence fee paid at the time of the application if the licence is not granted and the applicant's right to a review has expired.

559.4.5 Revocation or suspension of a licence

The Clerk shall provide a notice to revoke or suspend a licence if the licensee no longer complies with the conditions for issuance after the licence is issued, the Clerk determines that, the information on the licensee's application for the licence is inaccurate, the licensee has contravened a Section of this Chapter or if the licensee or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall give the licensee notice of the revocation or suspension in writing setting out the reasons for revocation or suspension, when the right to a review will expire and how to apply for a review. The notice shall be served personally or by registered mail to the licensee's address last on file with the Clerk.

559.4.6 Application for review - expiry

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to review will expire without further notice.

559.4.7 Licence - fee - refund - pro-rated

The Clerk shall return a pro-rated portion of the licence fee (based on the length of time the licence was in effect) of a revoked or suspended licence.

559.4.8 Application for review - procedure - deadline

An applicant or licensee in receipt of a notice to refuse, revoke or suspend a licence, may, within fourteen days after service of notice apply in writing for a review of notice to refuse, revoke or suspend a licence by filing the application for review with the Clerk and the provisions of Sections 559.4.10 to 559.4.21, inclusive shall apply.

559.4.9 Report for a review of status of licensee

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the licensee of this Chapter or other relevant considerations.

559.4.10 Review hearing - date of

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after the receipt of the application for review.

559.4.11 Review hearing - notice of

Upon determination of the review hearing date, the Clerk shall give notice in writing to the applicant or licensee, said notice to:

- a) include a statement,
 - i. as to the time, date, place and purpose of the review hearing, and
 - ii. that, if the applicant or licensee does not attend the review

hearing, the Review Tribunal shall proceed in the absence of the applicant or licensee and the applicant or licensee will not be entitled to any further notice;

- b) be served personally or by registered mail to the applicant or licensee at the address last on file with the Clerk;
- c) and where the good character, propriety of conduct or competence of an applicant or licensee is an issue, contain reasonable information of any allegation with respect thereto.

559.4.12 Review hearing - by Review Tribunal - procedure

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The applicant or licensee may be represented at the review hearing by counsel, and the applicant or licensee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

559.4.13 Review hearing - City - represented

The City shall be represented at the review hearing by either the Clerk or the City Solicitor, who is entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the applicant or licensee.

559.4.14 Review hearing - onus upon applicant

At the review hearing, the onus shall be upon the applicant or licensee to show cause why:

- a) the licence should be granted;
- b) the licence should not be suspended or revoked; or
- c) conditions should not be imposed on the licence.

559.4.15 Review hearing - open to public - exception

All review hearings shall be public hearings unless the applicant or licensee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

559.4.16 Review hearing - applicant absent - decision rendered

Where notice of the review hearing has been served on the applicant or licensee and the applicant or licensee does not attend the hearing, the Review Tribunal may proceed with the review hearing and render a decision in the absence of the applicant or licensee.

559.4.17 Review hearing - completion - decision rendered

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a) confirm the Clerk's decision to refuse, revoke or suspend the licence;

- b) reject the Clerk's decision and order the Clerk to issue a licence;
or
- c) reject the Clerk's decision to revoke or suspend the licence.

559.4.18 Licence – Conditions Imposed

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the applicant or licensee as a requirement to hold a licence on such terms as are deemed just.

559.4.19 Review Tribunal decision final - binding

The Review Tribunal's decision shall be final and binding.

559.4.20 Review Tribunal - decision in writing

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

559.4.21 Waiver of hearing

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a) without a hearing; or
- b) without compliance with any other requirements of the *Statutory Powers Procedure Act*, as amended, or of this Chapter,

where the applicant or licensee has waived such hearing or compliance.

559.4.22 Review Tribunal - decision - notification procedure

The Clerk shall notify the applicant or licensee of the decision by serving a copy personally or by registered mail to:

- a) the applicant or licensee at the address shown on the application, or last on file with the Clerk; or
- b) the counsel or agent of the applicant or licensee, if any, at the address as stated to the Review Tribunal.

559.4.23 Licence - continued until expired

If the decision rendered is to reject the Clerk's decision, the licence shall be issued or in the case of a notice to suspend or revoke the licence shall continue until its expiry date.

559.4.24 Licence - suspended or revoked - authority

If the decision is to confirm the Clerk's decision to suspend or revoke the licence, the licensee shall within twenty-four hours of service of notice by registered mail, or immediately if the notice is personally served, return the licence to the Clerk and the Clerk shall have access to any premises or other property of the licensee for the purpose of receiving or taking the

same.

559.4.25 Conditions - imposed - acceptance confirmed

If the decision is to confirm the Clerk's decision to impose conditions on the licence, the licensee shall within twenty-four hours of service of notice by registered mail or immediately if the notice is personally served, advise the Clerk as to his or her acceptance of the conditions.

559.4.26 Service of notice - by registered mail

Service of a notice by registered mail is effective on the fifth day after the document is mailed. By-law 8770-12, June 7, 2012.

Article 5 - Exemptions

559.5.1 Charitable purposes - auctioneer - not paid

None of the provisions of this Chapter shall apply to any auction sale conducted solely for charitable purposes and without remuneration of any kind to the auctioneer.

559.5.2 Sale - by sheriff - bailiff - goods - chattels - seized

None of the provisions of this Chapter shall apply to any auction sale conducted by or on behalf of a sheriff or bailiff offering for sale goods or chattels seized under an execution or distraint for rent.

Article 6 - Enforcement

559.6.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the *Provincial Offences Act*.

559.6.2 Separate offence - daily

Each day a violation of this Chapter continues shall constitute a separate and distinct offence under this Chapter.

Article 7 - Repeal - Enactment

559.7.1 By-laws - previous

All previous by-laws regarding auctioneer licensing are hereby repealed.

559.7.2 Effective date

This Chapter shall become effective as of third and final reading of the enabling by-law. By-law 8532-09, May 7, 2009.