

TOWN OF MARKHAM
Ontario



BY-LAW 2002-290

**A BY-LAW TO PROVIDE FOR THE LICENSING
AND REGULATION OF
AUCTIONEERS**

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to December 14, 2007)

Amended by:

By-law 2007-282 – December 11, 2007

BY-LAW 2002-290

To Provide For The Licensing and Regulation of Auctioneers

WHEREAS the *Municipal Act, 2001* provides that the Council may by by-law license and regulate Auctioneers and for revoking any such license;

AND WHEREAS the Town of Markham deems it advisable to enact a by-law to license and regulate auctioneers for consumer protection purposes;

THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM ENACTS AS FOLLOWS:

1. In this by-law,
 - (a) "auctioneer" means any person selling or putting up for sale goods, wares, merchandise or effects for public auctions
 - (b) "licensing officer" means the person or persons authorized by the council to act on their behalf in all matters relating to this by-law;
2. No person shall conduct the business of auctioneering, or carry on any trade or calling in the Town of Markham for which a license is required unless he holds a license issued therefor by the licensing officer.
3. Every application for a license shall be accompanied by:
 - (a) a statement on the form provided by the municipality giving particulars as to the location of the premises together with such other information as may be required to determine the compliance of the use with all applicable by-laws and regulations;
 - (b) the appropriate fee as specified in By-law No. 2002-284.
4. The issue of every license shall be subject to the following:
 - (a) the licensing officer or other person so authorized may enter any premises from which the auctioneer conducts auctions at all reasonable times in order to inspect such premises and to enforce the provisions of this by-law;
 - (b) prior to the issue of such license the premises to be used in carrying out the business of auctioneering may be required to be approved by:
 - (i) the Medical Officer of Health as to its proper sanitary condition and facilities and

- (ii) the Fire Chief as to its proper fire safety facilities
- (c) Each license, when issued, shall be posted in a conspicuous place on the premises so licensed;
- (d) The license granted for any premises may be revoked whose owner or licensee does not comply with the foregoing or where such license has been issued through error or contrary to the provisions of any by-law or regulation;
- (e) licenses issued under the provisions of this by-law, unless otherwise expressed to be granted for a shorter period, shall expire on the 31st day of December in the year in which they are issued;
- (f) every premises licensed under this by-law shall be kept neat and clean and clear of rubbish: Metal (or other non-combustible containers with self-closing covers) shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.
- (g) every person who exercises the calling or license of an auctioneer shall exhibit in a conspicuous manner at his auction room, his name and business address as such auctioneer and shall in all public advertisements of any nature used by him in the course of his business include his name and business address in such advertisements;
- (h) no auctioneer shall conduct, or permit to be carried on in his premises any mock auction, or shall knowingly and wilfully make, or permit to be made, any misrepresentation as the quality or value of any goods, wares or merchandise which may be offered for sale by him;
- (i) every auctioneer shall keep good order in his auction room and offices, and shall keep proper books of account of the business transacted by him as an auctioneer, which books shall give the names and addresses of persons depositing goods, wares or merchandise, with him for sale, the description of the same, the price for which the same may be sold, and the names and addresses of the persons purchasing such goods, wares or merchandise, or any portion thereof, and shall forthwith, after the sale of same, or any portion thereof, account for the proceeds and pay the same to the person or persons entitled to such proceeds, less his proper and legal commissions and charges; and shall in case no sale is made of such goods, on payment of this proper costs and charges, return such goods, to the person or persons entitled to receive the same on proper demand being made therefore. Provided that nothing contained in the section shall in any way affect or invalidate the claim of any auctioneer for goods warehoused with him, and on which he shall have made advances;

- (j) all books kept by any auctioneer, pursuant to the foregoing shall be open at all times during business hours to the Licensing Officer;
 - (k) no auctioneer shall permit any disorder in his auction room or offices;
 - (l) no auctioneer shall avail himself of the services of, or act in concert with, persons known in the trade as "beaters", "boosters", or "shills" for the purpose of raising or stimulating bids;
 - (m) no auctioneer shall sell or put up for sale by auction any goods, wares, merchandise, or effects on a reserve-bid basis without first having announced clearly to those in attendance at the auction the fact of such reserve bid.
5. Nothing in this by-law shall apply to a Sheriff or Bailiff offering for sale goods or chattels seized under an execution or distrained for rent.
 6. No license issued under the provisions of this by-law shall be transferred.
 7. No license shall be issued contrary to the provisions of any applicable zoning by-law.
 8. Where any licensee is convicted of an offence under this by-law the license shall be suspended forthwith and shall not be reinstated until the licensing officer certifies in writing that the conditions resulting in the charge and conviction have been remedied and that the premises and its proposed operation comply with this by-law.
 9. Any person who contravenes any portion of this By-law is guilty of an offence. Pursuant to the Provincial Offences Act, and upon conviction is liable to a fine of not more than five thousand dollars (\$ 5,000.00) for each offence committed.
 10. By-Law No. 2001-35, "A By-law to provide for the licensing and regulation of Auctioneers" shall be repealed effective January 1, 2003.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 10TH
DAY OF DECEMBER, 2002.

"Sheila Birrell"

TOWN CLERK

"Don Cousens"

MAYOR