

BY-LAW 2012-70

**A BY-LAW OF THE CITY OF GREATER SUDBURY
TO AMEND BY-LAW 2004-354 A BY-LAW RESPECTING THE
LICENSING, REGULATING AND INSPECTING OF RETAILERS OF
SECOND HAND GOODS INCLUDING PAWNBROKERS AND SALVAGE YARDS**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes Council to enact by-laws respecting business licensing;

AND WHEREAS Council passed resolution 2011-473 to direct staff to present a by-law to repeal By-law 2009-240 and to amend By-law 2004-354 to require itinerant gold purchasers to obtain a Class A licence and be subject to all of the conditions thereof and restrict the licence to specific locations and dates, to a maximum period of 30 days and to store goods at a location in the City;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
ENACTS AS FOLLOWS:**

Interpretation

1. The headings in this by-law are inserted for ease of reference only and are not to be used as interpretation aids.
2. For the purposes of this by-law:
"Second Hand Goods By-law" means By-law 2004-354 being a By-law of the City of Greater Sudbury respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, including Pawnbrokers and Salvage Yards.

Amendments and Revisions to Second Hand Goods By-law

3. The definition of "Class A licence" in section 1 of Second Hand Goods By-law is repealed and replaced with:

"Class A licence" means the actual second hand goods licence issued under this By-law to:

- (i) any second hand goods dealer conducting one hundred or more transactions in any one calendar year; or
- (ii) any second hand goods dealer conducting a purchase event."

4. Section 1 of Second Hand Goods By-law is amended by inserting the following after the definition of "precious metals" and before the definition of "redeem":

"purchase event" means an event held for the purpose or primarily for the purpose of purchasing precious metals from members of the public at large or from person or persons invited to the purchase event;"

5. The definition of "second hand good" in section 1 of Second Hand Goods By-law is repealed and replaced with:

"second hand good" means any new, previously owned, used, rented or leased item, including a precious metal or gem, or any item received in a pawn transaction, but does not include the following unless received by way of pawn:

- (a) (i) in the course of a genuine retail sales transaction, the item is returned to the retailer by a dissatisfied customer for the purpose of a refund or exchange for other merchandise or credit,
- (ii) the second hand good is acquired from a law enforcement agency or officer acting in an official capacity;

- (iii) the second hand good is acquired from a trustee in bankruptcy, executor, administrator, or receiver who has presented to the second hand goods dealer proof of such status;
 - (iv) the second hand good is acquired from any public official acting under judicial process or authority and who has presented to the second hand goods dealer proof of such status;
- (b) any second hand goods for which the Chief of Police has provided an exemption in writing for such second hand goods.
- (c) any of the following second hand goods regardless of how they are obtained:
- (i) second hand books, magazines, journals, periodicals, or other such printed materials;
 - (ii) postage stamps;
 - (iii) second hand refrigerators, freezers, stoves, washers, dryers, dishwashers, or garbage compactors;
 - (iv) second hand infants', toddlers' or children's clothing, shoes, furniture, or safety devices;
 - (v) adult clothing or shoes, except leather jackets and coats;
 - (vi) second hand furniture;
 - (vii) second hand cookware, glassware, and eating utensils that do not contain precious metals;
 - (viii) manually operated lawn or garden equipment and tools;
 - (ix) waste paper, waste cardboard or waste glass; or
 - (x) motor vehicles;
- (d) any of the following second hand goods unless the second hand goods dealer paid, or loaned on pawn, or entered into a buy-sell arrangement, for twenty-five dollars or more, in cash or other consideration, or which the second hand goods dealer intends to offer for sale, or broker, for fifty dollars or more:
- (i) any sporting goods except golf clubs and golf bags, skis, snowboards, roller blades, and goalie pads; or
 - (ii) china, stone or metal figurines; or

- (e) not more than two pre-recorded audio tapes, CDs, DVDs or electronic games received from a seller in any twenty-four hour period;
6. Section 8 of Second Hand Goods By-law is repealed and replaced with:
- “8.-(1) No person shall, within the limits of the City, conduct second goods transactions until a licence to do so has been obtained as set out in section 10 of this By-law.
- (2) Despite subsection (1), no licence under this By-law shall be required by:
- (a) a person purchasing precious metals from a person engaged in the business of selling precious metals such as a jeweller or precious metals distributor; and
 - (b) a person purchasing precious metals in the course of business in the mining trades, professions or business.”
7. Section 9 of Second Hand Goods By-law is repealed and replaced with:
- “9.-(1) A separate licence shall be taken out for:
- i) each second hand goods shop in which a person who owns or operates a second hand goods business carries on his or her business; and
 - ii) each location at which a purchase event will be held.”
8. Section 10 of Second Hand Goods By-law is repealed and replaced with:
- “10.-(1) Second hand goods dealers who conduct:
- (i) one hundred or more transactions in any calendar year, shall obtain a Class A licence;

(ii) fewer than one hundred transactions in any one calendar year, shall obtain a Class B licence; or

(iii) a purchase event, shall obtain a Class A licence, despite (i) or (ii).

(2) No Second Hand Goods Dealer in the City shall permit a person to act as an Assistant to the Dealer, unless such person holds a current Assistant's Licence, and no person shall act as an Assistant to a Second Hand Goods Dealer unless such person holds a current Assistant's License."

9. Subsection 12(c) of Second Hand Goods By-law is repealed and replaced with:

"(c) the second hand goods shop or purchase event location complies with the zoning, fire, police, property standards, and building requirements of the City;".

10. Section 13 of Second Hand Goods By-law is repealed and replaced with:

"13.-(1) Every licence and Assistant's licence shall expire on December 31^s of each year.

(2) Despite subsection (1), every licence and Assistant's licence for a purchase event shall expire 30 days after the date of issue."

11. Subsection 14(2) is repealed and replaced with:

"When requested by the Licence Holder, but not less than twelve months after the Licence holder has ceased carrying on the business of a second hand goods dealer in the City or 12 months after the last purchase event, the security, without interest, may be released by the Issuer of Licences upon

receipt of a report in writing from the Chief of Police as to the due observance by the Licence Holder of the terms of this By-law, and of the *Pawnbroker's Act*, if applicable.”

12. Second Hand Goods By-law is amended by inserting the following after section 16 and before section 17:

“(16.1) The Issuer of Licences may refuse to issue a licence under this By-law, or having issued a licence under this part may revoke same if:

- (a) the purchase event is advertised or conducted in any manner other than that describe in the application or in any manner calculated to mislead or deceive the public;
- (b) the purchase event is held in a location or conducted in any way in a manner contrary to the provisions of this By-law or contrary to any condition imposed in the licence; or
- (c) the applicant refuses to permit the Issuer of Licences to inspect any premises or inspect or test any measuring or weighing or other devices used in the purchase of precious metals or precious gems.”

13. Subsection 35(4) of Second Hand Goods By-law is repealed and replaced with:

“35.-(4) A second hand goods dealer may store second hand goods at an alternate storage facility in the City other than where the second hand goods are obtained from a seller or pawnner if:

- (i) the size, value or quantity of the second hand goods requires such alternate storage; or
- (ii) in the case of a purchase event, the location of the purchase event does not reasonably allow for the secure storage of the second hand goods.

35.-(4.1) Should a second hand goods dealer store his second hand goods at an alternate storage facility pursuant to subsection 35(4)(ii), the location of the goods must be reported to the Chief of the Police in writing immediately following transfer to the alternate storage facility.”

- 14.** Subsection 36(1) of Second Hand Goods By-law is repealed and replaced with:

“Every Class A licence Holder shall ensure that all second hand goods acquired in a transaction are held until the expiration of 21 days, or in the case of a purchase event, 30 days, from the date of obtaining exclusive ownership of the second hand goods, and shall not, within the prescribed hold period, melt, alter the form of, offer for sale, sell, trade, rent or otherwise dispose of, or attempt to melt, alter the form of, offer for sale, sell, trade, rent or otherwise dispose of second hand goods.”

- 15.** Section 40 of Second Hand Goods By-law is repealed and replaced with:

“40.(1)Every Licence Holder shall ensure that the licence is posted in a prominent position on the licenced premises or at the purchase event as the case may be, so as to be clearly visible to the public.

(2) Every Holder of an Assistant's Licence shall have the Assistant's Licence with him or her while at the licenced premises or at the purchase event as the case may be, and shall produce it upon request of a Police or By-law Enforcement Officer."

16. Second Hand Goods By-law is amended by inserting the following after subsection 42(2) and before section 43:

"Advertising

42.1(1) No person shall:

- (a) hold, sponsor, advertise or promote a purchase event unless such person holds a licence issued under this By-law for such purpose and in accordance with the terms of the licence and this By-law;

42.2. No applicant for a licence or licence holder shall distribute, display or publish or cause to be distributed, displayed or published advertising material to promote a purchase event, including any radio or television broadcast, internet promotion without a statement that the purchase event is held under the authority of this By-law and shall state the number and expiry date of the licence issue for such purchase event under this By-law."

17. Section 60(1) of Second Hand Goods By-law is repealed and replaced with:
"60.-(1) No Licence Holder shall operate or carry on the business of a second hand goods shop or purchase event for which the licence was issued while the licence is under suspension."

Repeals

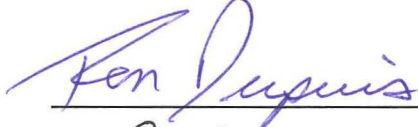
18. By-law 2009-240, A By-law of the City of Greater Sudbury to Amend By-law 2004-350, being a By-law to License and Regulate Various Businesses, is repealed in its entirety.

19. By-law 2012-32, A By-law of the City of Greater Sudbury Respecting the Licensing, Regulating and Inspecting of Retailers of Second Hand Goods Including Pawnbrokers and Salvage Yards is also repealed in its entirety.


Effective Date

20. This by-law comes into force upon passage.

READ AND PASSED IN OPEN COUNCIL this 27th day of March, 2012



DEPUTY
Mayor



Clerk