

By-law 2004-354

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

Whereas the *Municipal Act*, 2001, S. O. 2001, c. 25, as amended, authorizes Council to enact by-laws for licensing, regulating and governing businesses, including second hand goods dealers, including salvage yards and pawnbrokers;

And Whereas the *Pawnbrokers Act*, R. S. O. 1990, c.P.6, as amended, also recognizes the authority of Council to enact by-laws to licence, regulate and govern the business of pawnbrokers;

And Whereas the City of Greater Sudbury wishes to enact the measures herein in order to provide a mechanism to ensure the ownership of second hand goods provided to retailers of such goods in the City for the reasons set out herein;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Part 1 - Definitions

Definitions

1. In this By-law:

“Alternate storage facility” means any place where second hand goods are stored by a second hand goods dealer other than the place where transactions are conducted by the second hand goods dealer;

“Acquisition area” means that area in a second hand goods shop where transactions are normally conducted;

“Antique” means any second hand good offered for sale upon the basis, express or implied, that the value of the second hand good, in whole or substantial part, is derived from its age or its historical association and exceeds the original value of the second hand good when new;

“Antique dealer” means any natural person, partnership or corporation, either principal or agent or employee thereof, or any other legal entity, however organized, whose regular

business includes selling or receiving second hand goods where ninety per cent, measured according to value, of the second hand goods on hand at all times, consists of antiques;

“Assistant” includes any natural person who in the performance of his or her duties or the management of the business affairs of a pawnshop or second hand goods shop or salvage yard, comes into contact with members of the public; any person working for a pawnbroker, secondhand goods dealer or salvage yard owner; or who is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop, second hand goods shop or salvage yard;

“Assistant’s Licence” means the licence issued under this By-law to an assistant;

“Auction dealer” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, who carries on the business of arranging, managing, sponsoring, or carrying out auctions or who employs auctioneers to conduct auctions or who advertises or holds himself or herself out as carrying on the business of auctioning a second hand good;

“Automated Reporting System” means an electronic system approved by the Greater Sudbury Police Services Board and which is capable of recording, storing and transmitting transaction information from a second hand goods dealer to the Chief of Police;

“Billable transaction” means a transaction conducted by a Licence Holder using the Automated Reporting System except when a pawnbroker conducts renewals, redemptions, or extensions of existing pawns on second hand goods previously reported which have remained continuously in the pawnbroker’s possession, and except when a second hand goods dealer in a buy-sell arrangement conducts renewals, redemptions or extensions of second hand goods previously reported which have remained continuously in the second hand goods dealer’s possession;

“Board” means the Greater Sudbury Police Services Board;

“Building requirements” means the requirements set out in the Building By-law, being By-law Number 2001-201B of the City of Greater Sudbury, as amended, or any By-law enacted in substitution therefor;

“Buy-sell arrangement” means a transaction by way of a buy-sell agreement in which a second hand goods dealer agrees to hold a second hand good for a specified period of time to

allow the seller the exclusive right to repurchase or regain possession of the good on certain conditions;

“Chief of Police” means the Chief of Police of the Greater Sudbury Police Service, or authorized representative and includes members of the R.C.M.P. and the O.P.P.;

“City” means the City of Greater Sudbury;

“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.

“Class B licence” means the actual second hand goods licence issued under this By-law to any second hand goods dealer conducting fewer than one hundred transactions in any one calendar year;

“Company” means the company that provides the Automated Reporting System.

“Consignment” means any written agreement between a consignment dealer and a seller that enables the consignment dealer to take temporary possession of a second hand good owned by the seller for the purpose of:

- (a) offering the second hand goods for sale to the public;
- (b) a conditional sale to the consignment dealer for resale to the public; or
- (c) displaying the second hand goods by the consignment dealer for sale to the public;

“Consignment dealer” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, who carries on the business of accepting on consignment second hand goods for sale or who advertises or holds himself or herself out as carrying on that business;

“Contract” means a written or printed agreement between a seller or pawner and a second hand goods dealer for the purpose of conducting a transaction;

“Council” means the Council of the City of Greater Sudbury or, where a hearing body of Council has been designated by Council for such purpose, means the hearing body of Council;

“Employee” means any natural person who works for a second hand goods dealer whether or not that person receives remuneration for the work;

“Flea market operator” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, who carries on the business of renting, leasing or otherwise providing a table, booth, stall, or other such space to flea market dealers for no more than thirty-six hours of operation in any consecutive seven day period, or who advertises or holds himself or herself out as carrying on that business;

“Flea market dealer” means any natural person, partnership or corporation, either principal or agent or employee thereof, or any other legal entity, which purchases, exchanges, takes in trade, receives on consignment, or offers for sale second hand goods, and rents, leases or otherwise obtains a table, booth, stall or other such space from a flea market operator for no more than thirty-six hours of operation in any consecutive seven day period;

“Hold period” means the amount of time for which a second hand good must be held by a second hand goods dealer after obtaining exclusive ownership of the second hand good;

“Issuer of Licences” means the person appointed from time to time as the Manager of Security, By-law and Corporate Services and, where authority has been delegated under Section 4, includes his or her authorized designates;

“Ledger book” means a transaction record register issued to Class B Licence Holders for the purpose of recording transaction records;

“Licence” means the actual licence issued under this By-law and includes both a Class A Licence and a Class B Licence but not an Assistant’s Licence;

“Licence Holder” means a second hand goods dealer who has obtained a current licence;

“Licenced premises” means the premises where the Licence Holder carries on the licenced business;

“Motor vehicle” includes an automobile, motorcycle, snowmobile, off road vehicle, all-terrain vehicle, traction engine, farm tractor, self propelled implementry of husbandry or road building machine but does not include a motor assisted bicycle, or a vehicle driven by muscular power;

“Original lawful owner” means the person who owned a second hand good prior to the occurrence of the first unlawful act by which that person was deprived of the second hand good;

“Pawn” means a transaction for the loan of money in which a pawnbroker receives a second hand good as security for repayment of cash advanced, redeemable on certain conditions;

“Pawnbroker” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, who carries on the business of making pawns or who advertises or holds himself or herself out as carrying on the business but does not include banks, trust companies, credit unions or other similar institutions;

“Pawner” means a natural person who delivers to a pawnbroker second hand goods as security for the repayment of cash advanced redeemable on certain conditions;

“Person”, in relation to a Licence Holder, includes not only an individual, but also a partnership and body corporate and any association and the heirs, executors, administrators, successors and assigns or other legal representatives thereof to whom the context may apply;

“Precious gem” means a gem that is valued for its character, rarity, beauty or quality and includes a diamond, ruby, sapphire or pearl; or any other such precious gem or stone whether as a separate item or in combination as a piece of jewelry or other crafted item;

“Precious metals” includes gold, silver, platinum, and sterling silver whether as a separate item or in combination as a piece of jewelry or other crafted item, but does not include items plated with a precious metal if the plating equals less than one per cent of the item’s total weight;

“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;

“Redeem” means either of the following transactions:

- (a) the act whereby a pawner receives the second hand good pawned in a transaction with a pawnbroker, upon receipt by the pawnbroker from the pawner repayment of the cash advanced and all applicable charges, including interest accrued and any other charge payable to the pawnbroker; or

- (b) the act whereby a seller repurchases or regains possession of the second hand good dealt with in a buy-sell arrangement with a second hand goods dealer by meeting the conditions of the arrangement;

“Redemption period” in relation to pawned second hand goods, means the period of time within which the second hand goods are redeemable;

“Register” means the compilation of all transaction records recorded by a second hand goods dealer and compiled in the prescribed form and manner;

“Repair business dealer” means any natural person, partnership or corporation, either principal or agent or employee thereof, or any other legal entity, however organized, where ninety per cent of the money received from customers is derived from repair work to items owned by the customer;

“Rental business dealer” means a natural person, partnership or corporation, either principal or agent or employee thereof, or any other legal entity, however organized, where ninety per cent of the money received from customers is derived from rental arrangements with customers, including the money derived from the sale of previously rented items the rental business has owned since they were purchased from a manufacturer, wholesaler, or other such distributor of new items;

“Retail” means the sale of new items obtained from a manufacturer, wholesaler or other such distributor of new items or the sale of second hand goods;

“Retailer” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, where ninety per cent of the money received from customers is derived from the retail sales of new items;

“Salvage yard” means the premises of a second hand goods dealer used exclusively for the purpose of wrecking, dismantling, and recycling second hand goods prior to their disposition, and includes but is not limited to an automobile wrecking yard or premises;

“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;

“Second hand goods shop” means a building or part of a building, booth, stall or place where second hand goods are stored, displayed or offered for sale by retail;

“Second hand goods dealer” means any natural person, partnership or corporation, either as principal or agent or employee thereof, or any other legal entity, however organized, which purchases, or receives for the making of pawns, or receives in a buy-sell arrangement, or receives on consignment, or receives in trade, or offers for sale, second hand goods, or who advertises or holds himself or herself out as carrying on the business, and includes pawnbrokers, dealers in buy-sell arrangements, antique dealers, consignment dealers, flea market dealers, repair business dealers, rental business dealers, salvage yard dealers and retailers who take second hand goods in trade, or any combination thereof, unless exempted by any section or schedule of this By-law;

“Seller” means a natural person who sells or delivers for consignment or delivers for auction or delivers in trade, a second hand good to a second hand goods dealer, and includes a natural person who delivers in trade or sells a second hand good to a second hand goods dealer or who enters into a buy-sell arrangement of a second hand good with a second hand goods dealer;

“Trade” means any transaction where second hand goods are received from a seller or pawner by a second hand goods dealer in exchange for all or part of any goods owned or offered for sale by a second hand goods dealer;

“Transaction” means any second hand goods transaction conducted by a second hand goods dealer where any number of second hand goods are purchased, pawned, are the subject of a buy-sell arrangement, or are consigned or traded at any one time;

“Transaction number” means the number assigned chronologically to a transaction conducted by a second hand goods dealer used in a transaction record;

“Transaction record” means a written or printed or electronic record in the prescribed form and manner of a transaction conducted by a second hand goods dealer; and

“Transmission fee” means the amount of money charged for a billable transaction.

Part 2 - Interpretation

2. In this By-law, “taking in exchange” is deemed to include “receiving in pledge”.

3.-(1) This By-law includes the Schedule attached hereto and the Schedule is hereby declared to form part of this By-law.

(2) Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(3) References to items in the plural include the singular, as applicable.

(4) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.

(5) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(6) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time.

(7) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.

(8) If any section, subsection, part or parts of this By-law is declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

4. If a person is regulated by the provisions of both this By-law and the General Licensing By-law and does not deal in any goods other than second hand goods, the provisions of this By-law prevail and no other licence is required under the General Licensing By-law.

4A.-(1) The administration and enforcement of this By-law is assigned to the Issuer of Licences who is delegated the authority to:

- (a) make all decisions required of the Issuer of Licences under this By-law;
- (b) perform all administrative functions, conduct all inspections or investigations referred to herein and those incidental to and necessary for the due administration and implementation of this By-law; and

- (c) establish and amend from time to time, such forms and other documents, and such standards, protocols and procedures as the Issuer of Licences may determine are required to implement and administer this By-law.

(2) The Issuer of Licences may delegate the performance of any one or more of his or her functions under this by-law to one more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The Issuer of Licences may continue to exercise any function delegated during the delegation.

Part 3 - Second Hand Goods Dealers

Responsibility of Licence Holders

- 5. Every Licence Holder shall ensure that his or her employees understand and comply with the provisions of this By-law.
- 6. Every Licence Holder shall be responsible for the acts of any employees in the carrying on of the business of second hand goods dealer in the same manner and to the same extent as though such acts were done by the Licence Holder.

Licence Required

- 7. Every person who conducts second hand goods transactions shall obtain a licence from the City authorizing the business of a second hand goods dealer in the City.
- 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.
- 9.-(1) A separate licence shall be taken out for:
 - (a) 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
 - (b) each location at which a purchase event will be held.
- 10.-(1) Second hand goods dealers who conduct:

- (a) one hundred or more transactions in any calendar year, shall obtain a Class A licence;
- (b) fewer than one hundred transactions in any one calendar year, shall obtain a Class B licence; or
- (c) 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.

Application For A Licence

11. On application for a licence, an Assistant's Licence, or renewal of a licence or Assistant's Licence, an applicant shall:

- (a) complete the prescribed forms;
- (b) furnish to the Issuer of Licences such information as the Issuer of Licences may direct be furnished;
- (c) file the completed application with the Issuer of Licences;
- (d) pay the non-refundable processing fee in an amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect; and
- (e) file such documents and materials as may be required pursuant to this By-law; including, in the case of an Assistant's Licence, two passport-size photographs of the face of the applicant.

Conditions For Issuance

12. No licence shall be issued or renewed to a Second Hand Goods Dealer, and no Assistant's Licence shall be issued or renewed unless:

- (a) in the case of an applicant who is an individual, the applicant is at least eighteen years of age;
- (b) the applicant has completed the prescribed application forms;
- (c) the second hands goods shop or purchase event location complies with the zoning, fire, police, property standards, and building requirement of the City as indicated in Schedule "A" of this By-law;

- (d) the Issuer of Licences, after carrying out the appropriate investigations, has no reason to believe that the carrying on of the business may result in a breach of the law or may be adverse to the public interest, and
- (e) the applicant has paid the fees in an amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect.

13.-(1) Every licence and Assistant's licence shall expire on December 31st 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.

(3) Where a person holding a licence or Assistant's licence issued under this By-law fails to renew the licence or Assistant's licence by the expiry date of the licence or Assistant's licence, the person may be permitted to renew the licence or Assistant's licence provided the person:

- (a) submits the application for renewal within ninety (90) days after the expiry date in the licence or Assistant's licence;
- (b) is otherwise entitled to a renewal under this By-law; and
- (c) pays a late renewal administrative fee, in an amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect, in addition to the renewal fee otherwise payable.

(4) Where a person holding a licence or Assistant's licence issued under this By-law fails to renew the licence or Assistant's licence within ninety (90) days of the expiry date, the person shall no longer be entitled to renew the licence or Assistant's licence and shall be required to apply for a new licence or Assistant's licence, subject to the payment of such fees as may be required for a new application.

(5) Subsections 13(3) and 13(4) shall not apply to a license issued pursuant to this by-law for a Purchase Event.

14.-(1) Every applicant for a Class A licence shall, at the time of filing the application for a licence, furnish security in the form of cash or certified cheque made payable to the City, in the sum of two thousand dollars for the due observance by the Licence Holder of the Second Hand Goods By-law for the business premises in which the applicant proposes to carry on business.

(2) 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.

(3) In the event of a Licence Holder being convicted of an offence under this By-law, in addition to any penalties under this By-law, the Issuer of Licences on behalf of the City may realize on the security furnished pursuant to Section 14(1).

15.-(1) Unless directed to do so by the Hearing Body of Council, The Issuer of Licences shall not grant a licence or an Assistant's licence to an applicant where any conviction under Parts 9 through 12 of the *Criminal Code of Canada* has, in the previous 5 years, been registered against any of the following persons:

- (a) the applicant or his or her spouse when the applicant is a natural person;
- (b) any shareholder, officer or director of the applicant where the applicant is a body corporate;
- (c) any partner, or spouse of a partner, where the applicant is a partnership or limited partnership;
- (d) any debt instrument holder of the applicant, or
- (e) any other natural person having influence over the business of the second hand goods dealer or sharing directly or indirectly in the profits of the applicant.

(2) Subsection 15(1) does not apply to those second hand goods dealers who held a second hand goods licence from the City of Greater Sudbury on December 31, 2004.

(3) Any applicant whose application for a licence or Assistant's licence has been refused pursuant to paragraph 12(d) or subsection 15(1) may appeal the decision of the Licence Issuer to the Hearing Committee by submitting a written request to the Licence Issuer, and paying an administrative fee in an amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect.

(4) Upon receipt of the written request and payment of the applicable fee, the Licence Issuer shall request the City Clerk to schedule a hearing before the Hearing Committee. Notice of the day, time and place of the hearing shall be given to the applicant.

(5) On the day and time set by the City Clerk or such other day and time as may be established from time to time by the City Clerk or by the Hearing Committee, the person appealing may present evidence and make submissions to the Hearing Committee regarding

the matter under appeal. The Hearing Committee may proceed to consider the matter, whether or not the person appealing is in attendance.

(6) On a hearing, the Hearing Committee may direct the issuance of a licence or Assistant's licence despite the circumstances set out in subsection 15(1) or may refuse to direct the issuance of the licence or Assistant's licence. The decision of the Hearing Committee shall be final and binding and takes effect upon being rendered."

(7) For the purposes of this By-law, "Hearing Committee" shall mean the Hearing Committee appointed pursuant to the City's Procedure By-law 2011-235 as amended or replaced.

16. The Issuer of Licences shall immediately revoke the licence of any second hand goods dealer or Assistant where the Issuer of Licences finds that the conditions set out in Subsection 15(1) no longer hold true, and no new licence or Assistant's licence shall be issued to the applicant or any alternative applicant, where in the opinion of the Issuer of Licences, the application is being made to thwart the spirit and intention of Subsection 15(1).

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.

17. For purposes of greater clarification and judicial interpretation, the act of carrying on business as a second hand goods dealer is a privilege and not a right within the meaning of any law, Act or common law principle.

Licensing Exceptions

18.-(1) No licence is required by a person to hold what are commonly known as "garage sales", "yard sales", or "estate sales" if all of the following are present:

- (a) the sale is held on property occupied as a dwelling by the seller or owned, rented or leased by a charitable or political organization;
- (b) the second hand goods dealer owns the second hand goods offered for sale and none of the second hand goods offered for sale have been purchased for resale or received on consignment for the purpose of resale;
- (c) the owner of the second hand goods conducts the sale and receives all proceeds from the sale; and
- (d) no sale exceeds a period of seventy-two consecutive hours, and that no more than two such sales are held in any twelve-month period at a residential dwelling.

(2) Notwithstanding any other provision of this By-law, no licence shall be required by persons engaged in the sale of second hand goods for the purpose of raising funds to be used for charitable purposes within the community as determined by the Issuer of Licences. Without limiting the discretion of the Issuer of Licences, a purpose may be considered to be charitable if it relates to:

- (a) the relief of poverty;
- (b) the advancement of education;
- (c) the advancement of religion; or
- (d) any purpose beneficial to the community not falling under any of the above clauses.

(3) Notwithstanding any other provision of this By-law, no licence is required by antique dealers or flea market dealers, if the flea market dealer or the antique dealer does not acquire second hand goods by any means at the location where he or she are offering second hand goods for sale.

(4) Notwithstanding any other provision of this By-law, no licence is required by auction dealers or consignment dealers provided that no money, or other goods offered in trade, are advanced to the seller prior to the second hand good being sold by the consignment dealer or sold at auction by the auction dealer.

(5) Notwithstanding any other provision of this By-law, no licence is required by the Greater Sudbury Police Service for the conduct of any sale conducted by it of unclaimed goods in its possession.

Second Hand Goods Register

Class A Licence Holder

19.-(1) Every Class A Licence Holder and every holder of an Assistant's Licence shall ensure that, before purchasing or taking in exchange any second hand good, or entering into a buy-sell arrangement for a second-hand good, or receiving any good in pawn, a record is made in the English language in a manner which communicates electronically every business day with the Board's Automated Reporting System, of:

- (a) the day, month, year and time of the second hand good transaction,
- (b) the name, address, phone number, date of birth and a photograph of the seller or the pawner of the second hand good,
- (c) a description of the seller or the pawner of the second hand good, including height, weight, gender, hair colour, and eye colour;
- (d) the full particulars of the seller's or pawner's identification as required by section 33 hereof;
- (e) a detailed description of each second hand good that shall be reasonably sufficient to identify it, including make, model, serial numbers and identifying marks and titles, where applicable;
- (f) the price paid, or the amount given for a second hand good received in trade, or the amount loaned on pawn, or the amount paid in a buy-sell arrangement, or the agreed selling price for consignment, or the reserve bid for a second hand good received for sale at auction;
- (g) the identity of the person conducting the second hand transaction on behalf of the Dealer by name;
- (h) an electronic color photograph of the pawner or seller; and
- (i) an electronic color photograph of the second hand goods.

(2) Every Class A Licence Holder shall ensure that all the elements required to operate the Automated Reporting System are obtained and maintained for the purpose of conducting transactions.

(3) Every Class A Licence Holder and every Assistant Licence holder shall ensure that payment of the transmission fee for billable transactions, collected from the customer when conducting a transaction, is made to the Company.

(4) Every Class A Licence Holder and every Assistant Licence holder shall immediately notify the Company when the Automated Reporting System is malfunctioning, and, when the Automated Reporting System is not available, shall ensure that a transaction record is made in a ledger book issued by the City of Greater Sudbury, in the English language and in chronological order with entries transcribed in ink in a clear and legible manner, containing all the information required under Section 19(1) items (a) to (g), and taking the photographs required by items (h) and (i), or on a supply of blank manual contracts retained by the Class A Licence Holder for this purpose, and the Licence Holder shall ensure that such entries are recorded in the Automated Reporting System once the Automated Reporting System is available.

(5) Every Class A Licence Holder and every holder of an Assistant's Licence shall ensure that there are a sufficient number of blank manual contracts are available to operate manually for a period of three days if the Automated Reporting System is not available.

20. When a second hand good has been previously pawned or been the subject of a buy-sell arrangement, and is subsequently redeemed, every Class A Licence Holder and every holder of an Assistant's Licence shall ensure that a record is made in the Automated Reporting System indicating the date of such redemption.

Class B Licence Holder

21. Every Class B Licence Holder and every holder of an Assistant's Licence shall ensure that, before purchasing or taking in exchange any second hand good, or entering into a buy-sell arrangement for a second-hand good, or receiving any good in pawn, a record is made in the English language in a manner which communicates electronically every business day with the Board's Automated Reporting System, or in a ledger book issued by the City, in the English language and in chronological order with entries transcribed in ink in a clear and legible manner, of:

- (a) the day, month, year and time of the second hand good transaction;
- (b) the name, address, phone number, date of birth and age of the person selling the second hand goods;
- (c) a description of the seller or pawner of the second hand good, including height, weight, gender, hair colour, and eye colour;
- (d) the full particulars of the seller's or pawner's identification as prescribed by section 33;

- (e) a detailed description of each second hand good that shall be reasonably sufficient to identify it, including make, model, serial numbers and identifying marks and titles, where applicable:
- (f) the price paid, or the amount given for a second hand good received in trade, or the amount loaned on pawn, or the amount paid in a buy-sell arrangement, or the agreed selling price for consignment, or the reserve bid for a second hand good received for sale at auction, and
- (g) the identity of the person conducting the second hand transaction on behalf of the Dealer by name.

Records - Generally

- 22.** Notwithstanding Sections 19 and 21, every Licence Holder and every holder of an Assistant's Licence, when receiving a second hand good,
- (a) for the purpose of identifying coins, shall record the exact number of coins received, and a description of the ten most valuable coins if more than ten coins are received;
 - (b) for the purpose of identifying collector cards, shall record the exact number of cards received, and a description of the ten most valuable cards if more than ten cards are received;
 - (c) for the purpose of identifying pre-recorded audio tapes, compact discs and DVDs shall record the exact number of pre-recorded audio tapes, compact discs, DVDs, and any unique identifying marks, where applicable, but is not required to record each artist and title.
- 23.** The Issuer of Licences shall suspend the licence of a Licence Holder, or the licence of an Assistant, for a minimum period of fourteen days, upon the conviction of a Licence Holder for failing to make a transaction record as required by this By-law or by the *Pawnbrokers Act*, or upon the completion of any unsuccessful appeals to such a conviction.
- 24.** Every Licence Holder shall ensure that the Register is preserved and made available by the Licence Holder for a minimum period of two years after a transaction record is made in the Register.
- 25.** Where second hand goods are purchased, traded or otherwise obtained at an event described in Subsection 18(1), the Licence Holder dealing with such goods shall ensure that a

transaction record is made, and that such record is retained, for a minimum of two years, of the following information:

- (a) the date the sale was held;
- (b) the goods obtained; and
- (c) the address where the sale was held.

26. Where new or used goods are purchased from a merchant, manufacturer, retailer or wholesaler having an established permanent place of business, a Licence Holder shall make a transaction record or shall obtain a receipt from the merchant, manufacturer, retailer or wholesaler, and shall retain such record or receipt for a minimum of two years, containing:

- (a) the name and address and phone number of the merchant, manufacturer, retailer or wholesaler;
- (b) the date the items were obtained by the second hand goods dealer; and
- (c) a list of the items obtained from the merchant, manufacturer, retailer or wholesaler.

Exemptions

27.-(1) The Chief of Police may give written exemption to any second hand goods dealer for any of the requirements of this By-law, if the Chief of Police believes it would not thwart the spirit and intention of the By-law and is reasonable in the particular circumstances, and such a written exemption will be deemed a defense to prosecution under any such section for which the written exemption is given.

(2) The Chief of Police may give written exemption to any second hand goods dealer requiring a Class A licence because he or she conducts one hundred or more transactions per year, to acquire instead a Class B licence, if the Chief of Police believes it would not thwart the spirit and intention of the By-law and is reasonable in the particular circumstances, and such written exemption will be taken into consideration by the Issuer of Licences when issuing a licence.

(3) The Chief of Police shall provide to the Issuer of Licences a copy of any written exemption provided under this By-law.

Copies of Contracts - Class A Licence

28. Prior to completing a transaction, a Class A Licence Holder or a holder of an Assistant's Licence shall ensure that two copies of the contract are provided, and shall ensure:

- (a) one copy of the contract is provided to the seller or pawner;
- (b) one copy of the contract is signed by the seller or pawner and the second hand goods dealer conducting the transaction; and
- (c) the signed contract is retained by the second hand goods dealer for a minimum of two years.

Copies of Contracts - Class B Licence

29. Prior to completing a transaction, a Class B Licence Holder who uses a ledger book to record transactions shall ensure that three copies of the contract are provided, and shall ensure:

- (a) one copy of the contract is provided to the seller or pawner;
- (b) one copy is delivered by the second hand goods dealer to the Chief of Police within seven days; and
- (c) one copy of the contract is signed by the seller or pawner and the second hand goods dealer conducting the transaction.

Provision of Information

30. Every seller or pawner who sells, enters into buy-sell arrangements, pawns, trades, or offers for consignment second hand goods to a second hand goods dealer shall provide current and accurate information to the second hand goods dealer as is required by the second hand goods dealer for a transaction record.

Tracking Second Hand Goods.

31. Every Licence Holder and every holder of an Assistant's Licence shall ensure that a label is attached to every item offered for sale, trade, or on consignment, or purchased, or received on pawn, or received in a buy-sell arrangement, or received in trade by a second hand goods dealer so as to identify the transaction record in the register which corresponds to the acquisition of that item and that the label remains on the item until the item is sold, traded or otherwise legally disposed of by the second hand goods dealer.

Identification Required

32. Every Licence Holder and every holder of an Assistant's Licence shall ensure that no second hand good is received without receiving from the seller or pawner the identification prescribed by section 33.

33. (1) Every Licence Holder and every holder of an Assistant's Licence shall ensure that the seller or pawner presents two pieces of identification, one of which shall be one of the following types of identification provided that it is integrated with a photograph of the seller or pawner:

- (a) a valid driver's licence, issued by a Canadian province or territory, or issued by a state in the United States of America;
- (b) a government-issued passport;
- (c) a B.Y.I.D. (Bring Your Identification) Card issued by the Liquor Control Board of Ontario;
- (d) a Certificate of Indian Status Card issued by the Government of Canada;
- (e) a Certificate of Citizenship Card issued by the Government of Canada;
- (f) a Conditional Release Card issued by Correctional Services of Canada; or
- (g) an original Birth Certificate together with any other kind of personal identification for the same person provided that piece of identification is integrated with a photograph of the seller or pawner.

(2) No licence holder and no holder of an Assistant's Licence shall accept for pawn, for a buy-sell arrangement, or for sale, any item from any person under the age of 18 years.

Reporting Suspicious Items to the Chief of Police

34.-(1) Where a second hand goods dealer or holder of an Assistant's Licence has reasonable cause to suspect that a second hand good that is offered for sale, for a buy-sell arrangement, on pawn, or on consignment, to the second goods dealer has been stolen or otherwise unlawfully obtained, the second hand goods dealer or Assistant shall ensure that the Chief of Police is notified forthwith of the particulars of any such second hand good and of the person offering the good, and shall keep a record of the name of the Chief of Police, or of his or her designate, to which the notification is made and the date and time on which the notification is made.

(2) Every second hand goods dealer and every holder of an Assistant's Licence shall ensure that no second hand goods are received when the serial number on the second hand good has been removed, altered or damaged.

Possession of Goods

35.-(1) Every second hand goods dealer shall ensure that actual physical possession of all second hand goods received in a second hand goods transaction is maintained and shall not accept title or any other form of security in lieu of actual physical possession.

(2) All second hand goods subject to the hold period referred to in section 36(1), or being held on pawn, or being held as the subject of a buy-sell arrangement, shall be stored at the location where the second hand goods were obtained from the seller or pawner, separate and apart from second hand goods which the Licence Holder is legally offering for sale, trade, rent or on consignment, to the public, and such storage area shall not be accessible to members of the public.

(3) No second hand goods dealer may acquire goods by way of pawn or buy-sell arrangement except at the Licence Holder's shop as shown on the Holder's Licence.

(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 pawner 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.

(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.

(5) A second hand goods dealer shall ensure that the Issuer of Licences and the Chief of Police are notified of the use of alternate storage facilities if the second hand goods dealer uses alternate storage facilities not identified in a licence application under this By-law.

Retention of Second Hand Goods

36.-(1) 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.

(2) Every Class B Licence Holder shall ensure that all second hand goods acquired in a transaction are held until the expiration of thirty 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 such second hand goods.

(3) Where second hand goods are received by a pawnbroker in pawn, the pawnbroker is hereby deemed to have obtained exclusive ownership on the day following the due date by which the pawn must be redeemed by the pawner.

(4) Where second hand goods are received by a second hand dealer by way of a buy-sell arrangement, the dealer is hereby deemed to have obtained exclusive ownership on the day following the due date by which the item must be redeemed by the seller.

(5) Notwithstanding Subsections 36(1) and (2), when second hand goods are received by a pawnbroker on pawn, or to a dealer as part of a buy-sell arrangement, the second hand goods may be returned to the pawner or seller at any time upon redemption of the pawn by the pawner, or upon fulfillment of the conditions of the buy-sell arrangement by the seller.

(6) Notwithstanding Subsections 36(1) and (2), when a seller who has provided second hand goods to a second hand goods dealer on consignment, the second hand goods dealer may return the second hand goods to the seller at any time upon the request of the seller.

(7) Notwithstanding Subsections 36(1) and (2), upon the request from a second hand goods dealer, the Chief of Police may provide to the second hand goods dealer and to the Issuer of Licences, a written exemption for all or part of the hold period, at the discretion of the Chief of Police, if the need for such written exemption is unique and reasonable.

Investigative Hold and Investigative Removal

37.-(1) Where the Chief of Police reasonably suspects that second hand goods in the possession of a Licence Holder are stolen or otherwise unlawfully obtained, the Chief of Police may extend the hold period set out in Section 36 herein by up to thirty days by providing such notification in writing to the Licence Holder and to the Issuer of Licences, and the Licence Holder shall not melt, alter the form of, sell, trade, rent or otherwise dispose of, or attempt to

melt, alter the form of, sell, trade, rent or otherwise dispose of the second hand goods during this additional period.

(2) Where the Chief of Police reasonably believes that second hand goods in the possession of a second hand goods dealer are stolen or otherwise illegally obtained, and requires the removal of the second hand goods for expert examination for the purpose of confirming such belief, the Chief of Police may remove such second hand goods for a period of up to seven days after providing written notification of the removal to the second hand goods dealer.

(3) No person shall obstruct, hinder or otherwise interfere with the investigative removal referred to in Subsection 37(2).

(4) For the purpose of the written notification referred to in Subsections 37(1) and 37(2), the Chief of Police shall provide the Licence Holder the relevant officer's name, organization name, case number if applicable, a contact phone number, and a description of the second hand goods which are to be held or removed, and the Licence Holder shall provide that information to the seller or pawner of the goods or the seller who has delivered second hand goods for consignment, if such person is seeking the return of their second hand goods from the second hand goods dealer.

General Business Restrictions

38. Every Licence Holder shall ensure that no transaction is conducted with any of the following:

- (a) any person under eighteen years of age, or
- (b) any person appearing to be under the influence of alcohol or drugs, or
- (c) any person appearing to be of unsound mind.

Inspection of Premises, Records and Second Hand Goods

39.-(1) The Issuer of Licences or the Chief of Police is authorized to inspect during regular business hours:

- (a) as much of a place or premise as is used for carrying on the business of a second hand goods dealer including alternate storage facilities; and
- (b) any second hand goods, wares, merchandise, articles, books, records or other documents of or relating to the business of a second hand goods dealer.

(2) No person shall obstruct, hinder or otherwise interfere with any of the inspections referred to in Subsection 39(1).

Posting of Licence

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.

Location Restriction

41. No person shall sell second hand goods on any part of a road allowance or sidewalk.

Signage

42.-(1) Every Licence Holder shall ensure that a sign is displayed, and clearly visible to the public from the acquisition area, showing the terms and conditions of pawning, if applicable, and of buy-sell arrangements, if applicable, and the sign shall include the following statements in the English language and such other language or languages as the Issuer of Licences may prescribe, having regard to languages in use in the community where the business is operating:

- (a) "The information required for a transaction is provided to the police for investigative purposes"; and
- (b) "Providing false information for a transaction is an offence".

(2) The sign shall be of sufficient size so as to accommodate letters and numbers which are no smaller than 25 mm. or one inch in size.

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;

(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.

Disclosure to the Public

43. In addition to the signage required in section 42, every Licence Holder who conducts pawn transactions or buy-sell arrangements shall ensure that a sign is displayed, clearly visible to the public from the acquisition area, showing the terms and conditions of pawning and/or buy-sell arrangements, and the sign shall include the following:

- (a) the rate or rates of interest and any other fee or charge, applicable, upon redemption, to the cash advanced by the pawnbroker or purchaser; and
- (b) the redemption period for the good; and
- (c) the following statement “Goods become the property of the Licence Holder upon the expiration of the redemption period, without further notice, if the item has not been redeemed”.

44.-(1) If at any time during the redemption period, a pawner or seller:

- (a) pays the full amount of cash advanced and all applicable interest and charges; and
- (b) produces identification in accordance with the requirements of section 33, the Licence Holder shall allow the pawner or seller to redeem the goods which shall be delivered to the pawner or seller.

(2) Every Licence Holder shall obtain the signature of the person redeeming such a good.

(3) For purposes of Subsection 44(1), where it has been indicated on a pawn contract or buy-sell arrangement that a person other than the pawner or seller may redeem the goods, the other person identified by the pawner or seller shall identify themselves to the Licence Holder by means of the identification required in section 33 before the goods can be redeemed by such other person, and the particulars of such identification shall be recorded by the Licence Holder on the copy of the contract referred to in Subsection 28(b).

(4) If a pawner or seller in a buy-sell arrangement dies, the Licence Holder shall return the second hand goods to the representative of the pawner or seller if the representative:

- (a) produces the contract to the Licence Holder during the redemption period;
- (b) produces proof of his or her representation of the deceased pawner or seller;
- (c) produces proof that the pawner or seller is deceased; and
- (d) pays the amount then owing.

Minimum Redemption Period

45. If a second hand good is received on pawn or on a buy-sell arrangement by a Licence Holder, the Licence Holder shall not set, agree to set, or in any way require a redemption period that is less than thirty days.

Forfeiture of Second Hand Goods

46. If a pawned or buy-sell arrangement second hand good is not redeemed within the redemption period, the second hand good is forfeited to the Licence Holder and is his or her absolute property to dispose of as wished after the expiration of the prescribed hold period.

Liability for Lost, Stolen, Damaged, or Destroyed Items

47.-(1) If pawned or buy-sell arrangement second hand goods are lost, stolen, damaged, or destroyed, the Licence Holder is liable, and shall ensure that, on request of the pawner or seller during the redemption period, the pawner or seller is paid the value of the second hand goods after deducting the amount of cash advanced and all applicable interest and charges.

(2) If a Licence Holder is unable to return pawned or buy-sell arrangement second hand goods to a pawner or seller during the redemption period due to the loss, theft, damage or destruction of the second hand goods, the Licence Holder shall ensure that a police report is made to the Chief of Police and the Licence Holder shall report the circumstances of the loss, theft, damage or destruction whether it be due to a break and enter and theft, theft, fire, vandalism or other such circumstance, and shall provide such police report number to the pawner or seller upon request of the pawner or seller.

(3) For purposes of Subsection 47(1) the value of the pawned or buy-sell arrangement second hand good is deemed to be three times the amount of the cash advanced on the item.

(4) The amount required to be paid to a pawner or seller under Subsection 47(1) does not preclude the pawner or seller from the pursuit of any other civil action against the pawnbroker.

General Business Restrictions

48.-(1) A Licence Holder shall ensure that a pawn contract or buy-sell agreement issued by the Licence Holder is not acquired, taken in pawn, dealt with in a buy-sell arrangement, or exchanged.

(2) A pawner or seller shall not sell, trade, pledge or exchange a pawn contract or buy-sell agreement.

Part 3 - Salvage Yards

49.-(1) In addition to the requirements in Subsection 19(1) a salvage yard dealer shall record the licence plate of a vehicle delivering scrap metal.

(2) In respect to Section 19 (1)(e), a salvage yard dealer shall describe the form of the scrap metal differentiating between piping, wiring, extruded metal, and such other description sufficient to identify the form of the majority of the metal sold.

50. Notwithstanding Subsection 36(1), a salvage yard dealer shall hold scrap metal for a period of five days and shall not in any way alter the form of the scrap metal during the prescribed hold period.

Part 4 - General

Interpretation of Periods of Time

51. Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.

Title to Property

52.-(1) Notwithstanding any other provision in this By-law or any other Act, where it has been determined by the Chief of Police that a second hand good is stolen or otherwise unlawfully obtained by the unlawful act(s) of any person, the original lawful owner of the second hand good retains an absolute right of ownership over the second hand good.

(2) If a person mentioned in Subsection 52(1) has received compensation under any insurance policy of the second hand good:

- (a) the insurer shall be deemed the original lawful owner of the second hand good;
- or
- (b) the person who was the original lawful owner prior to the insurer, may become the most recent lawful owner of the second hand good if the person pays the insurer the amount compensated within ninety days of receiving notification that the second hand good has been recovered by the Chief of Police.

(3) The Chief of Police shall return the second hand good referred to in Subsection 52(1) to the original lawful owner as soon as is practicable.

(4) Notwithstanding Subsection 52(3), where a second hand good has been retained by the Chief of Police for evidence in a court proceeding, the second hand good shall be returned to the original lawful owner when the second hand good is no longer required to be held as evidence.

(5) Where an insurance policy provides for any other procedure, other than the procedure referred to in Paragraph 52(2)(b), the insurance policy procedure is of no force or effect.

(6) A second hand goods dealer from whom a second hand good is seized by the Chief of Police and the second hand good is returned to the original lawful owner of the second hand good by the Chief of Police, is stopped from seeking to recover the second hand goods dealer's losses from any party other than the seller or pawner from whom the second hand good was directly obtained.

Use of Transaction Information

53.-(1) All the transaction information collected in accordance with this By-law, whether in the Automated Reporting System or otherwise, shall be the property of the police agency of the jurisdiction in which it was collected and shall only be used by sworn police officers and crime analysts of police agencies, who have access to Canadian Police Information Centre files, and any and all of the information shall not be used in any way other than for investigative purposes.

(2) Despite Subsection 53(1), the transaction information collected by a second hand goods dealer may be used by the second hand goods dealer only for the purposes required to conduct business in relation to the pawn, buy-sell arrangement, or purchase transaction, who shall not transfer, sell or otherwise use the information in any other way.

(3) Despite Subsection 53(1), any person involved in the operation of the Automated Reporting System shall have access to the transaction information contained within the Automated Reporting System only for the purposes of maintaining the operation of the Automated Reporting System and only after such person has received appropriate security clearances.

(4) Any use of transaction information, other than for the purposes described in Subsections 53(1), 53(2) or 53(3), is an offence and liability is not limited to the provisions of this By-law.

Severability

54. If any section, subsection, part or parts of this By-law is declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

Part 5 - Offences And Penalties

Offence

55.-(1) Every person who contravenes any provisions of this By-law, and any director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence.

(2) It is an offence to hinder or obstruct or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

56. The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.

Fines

57. Any person who contravenes the provisions of this By-law is guilty of an offence and, upon conviction is liable to the maximum penalty applicable pursuant to the provisions of the *Provincial Offences Act*, R. S. O. 1990. c. P. 33 as amended.

Prohibition Order

58. When a person has been convicted of an offence under this By-law, the Ontario Court (Provincial Division), or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation of the offence or doing of any act or thing by the person convicted directed towards the continuation of the offence.

Licence Suspension or Revocation

59.-(1) Upon conviction, and in addition to any other penalty, a licence issued under the authority of this By-law may be suspended or revoked by the Issuer of Licences.

(2) No person whose licence or Assistant's licence is revoked or suspended shall receive a refund of any part of the fee paid for the licence, except insofar as it may apply to inspections not yet conducted.

(3) No person who has had a licence or Applicant's Licence suspended or revoked is entitled to obtain a licence or Applicant's Licence or other similar licence during the period of suspension or revocation, either in the person's own name or as a principal in another business that applies for a licence.

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.

(2) No holder of an Assistant's Licence shall act as an assistant which his or her Assistant's Licence is under suspension.

(3) Despite Subsection 60(1), when the licence of a second hand good shop that conducts pawn transactions is suspended, the pawnshop can remain open only for the purpose of redeeming existing pawns.

Order to Comply

60.1-(1) Where the by-law enforcement officer is satisfied that a contravention of this By-law has occurred, an order may be made requiring the Person who contravened this By-law or who caused or permitted the contravention or the Licence Holder to correct the contravention. The order shall set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred;
- (c) any work to be done or steps to be taken to comply with this By-law; and
- (d) the date by which the work must be done or steps taken.

(2) Pursuant to subsection 445(3) of the *Municipal Act, 2001*, as amended, an order pursuant to subsection 60.1(1) may require the work to be done even though the facts which constitute the contravention of the By-law were present before this By-law making them a contravention came into force.

(3) Service of an Order issued under subsection 60.1(1) shall be given to each person, by delivering personally to the person by registered mail at the address recorded for that person in the last filed application for a licence or renewal of a licence in the records of the Licence Issuer.

(4) Every Person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.

(5) A By-Law Enforcement Officer may enter on private property at all reasonable times to ascertain whether there is compliance with:

- (a) the provisions of this By-law;
- (b) a direction or order or notice given under this By-law; or
- (c) the conditions of a Licence issued under this By-law.

(6) Enforcement fees shall be payable in accordance with the provisions of the User Fees By-law then in effect.

(7) Any fee payable pursuant to subsection 61.1(6) shall be in addition to:

- (a) any fine levied upon conviction of an offence under this By-law; and
- (b) any costs incurred for remediation.

(8) No fee payable pursuant to subsection 60.1(6) shall be waived or cease to be payable in the event that no charge is laid or a charge that is laid does not lead to a conviction.

Short Title

61. This By-law may be referred to as the “Second Hand Goods By-law”.

Repeal

62. Part V of By-law No. 2002-350, “A By-law of the City of Greater Sudbury to licence and regulate various businesses” is hereby repealed effective January 1, 2005.

Effective date - Transition

63.-(1) This By-law will take effect and come into force on January 1, 2005.

(2) Notwithstanding Subsection 63(1), the provisions of this By-law dealing with Automated Reporting Systems shall not be required until the Greater Sudbury Police Services Board has passed a resolution requiring such a System, and until April 1st, 2005, whichever is later.

(3) Notwithstanding Subsection 63(2), if the Greater Sudbury Police Services Board has passed a resolution requiring such a System, second hand goods dealers may use such a System pursuant to this By-law prior to April 1st, 2005.

(4) Until the Greater Sudbury Police Services Board has passed a resolution requiring such a System, and until April 1st, 2005, whichever is later, the following provisions shall apply to all second hand goods dealers:

- (a) Every second hand goods dealer shall purchase and maintain a Register, in which shall be entered in the English language written in ink in a plain legible hand, a record of all articles purchased or taken in exchange;
- (b) The entry must be made at the time of purchase or exchange or immediately thereafter, and shall include, in addition to the date and time of the purchase or exchange, a full description of the article or articles, the price paid therefore or item exchanged, and the name address and description of the person from whom the purchase or exchange was made and shall be subject to inspection at any time during business hours by the Issuer of Licences or the Police Service.
- (c) If requested by the Police Service, the second hand goods dealer shall fax to the Police on a daily basis the portions of the Register entered on that day.

Purpose

64. This By-law is being passed as it is the opinion of the Council that it is necessary to do so for the protection of the citizens of Greater Sudbury, for nuisance control, and for consumer protection.

READ A FIRST AND SECOND TIME IN OPEN COUNCIL this 16th day of December, 2004.

_____ Mayor

_____ Clerk

Schedule "A"
By-Law 2004-354 of the City of Greater Sudbury

Fees Effective January 1st, 2005 - December 31st, 2005

Licence	Admin Fee	Zoning	Fire Inspection	Building Inspection	By-law Enforcement Costs	TOTAL	Health Unit Search Required	Police Check Required
Class A Licence- 1 st Issuance	\$65	\$38.32	\$54.20	\$99	\$183.48	\$440	no	yes
Class A Licence Renewal 2005	\$41.52	N/A	N/A	N/A	\$183.48	\$225	no	yes
Class A Licence Renewal 2006	\$65	N/A	N/A	N/A	\$183.48	\$248.48	no	yes
Class B Licence- 1 st Issuance 2005	\$nil	\$nil	\$28.50	\$99	\$nil	\$127.50	no	yes
Class B Licence- 1 st Issuance 2006	\$nil	\$38.32	\$54.20	\$99	\$8.48	\$200	no	yes
Class B Licence- 1 st Issuance 2007	\$nil	\$38.32	\$54.20	\$99	\$82.48	\$274	no	yes
Class B Licence Renewal	\$65	N/A	N/A	N/A	N/A	\$65	no	yes
Assistant's Licence	\$65	N/A	N/A	N/A	\$183.48	\$248.48	no	yes
Assistant's Licence Renewal	\$65	N/A	N/A	N/A	\$183.48	\$248.48	no	every 5 years

Schedule "A"

By-Law 2004-354 of the City of Greater Sudbury

Fees Effective January 1st, 2005 - December 31st, 2005

Commencing January 1st, 2006, these fees shall be automatically adjusted for inflation on January 1st in every year by the City Treasurer based on the September to September increases (or decreases) in the Consumer Price Index, and rounded up or down as the Treasurer deems appropriate, and provided further that the Treasurer may consider previous Index changes, and previous fee adjustments or non-adjustments, and the Treasurer shall inform Council of these annual adjustments, and this By-law shall be deemed to have been amended accordingly.

UNOFFICIAL
CONSOLIDATED
VERSION