

Licence

Chapter 610 Pawnbroker

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Article 1 - Short Title

610.1.1 Citation

The short title of this Chapter is the "Pawnbroker/Second Hand Goods Dealer Licensing By-law."

Article 2 - Interpretation

610.2.1 City - defined

"City" means The Corporation of the City of Woodstock.

610.2.2 Council - defined

“Council” means the Council of The Corporation of the City of Woodstock.

610.2.3 Household appliance - defined

“household appliance” means such items as refrigerators, stoves, dishwashers, vacuum cleaners, lawn mowers, washing machines and clothes dryers.

610.2.4 Licensee - defined

“licensee” means the holder of a licence issued under this Chapter.

610.2.5 Pawnbroker - defined

“pawnbroker” means a person who carries on the business of taking by way of pawn or pledge any article or second hand goods for the repayment of money lent thereon.

610.2.6 Pawn shop - defined

“pawn shop” means a place where the business of a pawnbroker is carried on and includes any area where any such goods are stored or the business is carried on and all relevant documents pertaining to the conduct of operating a pawn shop.

610.2.7 Second hand goods - defined

“second hand goods” means any article that has been purchased or obtained, offered to or required by a pawnbroker or second hand goods dealer as collateral for monies lent or for resale.

610.2.8 Second hand goods dealer - defined

“second hand goods dealer” means a person who carries on the business of selling second hand goods.

610.2.9 Second hand goods shop - defined

“second hand goods shop” means a place in which a second hand goods dealer exercises the trade of receiving or taking on consignment any second hand goods for resale and includes any area where any such goods are stored or the business is carried on and all relevant documents pertaining to the conduct of operating a second hand goods shop.

610.2.10 Transaction record - defined

“transaction record” means a record related to the purchase, consignment or taking in exchange of any second hand goods made in a recording system approved by the Chief of Police or designate of the Woodstock Police Services.

610.2.11 Treasurer - defined

“Treasurer” means the Treasurer of The Corporation of the City of

Woodstock.

Article 3 - General Provisions

610.3.1 Operation – Without Licence

No person shall carry on the business of a pawnbroker or second hand goods dealer within the limits of the City without having first obtained a licence for such pawnbroker or second hand goods dealer as provided for in this Chapter. (See Set Fine)

610.3.2 Licence - separate - each shop

No person shall, by virtue of one licence, carry on business as a pawnbroker or second hand goods dealer in more than one shop.

610.3.3 Licence - displayed - conspicuous - on premises

Any licence issued pursuant to the provisions of this Chapter shall be displayed in a conspicuous place in or on the premises where a pawn broker or second hand goods dealer is carrying on the business of a pawnbroker or second hand goods dealer.

610.3.4 Partnership - same shop - one licence only

Where two or more persons carry on business as pawnbrokers or second hand goods dealer in partnership in the same shop, only one licence is necessary.

610.3.5 Application - provided by Clerk

Applications for licences issued under the provisions of this Chapter shall be made to the Clerk on the prescribed forms supplied by the Clerk.

610.3.6 Renewal - by new application

Any person requiring a new licence for a year following the date of expiry of any previous licence shall apply for the new licence in the same manner as any new applicant. By-law 8536-09, May 7, 2009.

610.3.7 Application - information requirements

Every applicant for a pawnbroker or second hand goods dealer licence shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as:

- a) payment of the prescribed licence fee; and
- b) in the case of a pawnbroker's licence, security in the amount of \$2,000 to the municipality in a form satisfactory to the Treasurer (which security shall be maintained in effect for so long as the applicant holds a pawnbroker's licence); and

- c) any other document or information requested by the Clerk or designate. By-law 8707-11, August 11, 2011. By-law 9100-16, November 17, 2016.

610.3.8 Employee – criminal records check – required

Every pawnbroker shall provide the Clerk/designate with a criminal records check for all listed owners, managers, and all employees who are directly making pawn loans and buying and/or selling merchandise. By-law 9100-16, November 17, 2016.

610.3.9 Application - subject to approval - deemed necessary

Every application will be subject to approvals from such municipal or provincial departments or agencies, as the Clerk deems necessary.

610.3.10 Transfer - licence - prohibited

A licence issued under the provisions of this Chapter shall not be transferable and is valid only in respect of the person and the premises named therein.

610.3.11 Premises - in contravention - licence refused

No licence shall be issued to any person in respect of any premises in which the carrying on or operation of the trade, calling, business or occupation for which the application is being made is in contravention of any by-law of the City.

610.3.12 Licence - term - expiry

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 issuance or sooner if the licence so indicates.

610.3.13 Renewal - application - deadline

Applications for a renewal of a licence must be received by the Clerk or designate on or before the 15th day of February in the year preceding the year for which the current licence is intended to be renewed.

610.3.14 Change of address - notice - within seven days

Every licensee shall notify the Clerk within seven days of any change in his/her business or home address.

610.3.15 Revocation - by Council - in public interest - refund

Council may revoke any licence granted under this Chapter at any time if it deems it in the public interest to do so and, in such event, the licensee shall be given a refund of the licence fee proportionate to the unexpired term of the licence. By-law 8536-09, May 7, 2009.

610.3.16 Fee - per annum

The per annum licence fee payable shall be:

- a) second hand goods dealer \$60;
- b) pawnbroker \$400. By-law 8536-09, May 7, 2009; By-law 8572-09, September 17, 2009; By-law 8633-10, September 2, 2010; 8891-14, January 16, 2014.
- c)

610.3.17 Reduction - after February 15 - prohibited

There shall be no reduction in the licence fee for any licence issued after the fifteenth day of February in any year.

610.3.18 Insurance - minimum requirement

No person shall operate a pawn shop or second hand goods shop 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 9232-18 – August 9, 2018

610.3.19 Revocation - public interest - fee - refunded

Council may revoke any licence granted under this Chapter at any time if it deems it in the public interest to do so and, in such event; the licensee shall be given a refund of the licence fee proportionate to the unexpired term of the licence.

Article 4 - Licence - Issue - Requirements

610.4.1 Procedure - requirements

Applications must be filed in writing on the prescribed form with payment of the applicable application fee. The Clerk or designate shall provide a copy of every application for the issuance or renewal of a pawn shop or second hand goods dealer licence to: such civic departments, boards, commissions, authorities or agencies as the Clerk considers may have an interest in the application; who may submit comments or recommendations to the Clerk in respect of the application within such time as the Clerk may specify.

610.4.2 Licence - signed - by Clerk

Each licence shall be issued in the name of the City and shall be granted and signed by the Clerk.

610.4.3 Issuance - rejected - suspension - revocation

The Clerk or designate, in conjunction with the Chief of Police or designate shall not refuse to issue, suspend or revoke a pawnbrokers/second hand goods dealer licence to an applicant except where:

- a) the past or current conduct of the applicant or licence holder afford reasonable grounds for belief that the pawnbroker/second hand goods

dealer is not carrying on or will not carry on the business of pawnbroker/second hand goods dealer in accordance with the law and with integrity and honesty; or

- b) there is reasonable grounds for belief that the carrying on of the business of pawnbroker/second hand goods dealer in respect of the licence by the applicant or licence holder has or will result in a breach of this Chapter or any other applicable law; or
- c) the applicant or licence holder is a corporation or partnership and its conduct or the conduct of its officers, directors, employees, agents or partners affords reasonable grounds for belief that the pawnbroker/second hand goods dealer business has or will not be carried on in accordance with the law and with integrity and honesty; or
- d) there are reasonable grounds for belief that the premises, accommodations, equipment or facilities in respect of which the licence is required do not comply with the provisions of this Chapter or any other applicable by-law; or
- e) the conduct of the licence holder or other related circumstance afford reasonable grounds for belief that the carrying on of the business of pawnbroker/second hand goods dealer in respect of the premises for which the licence is sought would infringe on the rights or endanger the health or safety of any other members of the public; or
- f) the fee payable in respect of the licence has not been paid; or
- g) the applicant is in default with respect to any financial or other obligation to the City.

610.4.4 Inspection - obstruction - prohibited

No person shall obstruct a person inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by a person inspecting for the purpose of this Chapter.

610.4.5 Issuance - rejected - dispute to Appeal Tribunal

Where a licence holder or applicant disputes in writing the non-issuance of a licence or the revoking of a licence, the disputed matter shall be referred by the Clerk to the Appeal Tribunal as outlined in Article 5 which shall hear representations from the applicant and determine the matter.

610.4.6 Cancellation - suspension - refund

The City may at any time cancel or suspend any licence issued under this Chapter and any licence fee collected for such licence shall be refunded for the period of cancellation or suspension.

610.4.7 Cancellation - suspension - privileges - discontinued

While any licence granted under this Chapter is suspended or cancelled, the licensee shall not exercise any right or privilege conferred by such licence and any such licensee attempting to exercise any right or privilege under such licence during such suspension or cancellation shall be liable to the same penalties and may be prosecuted in the same way as though such person had procured no such licence.

610.4.8 Age - restriction

No licensee shall purchase, take in exchange or receive any second hand goods, article or thing from any person under the age of fourteen years of age without written authority from a parent or guardian of such person.

610.4.9 Proof of age - requirements

Every licensee shall ensure that a seller presents one piece of identification that is integrated with a photograph:

- a) a valid driver's licence;
- b) a passport issued by the government of origin;
- c) "Bring Your Identification" card issued by the Liquor Control Board of Ontario;
- d) a certificate of Canadian Citizenship issued by the Government of Canada;
- e) a Conditions Release Card issued by Correctional Services of Canada; or
- f) a student card.

610.4.10 Transaction records

Every licensee shall ensure that prior to purchasing, taking a pledge, taking in exchange or taking on consignment any second hand goods, a record is made in a recording system approved by the Chief of Police or designate of:

- a) the day, month, year and time of the transaction;
- b) the full name, date of birth, and address of each seller;
- c) the full particulars of the seller's identification;
- d) a detailed description of each second hand good sufficient to identify it including, where applicable, make, model, serial numbers, markings, titles and any other identifying numbers, letters or designs;
- e) the purchase or consignment price of each second hand good or a description of the item exchanged for it; and
- f) the clearly marked name of the person conducting the transaction.

610.4.11 Records - released upon request

Every licensee shall, when requested by the Chief of Police or designate at any time during business hours, produce transaction records for inspection. If requested by the Chief of Police or a member of the Woodstock Police Services every licensee shall permit the removal of any transaction record from the premises for the purpose of photocopying or for use in any court proceedings.

610.4.12 Inspection of premises

The Chief of Police or designate shall be authorized to inspect:

- a) the portion of any premises being used for carrying on the business of a pawnbroker or second hand goods shop; and
- b) any goods, wares, merchandise, records or other documents of or relating to a pawn shop or a second hand goods shop.

610.4.13 Property - improperly obtained - removed

Any property found during an inspection that appears to have been improperly or illegally obtained, or is known to be stolen, or found to have been obtained by the seller or any other person through the commission of an offence against this Chapter or any provincial or federal statute, may be seized by the Chief of Police or designate for investigation, for use as evidence in court proceedings, or for return of the said property to its rightful owner without remuneration by the rightful owner, the Chief of Police or designate, the City or its agents to the licensee.

610.4.14 Property - removed - criminal investigation - receipt

In circumstances where the Chief of Police or designate suspects that specified second hand goods were stolen, a peace officer shall be entitled, upon providing a receipt, to remove such second hand goods for the purpose of criminal investigation provided such second hand goods are either returned within sixty days or further retained by means of a court order.

610.4.15 Exemptions

Garage sales, flea markets, second hand bookstores, household appliances, second hand clothing dealers, car dealers, fundraising events conducted by charitable or religious organizations shall be exempt from the provisions of this Chapter. By-law 8536-09, May 7, 2009.

Article 5 - Refusal - Revocation - Suspension of Licence

610.5.1 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, the applicant

has contravened a Section of this Chapter or if the applicant, or any of its directors, officers, managers or employees have been convicted of a relevant offence under the Criminal Code of Canada. 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. By-law 9100-16 – November 17, 2016.

610.5.2 Notice - how served

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

610.5.3 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.

610.5.4 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.

610.5.5 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, managers or employees have been convicted of a relevant 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.

610.5.6 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.

610.5.7 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.

610.5.8 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 610.5.10 to 610.5.21, inclusive shall apply.

610.5.9 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.

610.5.10 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.

610.5.11 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; and
- c) 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.

610.5.12 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.

610.5.13 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.

610.5.14 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.

610.5.15 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.

610.5.16 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.

610.5.17 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.

610.5.18 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.

610.5.19 Review Tribunal - decision final - binding

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

610.5.20 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.

610.5.21 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.

610.5.22 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.

610.5.23 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.

610.5.24 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.

610.5.25 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.

610.5.26 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 8776-12, June 7, 2012.

Article 6 - Enforcement

610.6.1 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*.

610.6.2 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

610.7.1 By-laws - previous

All previous by-laws regarding pawnbrokers or second hand goods dealers licensing are hereby repealed.

610.7.2 Effective date

This Chapter shall come into force and take effect as of third and final reading of the enabling by-law. By-law 8536-09, May 7, 2009.