



GUELPH POLICE SERVICES BOARD

BY-LAW NUMBER 133 - (2008)

A by-law for licensing, regulating and governing owners and dealers of second-hand goods shops, salvage yards and salvage shops; and persons who purchase or deal in old gold and jewellery.

WHEREAS, pursuant to Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25 (the Act) Council of a local municipality may provide for a system of licences with respect to a business ;

AND WHEREAS, under Sections 8, 9, 10, of the *Act* a municipality may exercise its licensing powers, including imposing conditions for the protection or persons and property, including consumer protection;

AND WHEREAS, Section 157 of the *Act* authorizes the council of a municipality and a Police Services Board of the municipality to agree that the police services board will have the power to licence, regulate and govern a business specified in the by-law;

AND WHEREAS, the Council of the Corporation of the City of Guelph through by-laws (1996) 15120 and (1996) 15194 did on April 15, and July 2, 1996 respectively, delegate to the Guelph Police Services Board the power to licence, regulate and govern businesses involving a second-hand goods shops, salvage yards, salvage shops and dealers in gold and old jewellery;

AND WHEREAS, the Guelph Police Services Board under the *Police Services Act* , R.S.O. 1990, c. P.15, Section 31 is concerned with the provision of adequate and effective policing for the City of Guelph and wishes to enact a second-hand goods by-law to assist in deterring property crime and assisting victims of crime in recovering their property;

AND WHEREAS, the Guelph Police Services Board desires to prevent second-hand goods dealers and consumers who purchase goods from these establishments from being victimized by criminals and to provide helpful direction in that regard;

NOW THEREFORE, The Guelph Police Services Board ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this By-law:
 - (a) **“BEARER”** means a person who brings designated second-hand goods to the designated second-hand goods shops and gets payments (cheques, notes, money, order, etc).
 - (b) **“BUY-BACK SERVICE”** means the practice where items are taken on consignment which transaction includes the payment of money to a customer prior to the actual sale of the item on behalf of that customer and which item is held for re-purchase by the customer for a higher buy-back price.
 - (c) **“CHIEF OF POLICE”** means the chief of the Guelph Police Service or their designate;
 - (d) **“DEALER IN SECOND-HAND GOODS”** means any person who operates, manages or is otherwise in control of : (i) a second-hand goods shop; (ii) a salvage yard; (iii) a salvage shop; or, (iv) someone who purchases or deals in old gold, old jewellery or other similar articles for the purpose of smelting or dismantling same and recovering the gold there from. This term also includes persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods and the term "second-hand goods dealer" or "dealer" shall have a corresponding meaning;
 - (e) **“ DESIGNATED SECOND-HAND GOODS”**, means any articles or goods that are listed in Schedule "A" of this By-law that have been previously owned or used by one or more persons.
 - (f) **“DESIGNATED SECOND-HAND GOODS DEALER”** (Designated Dealer), shall mean a person dealing with the second-hand goods as described in Schedule "A" attached herein and the term “designated second-hand goods dealer” or “designated dealer” shall have a corresponding meaning;
 - (g) **“DESIGNATED SECOND-HAND GOODS SHOP”**, means a second-hand goods shop where designated second-hand goods are purchased,

exchanged, sold, or stored.

- (h) **"GARAGE SALE"** means a sale of goods from a residential premises where the sale lasts no more than two (2) days , the sale from that premise occurs no more than two (2) times per year and the second-hand goods vendor is either the user of the goods sold, or is one of several neighbourhood households conducting a sale of goods used by the members of those households or is a tenant or a member of a condominium association relating to a residential building;
- (i) **"IDENTIFICATION NAMES"** means an identification document (being in a book format or maintained in computer data files or a register) which included the name, date of birth, full address, driver's license or photograph of the bearer;
- (j) **"LEDGER DESIGNATED GOODS"**, means a clearly legible up-to-date record (being in a book format or maintained in computer data files or a register) in a form approved by the Guelph Police Service and maintained in the official language containing the description and identification of any goods so deposited, as required within this By-law;
- (k) **"LICENSE"**, means the document issued by the Guelph Police Service under the provisions of this By-law having the signature of the Chief of Police and authorizing a person to conduct business as a designated dealer in designated second-hand goods as defined herein;
- (l) **"LICENSEE"**, means a person licensed under this By-law;
- (m) **"PAWNBROKER"**, means a person who carries on the business (under the Ontario Pawnbrokers Act) and needs a license under the Guelph By-way regarding business of a pawnbroker;
- (n) **"PERSON"**, includes an individual, a corporation, partnership, or other business association;
- (o) **"PREMISE"**, means any place that is used by a designated second-hand goods dealer to carry on the business of a designated second-hand goods dealer, any areas where such goods are stored, any area where records relating to such business are stored, or any booth or stall used by a designated second-hand goods dealer for the sale of designated second-hand goods;
- (p) **"REGISTER"**, a computer software program that has been approved by the Chief of Police or their designate;
- (q) **"SALVAGE"**, means any destroyed, deteriorated or damaged goods or

property and any part thereof; and includes such items as metal; old, damaged or inoperable automobiles; automobile parts; bicycles; and other similar material;

- (r) **“SALVAGE YARD”** means land, buildings or structures used for wrecking, dismantling, storing and selling salvage and includes an automobile wrecking yard, salvage shop or premises and the like where salvage is purchased, sold, processed, or otherwise dealt with pursuant to a trade, calling, business or occupation;
- (s) **“SECOND-HAND GOODS”** means any article that has been used for the purpose for which it was designed and which is sold to a dealer in second-hand goods for resale;
- (t) **“SECOND-HAND GOODS SHOP”**, means any premises in which second-hand goods are purchased, exchanged, sold, or stored pursuant to a trade, calling, business or occupation, but does not include a shop where the rental of goods is the sole business carried out, nor where a pawnbroker business is the sole business carried out;
- (u) **“SECOND-HAND GOODS DEALER-SALVAGE”** (Salvage Dealer), shall mean a person operating a salvage yard and not dealing with the designated second-hand goods listed in Schedule "A" and the term “second-hand goods dealer-salvage” or “salvage dealer” shall have a corresponding meaning.

LICENSE REQUIRED

- 2. (1)(a) No person shall carry on any trade, calling, business or occupation as a “Designated Dealer” or a “Salvage Dealer” without a valid license issued by the Guelph Police Services Board.
- (b) Employees of a validly licensed designated dealer or a salvage dealer do not require a licence. However, the licensee must instruct their employees in the provisions of this By-law and ensure compliance with its terms;
- (c) Notwithstanding any other provisions of this By-law, no person shall require a designated dealer license to deal in designated second-hand goods where that activity is engaged in solely for charitable purposes, or the goods are sold as part of a garage sale as defined herein, or where the sole business consists of articles purchased new and rented out in the normal course of business, or where the business is that of a pawnbroker;
- (d) No license shall be issued to any applicant under the age of 18 years;

- (e) Every application for a license under this By-law shall be made in writing upon the appropriate form provided by the Chief of Police and shall be accompanied by the application fee, and proof of age if requested by the Chief of Police;
 - (f) No license shall be issued or renewed unless all applicable fees, as set out in Schedule “B” to this By-law, are paid in full.
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- (2) A Class “A” license issued under the provisions of this By-law will permit the licensee to deal in second-hand goods listed in Schedule “A”; and a Class “B” license will permit the licensee to operate a salvage yard.
 - (3) No licensee, shall operate any designated second-hand goods shop or salvage yard at a location that is not authorized by their license.
 - (4) Every person requiring a license under the provisions of this By-law shall obtain a separate license in respect of each and every shop, store, yard or other place used for the transaction of business.
 - (5) A licensee, who wishes to move their place of business from the location described in the license issued under this By-law, must apply for and receive a new licence before the said move.
 - (6) No licensee shall carry on business as a pawnbroker within their place of business unless such person has also been issued a license as a pawnbroker, by the City of Guelph.
 - (7) The annual license fees to be paid under this By-law shall be as outlined in the “Schedule of Fees” attached hereto, being Schedule “B”, and as amended from time-to-time.
 - (8) Every license is to expire on September 30th of each year. If a license is issued after March 31st of the year, the fee shall be prorated on a monthly basis.
 - (9) Upon the recommendation of the Chief of Police, the Guelph Police Services Board may, if it is of the opinion that the conduct of the licensee or applicant affords reasonable grounds for belief that the licensee or applicant will not carry on or engage in the business in accordance with the law, or this By-law, or with honesty and integrity, or the issuance or renewal of the license would be contrary to public interest, refuse the application, suspend or revoke the license of the licensee, or may issue or renew a license subject to such terms and conditions as are necessary to

give effect to this By-law.

- (10) Before considering the recommendation to refuse, suspend or revoke a license to carry on the business as a Class “A” (designated) or Class “B” (salvage) dealer in second-hand goods, the Board shall give the applicant or licensee written notice of the reasons provided by the Chief of Police for the recommendation and an opportunity to reply to the recommendation orally or in writing, as the Board may determine. The Board’s decision shall be final.
- (11) The written notice referred to in this section is sufficiently served if delivered personally or sent by registered or certified mail addressed to the Applicant or Licensee according to the information on the application form. When service is made by registered or certified mail, the service shall be deemed to be made on the seventh day after the day of mailing.
- (12) By-laws 117-(2003) shall be repealed effective on the coming into force and effect of this by-law.

LICENSE NOT TRANSFERABLE 3.

Every license issued under this By-law shall be personal to the holder thereof and shall not be transferable from person-to-person or location to location and no licensee shall advertise or promote or carry on business under any name other than the name endorsed upon the license issued to him or her.

DISPLAY OF LICENSE 4. (1)

Every licensee shall ensure that where a license applies to a premises, that the said license is posted in the premises in a conspicuous place clearly visible to the public at all times while the license is in effect.

- (2) Every licensee shall ensure that where such license is not applied to premises, that the license is in his or her possession, or in the possession of their employee, at all times while engaged in the business for which the license was issued and such person shall produce such license upon request of a police officer.

5. (1) A licensee shall not:

MINIMUM AGE AND PERSONS UNDER INFLUENCE OF (a)

purchase or receive any goods from any person who appears to be or is under the age of eighteen (18) years or who appears to be or is under the influence of alcohol or drugs;

ALCOHOL

OPERATING TIMES

- (b) carry on business or be open to the public after 11:00 p.m. or before 7:00 a.m. on any day.
- (c) purchase or acquire from any person any designated second-hand goods if the serial number has been obliterated or mutilated, without first giving notice in writing to the Guelph Police Service twenty-four (24) hours prior to such intended purchase or acquisition.

HOLDING PERIOD 6. (1) (a) Except where otherwise provided, every licensee who purchases, acquires *FOR SCHEDULE "A"* or obtains any designated second-hand goods, watches, shall hold such goods for a minimum of thirty (30) calendar days from the date of such acquisition. However, the licensee may dispose of such good(s), except for jewellery and watches, before the expiration of the thirty (30) days, upon receiving authorization in writing from the Chief of Police to sell those goods identified in the authorization. Jewellery and watches shall be held for a minimum period of sixty (60) calendar days from the date of acquisition.

- (b) All designated second-hand goods shall be retained, without alteration, repair or modification, on the licensee's business premises at which the goods were obtained throughout the required holding period, and shall be kept in a separate location from goods previously purchased. If the dealer carries on their business by travelling from place to place within the City, buying or collecting designated second-hand goods, they shall advise the Chief of Police of the location where these goods are kept.
- (c) During the holding period, the designated second-hand goods shall be available for inspection at the premises at which the goods were obtained or at the location where they are kept by itinerant dealers. The said goods may be inspected by a police officer of the Guelph Police Service, together with such other person who may be necessary to identify potentially stolen second-hand goods, during business hours without notice.
- (d) All designated second-hand goods shall have affixed a label or marking that will connect that item with the record of purchase or acquisition of the item.
- (e) Every licensee who is also licensed to carry on business as a pawnbroker shall keep all goods obtained in the course of business as a designated second-hand goods dealer physically separate from goods left in pawn.

- (2) The holding period shall not apply to designated second-hand goods which were obtained:
- (a) directly from a government body or other public utility
 - (b) directly from a person licensed under this by-law where the purchasing licensee has received a receipt from the selling licensee certifying that the goods have already been held as required herein;
 - (c) directly from an estate or estate auction, where the purchasing licensee has obtained a document from the solicitor or executor of the estate verifying the origin of the goods.
 - (d) by a licensee whose principal business is in the sale of new goods and who deals in designated second-hand goods only as trade-ins which value is then applied against the purchase price of new goods – and subsequently selling such used goods as traded goods. This exemption does not apply to designated second-hand goods which are not acquired as a trade-in but rather are purchased outright by the dealer.

LEDGER REQUIRED 7. (1)

Every licensee who deals in designated second-hand goods, or who operates a salvage yard or shop, shall keep a ledger on the premises in which shall be entered in an official language, a record of all designated second-hand goods received or taken in exchange or otherwise obtained either at the licensee's place of business or elsewhere, and every such entry shall be made at the time such goods are received or exchanged and each entry shall include:

- (i) the day, month and year in which the transaction took place; and a detailed description of each designated second hand good that is reasonably sufficient to identify it, including the make, model, the manufacturer's serial number, markings or other identifying features as applicable; and in the case of music compact disks, audio tapes, or video tapes, the artist's name and titles;
- (ii) if goods are purchased, the price paid for such goods;
- (iii) Where goods are delivered by motor vehicle, the license plate number and the province or state in which it is registered;
- (iv) the entries shall be numbered in the ledger consecutively in the order in which the goods are bought;
- (v) the name of the staff-employee who conducted the transaction.

- (2) A licensee shall provide to the Guelph Police Service a copy of the detailed description of each designated second-hand goods as required under Section 7(1)(a)(i) within their ledger as requested by the Guelph Police Service on a weekly basis or under their register (electronically) on a daily basis.
- (3) A licensee shall ensure that their ledger/register is not destroyed, erased or mutilated, but is retained for at least 18 months in respect of each entry.
- (4) Those licensees who record their transactions electronically, may forward those records to either the Guelph Police Service (GPS) on a daily basis in a format approved by the Chief or their designate or to a website approved by the Chief. A licensee who forwards the electronic records to the GPS or another approved website on a daily basis, may upon request, be provided written authority by the Chief of Police to reduce the 30-day holding period referred to in section 6 from 30 days to 14 days.

***IDENTIFICATION
OF PERSONS
REQUIRED***

- (5) Such licensee shall request, view and record the identification of every person from whom any designated second-hand goods are received.
 - (a) The full name, address and full particulars of identification produced and a description of the person reasonably sufficient to identify such person from whom the goods are received. Such description shall include the sex, estimated age, height, weight, and race of such person; provided that if the licensee has a photograph or suitable visual image of the seller they need not include such description or their driver's licence;
 - (b) A licensee shall obtain a signed receipt from every person selling or offering designated second-hand goods in trade to the licensee. Such receipt shall be in a format approved by the Chief of Police and shall be maintained on the premises for a period of 12 months.
 - (c) A licensee shall post two notices that comply with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. The notice shall be as prescribed by the Chief of Police.

***COMPLIANCE WITH
OTHER LAWS
REQUIRED***

- 8. The issuance of a license under this By-law does not permit or condone the violation of any municipal, provincial, or federal law, statute or other regulation in effect in the City of Guelph.

- INSPECTIONS** 9. (1) No person shall obstruct or hinder or permit the obstruction or hindrance of any Guelph police officer carried out pursuant to this By-law.
- (2) Every licensee shall produce for Guelph police officers their Identification of persons under subsection 7(5) when the officers have a reasonable suspicion regarding the goods that were sold to the licensee that may be connected to stolen goods.
- (3) A police officer may, at any reasonable time, inspect any second-hand goods shop, designated second-hand goods shop or salvage yard to ensure compliance with the provisions of this By-law or for the purposes of determining if any goods contained therein are stolen.
- (4) Where a police officer has reasonable grounds to believe that certain specified designated second-hand goods are stolen goods, the police officer shall, upon providing a receipt to the licensee, be permitted to remove said goods for the purposes of criminal investigation. Such seized goods shall be returned to the licensee within sixty (60) days unless further detention is consented by the licensee or authorized by a court order.

- SALVAGE YARDS** 10 (1) Every salvage yard owned or operated by a licensee shall be maintained in a neat condition, and in good repair. No goods or merchandise shall be displayed on the outside of any such shop or yard unless properly fenced.
- (2) (a) Every salvage yard shall be surrounded by an appropriate fence pursuant to the requirements established under the City of Guelph Zoning By-law (1995)-14861 as amended from time to time and any successor thereof (the “City of Guelph Zoning By-law”) and/or site plans as approved under the *Planning Act*.
- (b) Such fence shall be constructed and located as required by the City of Guelph Zoning By-law and/or site plan.
- (c) Every licensee of a salvage yard shall keep that part of their property situated outside the required fence in a clean and neat condition.
- (d) No salvage stored in the salvage yard shall be piled higher than the fence surrounding such yard.

- OFFENCES & PENALTY** 11. (1) Every person who contravenes or fails to comply with any provision of this By-law is guilty of an offence.
- (2) Every person who is found guilty of an offence under any provision of this By-law shall be liable to a penalty as set out in Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, or any successor

thereof.

- (3) Every person licensed under this By-law who contravenes or fails to comply with this by-law may have their license suspended or terminated during a Board hearing.

***COMING INTO
FORCE***

- 12.** This by-law shall come into force and effect on the day it is passed.

ULTRA VIRES

- 14.** It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Board to enact, such Section or Sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent thereof and enacted as such.

- REPEALED*** **15.** That By-law No. 117-(2003) is repealed on July 17, 2008.

PASSED by the Guelph Police Services Board this 17th day of July, 2008.

Guelph Police Services Chair, David Clark

Guelph Police Services Board Secretary, Nancy Nodwell



BY-LAW NO. 133 - (2008)

**SECOND-HAND GOODS AND SALVAGE YARDS
& SHOPS BY-LAW**

SCHEDULE A

The following is a list of designated goods:

- (1) all items bearing a distinctive manufacturer's number or mark, except for large major household appliances;
 - (2) bicycles;
 - (3) coins, currency, stamps;
 - (4) computers and accessories, computer games;
 - (5) electrical tools and equipment;
 - (6) jewellery & watches;
 - (7) firearms;
 - (8) musical instruments and accessories;
 - (9) photographic equipment, cameras, video recorders;
 - (10) radios, stereos and components (includes automotive) , cell phones;
 - (11) televisions, video cassette-recorders and players, and DVD players;
 - (12) vinyl records, audio tapes, video tapes, compact disc recordings, video cassettes and DVDs;
 - (13) video games;
 - (14) sports equipment, including but not limited to golf clubs, roller blades, snow boards, hockey equipment, skiing and tennis equipment;
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SCHEDULE "B"

FEEES

- (a) CLASS A LICENSE: to operate a designated second-hand goods shop.....\$100.00.
- (b) CLASS B LICENSE: to operate a salvage yard.....\$100.00.