

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT *Parking and By-law Services Division*

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: January 17, 2012	
SUBJECT/REPORT NO: Amendments to the Licensing By-law 07-170 Respecting Salvage and Second Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses (PED10063(f)) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Vincent Ormond 905-546-2424 Ext. 1358
SIGNATURE:	

RECOMMENDATION

- (a) That Schedule 6 (Antique and Flea Markets), Schedule 11 (Pawnbrokers), Schedule 14 (Precious Metal and Jewellery Dealers) and Schedule 22 (Salvage and Second Hand Goods) of the Licensing By-law 07-170 be deleted and replaced with a consolidated new Schedule 22, attached as Appendix "A" to Report PED10063(f).
- (b) That licence holders under the proposed new Schedule 22 of the Licensing By-law 07-170 (Salvage and Second Hand Goods, Pawnbroker, and Jewellery and Precious Metals Businesses) be required to report information on purchases electronically in a format approved by the Issuer of Licences.
- (c) That the amending By-law attached to Report PED10063(f), which has been prepared in a form satisfactory to the City Solicitor, be approved.

EXECUTIVE SUMMARY

Report PED10063(e) was referred back to staff by the Planning Committee on November 22, 2011 to consider adding a requirement that the licensee review photo identification of individuals pawning or selling items. Staff have updated the By-law, attached as Appendix "A" to Report PED10063(f), to include the requirement for licensees to require photo identification to confirm a vendor's identity.

Alternatives for Consideration – Not Applicable.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing/Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

On November 22, 2011 Planning Committee referred Report PED10063(e) back to staff to consider a By-law requirement for photo identification for those individuals pawning or selling items.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Legal Services, Hamilton Police Service

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The intent of the By-law is to require a licensee to take all reasonable steps to screen a vendor and the goods being purchased to ensure that they are not purchasing stolen goods or items from minors. Staff have discussed the requirement for photo identification with Hamilton Police Service who have confirmed that this would facilitate their ability to investigate suspect second hand and pawned goods.

SUBJECT: Amendments to the Licensing By-law 07-170 Respecting Salvage and Second Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses (PED10063(f)) (City Wide) - Page 3 of 3

The amending By-law, attached as Appendix “A” to this Report, requires government photo identification to be presented as proof of identification for the purposes of vending an item and that the licensee be required to indicate what piece of photo identification was presented to verify the vendor’s identity. The By-law requirement for a licensee to collect personal information from a vendor aligns with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Healthy Community

- An efficient and effective By-law Enforcement Program is critical to Community quality of life and public safety.

APPENDICES / SCHEDULES

Appendix “A” to Report PED10063(f) - Amending By-law

VO/dt

Authority: Item
Report
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the replacement of Schedule 22 and deletion of Schedules 6, 11 and 14 of City of Hamilton By-law No. 07-170;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule 22 of By-law No. 07-170 is deleted and replaced with the new Schedule 22, entitled "Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses", attached as Appendix A to this By-law.
2. Schedules 6, 11 and 14 of By-law No. 07-170 are deleted.
3. Subparagraph 6(1)(e)(i) and section 30 of the General Provisions of By-law No. 07-170 are amended by deleting the titles "Flea Markets and Antique Markets", "Pawnbrokers" and "Precious Metals and Jewellery Dealers" and replacing each of them with "(Reserved)".

4. Subparagraph 6(1)(e)(i) and section 30 of the General Provisions of By-law No. 07-170 are further amended by deleting the title "Salvage and Second-

Hand Goods Businesses" and replacing it with "Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses".

5. Appendix "B" of the General Provisions of By-law No. 07-170 is amended by deleting "6 (Flea Markets and Antique Markets)", "11 (Pawnbrokers)" and "14 (Precious Metal and Jewellery Dealers)".

6. Appendix "B" of the General Provisions of By-law No. 07-170 is further amended by deleting "22 (Salvage and Second-Hand Goods Businesses)" and replacing it with "22 (Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses)".

7. All licences issued under Schedules 11 or 14 which are current and valid on the day this By-law comes into force shall be deemed to:

- (a) be current and valid under the amended Schedule 22; and
- (b) be subject to all of the applicable provisions of By-law No. 07-170 and the amended Schedule 22, including but not limited to expiring and being renewable as though they had been issued under the amended Schedule 22.

8. This By-law comes into force on the day it is passed.

PASSED this day of , 20 .

_____	_____
R. Bratina Mayor	R. Caterini City Clerk

Appendix A

SCHEDULE 22

SALVAGE AND SECOND-HAND GOODS, PAWNBROKER, AND JEWELLERY AND PRECIOUS METALS BUSINESSES,

DEFINITIONS

1. In this Schedule:

"antiques" means furniture or other goods commonly recognized as collectable because of their quality, value or age, and reproductions of such goods, but does not include bicycles, coins, electronic goods, jewellery, musical instruments, precious gems, precious metals, time pieces or tools;

"bicycle" includes but is not limited to a unicycle or a tricycle;

"electronic goods" includes but is not limited to:

- (a) digital/video cameras, computers, facsimile machines, DVD/CD/video players or recorders, mp3 music players, stereos, televisions;
- (b) the components of electronic goods; or
- (c) the forms of media played or otherwise used by electronic goods such as DVDs, CDs or videos;

"jewellery" means articles of personal adornment made in whole or part of precious gems or precious metals;

"operator" means a person who owns, operates, manages, supervises, controls or is responsible for a business;

"pawnbroker" means a person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon and who is subject to the Pawnbrokers Act;

"precious metals" include but are not limited to gold, platinum or silver;

"jewellery and precious metals business" means a business purchasing jewellery or precious metals for the purpose of smelting the jewellery or precious metals;

"purchase", in all its forms, includes but is not limited to taken in exchange, received on consignment, redeemed on a pawn ticket or otherwise received;

"salvage" means metal scrap, used or wrecked motor vehicles or used or wrecked motor vehicle parts;

"salvage business" means a business purchasing or selling salvage and includes but is not limited to a motor vehicle wrecking yard;

"second-hand goods" means second-hand bicycles, coins, electronic goods, jewellery, precious gems, musical instruments, time pieces or tools;

"second-hand goods business" means a business purchasing or selling second-hand goods including but not limited to an antique market or a flea market vendor;

"visual barrier" means a barrier that acts as a screen consisting of:

- (a) a wall or a fence;
- (b) a continuous planting of suitable and healthy trees or shrubs;
- (c) an earth berm; or
- (d) any combination of the above; and

"works of art" means paintings, photographs, sculpture and other products of artisans commonly recognized as collectable because of their quality or value, but does not include jewellery, precious gems, time pieces or coins.

APPLICATION OF SCHEDULE

2. This Schedule does not apply to:
 - (a) the business of purchasing or selling antiques or works of art; or
 - (b) a charitable corporation.
3. With the exception of subsections 5(1), 5(2) and 5(3) and section 9, this Schedule does not apply to any purchase or sale that is subject to the Pawnbrokers Act.
4. This By-law does not require recording or reporting the purchase or sale of used tires or metal scrap, or require the retention of any such goods for any specified period, but this exception does not extend to a used or wrecked motor vehicle or a used or wrecked motor vehicle part.

LICENSING

- 5.(1) No person shall operate a jewellery and precious metals business, pawnbroker business, salvage business or a second-hand goods business without a licence.
- (2) Every person required to obtain a licence shall obtain a separate licence for each jewellery and precious metals business, pawnbroker business, salvage business or second-hand goods business.
- (3) In addition to complying with the General Provisions of this By-law, a person applying for a pawnbroker business licence shall provide security to the satisfaction of the City Treasurer in accordance with section 6 of the Pawnbrokers Act.
- (4) A licence may be issued to authorize a salvage business licence holder or a second-hand goods business licence holder to deal in one or more classes of salvage or second-hand goods and no person shall deal in any class of goods not authorized under the applicable licence.

RECORDS

- 6.(1) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall ensure that, without delay, at the time when any jewellery, precious metals, salvage or second-hand goods are purchased by their jewellery and precious metals business, salvage business or second-hand goods business, a record of the purchase is made and such record shall include:
 - (a) the date and time of the purchase;
 - (b) the price or other consideration given;
 - (c) the name of the manufacturer or maker, if any;
 - (d) any identifying number or mark, including but not limited to the VIN number and licence plate number, if any, of a used or wrecked motor vehicle;
 - (e) the name, birth date and address of the person from whom the jewellery, precious metals, salvage or second-hand goods were purchased; and
 - (f) the item or items of identification examined.

- (2) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall ensure that a record of purchase under subsection 6(1):
- (a) up to and including July 1, 2013, is made by hand or electronically, either as approved in advance by the Issuer of Licences;
 - (b) after July 1, 2013, is made electronically, as approved in advance by the Issuer of Licences;
 - (c) is easily readable and in English;
 - (d) is not altered or deleted once completed;
 - (e) is protected from loss or destruction; and
 - (f) is kept for a minimum of one year.
- (3)(a) Every jewellery and precious metal business operator, salvage business operator or second-hand goods business operator shall deliver to the Hamilton Police Service, before 2:00 p.m. on any day when the business is open, a copy of all records, not including the names, birth dates and addresses of the persons from whom the jewellery, precious metals, salvage or second-hand goods were purchased, made since the last record was so delivered.
- (b) No jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall include the name, birth date or address of the person from whom the jewellery, precious metals, salvage or second-hand goods were purchased in a record delivered to the Hamilton Police Service under paragraph 6(3)(a).
- (c) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall only deliver the name, birth date and address of the person from whom the jewellery, precious metals, salvage or second-hand goods were purchased to an enforcement agency upon the enforcement agency making a request in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

- (4) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator who has reasonable cause to suspect that jewellery, precious metals, salvage or second-hand goods offered to them or their employee or agent has been stolen or otherwise unlawfully obtained shall without delay report the matter to the Hamilton Police Service.
- (5) When a used or wrecked motor vehicle is purchased, every salvage business operator shall produce, at the request of the Issuer of Licences or an Officer, the vehicle portion of the permit issued for the motor vehicle or the notice from the Ministry of Transportation that the motor vehicle has been destroyed.

REGULATIONS

Jewellery and Precious Metals/ Salvage/ Second-Hand Goods Businesses - No Purchase

- 7.(1) No jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall purchase or shall permit the purchase of jewellery, precious metals, salvage or second-hand goods from a person appearing to be under:
 - (a) the age of 18 years; or
 - (b) the influence of alcohol or drugs.
- (2) Before jewellery, precious metals, salvage or second-hand goods are purchased from a person, every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall ensure they, their employee or agent examines one or more item of identification that:
 - (a) includes the name, birth date, address and photograph of the person; and
 - (b) reasonably appears to belong to the person and to have been issued by a government.

Jewellery and Precious Metals/ Salvage/ Second-Hand Goods Businesses - Retention Period

- 8.(1) Every jewellery and precious metals business operator, salvage business operator or second-hand goods operator shall retain jewellery, precious metals, salvage and second-hand goods on the premises of their business in an unchanged condition and, in the case of salvage and second-hand goods, exposed to public view, for a period of at least 30 days after the day on which the jewellery, precious metals, salvage or second-hand goods are purchased.
- (2) During the 30 day period under subsection 8(1), no jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall sell or otherwise dispose of or permit the sale or other disposal of the jewellery, precious metals, salvage or second-hand goods.

Pawnbroker Business – Compliance with Pawnbrokers Act

9. Every pawnbroker business operator shall comply with the Pawnbrokers Act.

Salvage Business – Visual Barrier

- 10.(1) Every salvage business operator shall install and maintain a visual barrier of not less than 2 m in height between any outdoor area used for their salvage business and all adjoining properties including all adjoining road allowance.
- (2) Every salvage business operator shall ensure that material related to the use of a property as a salvage business that is not located indoors is:
- (a) enclosed within the visual barrier under subsection 10(1);
 - (b) located not less than 1 m from the visual barrier under subsection 10(1);
- and
- (c) where located between 1 m and 5 m from the visual barrier under subsection 10(1), no higher than the visual barrier.
- (3) Every salvage business operator shall ensure that all activity related to the use of their premises that is not located indoors is enclosed within the visual barrier under subsection 10(1).
- (4) Every salvage business operator shall ensure that any opening in the visual barrier under subsection 10(1) for ingress or egress is covered by a gate that:

- (a) is the same height as the visual barrier;
 - (b) does not open over a traveled portion of road allowance including a sidewalk; and
 - (c) is kept clear of obstructions so that the gate may be opened fully at any time.
- (5) Every salvage business operator shall ensure a visual barrier under subsection 10(1) or an opening in a visual barrier under subsection 10(4) comply with any other applicable by-law.
- (6) Where a zoning by-law, site plan or subdivision agreement entered into under the Planning Act requires a visual barrier, the requirement in such zoning by-law, site plan or subdivision agreement prevails in the event of a conflict with subsections 10(1) to 10(4), both inclusive.