

BY-LAW NUMBER 05-062

OF

THE REGIONAL MUNICIPALITY OF WATERLOO

A By-law to Licence, Regulate and Govern Second-Hand Good Shops
and Dealers in Second-Hand Goods with The Regional Municipality of Waterloo

WHEREAS the Council of The Regional Municipality of Waterloo is authorized by subsection 164(3)(c) and (d) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to license, regulate and govern second-hand good shops and dealers in second-hand goods;

AND WHEREAS, in accordance with section 163 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, sections 150 to 162 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, apply to The Regional Municipality of Waterloo for the purpose of exercising powers to pass by-laws licensing businesses;

AND WHEREAS persons, from time to time, attempt to sell stolen goods to second-hand good shops and second-hand good dealers;

AND WHEREAS The Regional Municipality of Waterloo intends to deter such attempts by regulating second-hand good shops and second-hand good dealers;

AND WHEREAS deterring the sale of stolen goods to second-hand good shops and second-hand good dealers also assists to deter thefts overall within The Regional Municipality of Waterloo;

AND WHEREAS deterring the sale of stolen goods to second-hand good shops and second-hand good dealers and deterring thefts overall meets the purposes of public safety, nuisance control and consumer protection;

AND WHEREAS The Regional Municipality of Waterloo gave notice of a public meeting on March 9, 2004 pursuant to subsection 150(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

AND WHEREAS The Regional Municipality of Waterloo held the said public meeting on March 30, 2004 pursuant to subsection 150(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

NOW THEREFORE, the Council of The Regional Municipality of Waterloo enacts as follows:

DEFINITIONS

1. In this By-law:

- (1) **“Clerk”** means the Clerk of The Regional Municipality of Waterloo or his or her designate;
- (2) **“Council”** means the Council of The Regional Municipality of Waterloo;
- (3) **“Licensing and Retail Committee”** means the Licensing and Retail Committee for The Regional Municipality of Waterloo or any successor committee;

- (4) **“Licence Fee and Charges By-law”** means the Licence Fee and Charges By-law of The Regional Municipality of Waterloo or any successor by-law;
- (5) **“Municipal Law Enforcement Officer”** means a Municipal Law Enforcement Officer appointed by The Regional Municipality of Waterloo;
- (6) **“person”** includes, but is not limited to, an individual and a corporation;
- (7) **“Police Officer”** means a police officer appointed by the Waterloo Regional Police Service;
- (8) **“Register”** means the register as required under Part VII of this By-law;
- (9) **“Second-Hand Good Dealer”** means an individual who goes from house to house, along a highway or uses a vehicle, within the boundaries of The Regional Municipality of Waterloo, to sell, acquire or exchange a Second-Hand Good;
- (10) **“Second-Hand Good Dealer Licence”** means a Second-Hand Good Dealer Licence issued by the Clerk under this By-law;
- (11) **“Second-Hand Good”** means any item listed in Schedule “A” of this By-law, attached, that is in a used condition;
- (12) **“Second-Hand Good Shop”** means a building, booth, stall or other place, or any part thereof, within the boundaries of The Regional Municipality of Waterloo, where:
 - (i) a Second-Hand Good is offered for sale to any person; or
 - (ii) there is an offer to acquire, consign or exchange a Second-Hand Good from any person; and
- (13) **“Second-Hand Good Shop Licence”** means a Second-Hand Good Shop Licence issued by the Clerk under this By-law;

PART I – PROHIBITIONS

2. (1) No person shall own or operate a Second-Hand Good Shop unless that person holds a Second-Hand Good Shop Licence.
- (2) No person shall act as a Second-Hand Good Dealer unless that person holds a Second-Hand Good Dealer Licence.
- (3) Notwithstanding subsections (1) and (2) of this section, no Second-Hand Good Shop Licence or Second-Hand Good Dealer Licence is required where the Second-Hand Good:
 - (i) is a digital video display recording or computer game that was originally purchased by the person and was rented out as part of the person’s digital video display recording or computer game rental business;
 - (ii) is a sporting good item that is being exchanged, or offered in exchange, for another sporting good item of equal or greater value;
 - (iii) is being offered for sale at a person’s residence or in a person’s residential neighbourhood as part of a garage or yard sale; or

- (iv) is being offered for sale at a premise that is owned or operated by a non-profit and charitable organization.

PART II – SECOND-HAND GOOD SHOP LICENCE

- 3. Every person who applies for a Second-Hand Good Shop Licence shall obtain a licence for each Second-Hand Good Shop and shall provide the Clerk, if applicable, with:
 - (1) their full name, address, phone number and date of birth;
 - (2) all current articles of incorporation for the person;
 - (3) all current documents showing the registered business name of the person;
 - (4) the full names and dates of birth for all officers and directors of the person;
 - (5) the address of the Second-Hand Good Shop;
 - (6) satisfactory evidence that the Second-Hand Good Shop conforms to all applicable zoning by-laws;
 - (7) information on whether the person, or any officer or director of the person, has had a licence for a second-hand good business suspended or revoked in The Regional Municipality of Waterloo or any other municipality;
 - (8) information on whether the person, or any officer or director of the person, has been convicted of an offence under any second-hand good by-law of The Regional Municipality of Waterloo or any other municipality; and
 - (9) information on whether the person, or any officer or director of the person, has been convicted of an offence for which a pardon has not been received that relates in any way to an act of dishonesty, fraud or theft.

PART III – SECOND-HAND GOOD DEALER LICENCE

- 4. Every individual who applies for a Second-Hand Good Dealer Licence shall provide the Clerk with:
 - (1) the individual's full name, address, phone number and date of birth;
 - (2) information on whether the individual has had a licence for a second-hand good business suspended or revoked in The Regional Municipality of Waterloo or any other municipality;
 - (3) information on whether the individual has been convicted of an offence under a second-hand by-law of The Regional Municipality of Waterloo or any other municipality; and
 - (4) information on whether the individual has been convicted of an offence for which a pardon has not been received that relates in any way to an act of dishonesty, fraud or theft..

PART IV – LICENCE (GENERAL)

5. The fee for each licence issued under this By-law shall be in accordance with the *Licence Fees and Charges By-law*.
6. All persons applying for a licence under this By-law shall provide the Clerk with such other necessary information and documentation as requested by the Clerk.
7.
 - (1) Each person who holds a licence under this By-law shall provide the Clerk, upon the Clerk's demand, with a record of all criminal convictions for which the person has not received a pardon or a letter of clearance from the person's local police service.
 - (2) Each person who holds a licence under this By-law shall notify the Clerk within six (6) calendar days of any criminal conviction registered against the person that relates in any way to an act of dishonesty, fraud or theft.
 - (3) Subsections (1) and (2) of this section shall apply to each officer and director if the Second-Hand Good Shop Licence is issued to a corporation.
8. No person who applies for a licence under this By-law shall knowingly misstate or provide false information to the Clerk.
9. A person must satisfy all applicable requirements of Parts II to IV of this By-law before that person is issued a licence under this By-law.
10. Every person licensed under this By-law shall report to the Clerk within six (6) calendar days after the event of any change in any information that was provided to the Clerk pursuant to this By-law.
11. A licence issued under this By-law:
 - (1) shall be personal to the licence holder;
 - (2) shall not be transferable; and
 - (3) shall terminate upon the death of the licence holder or dissolution of the corporation.
12.
 - (1) Every person who holds a Second-Hand Good Shop Licence shall display their licence in a conspicuous location that is visible to all persons within their Second-Hand Good Shop.
 - (2) Every person who holds a Second-Hand Good Dealer Licence, when acting as a Second-Hand Good Dealer, shall display their licence in a conspicuous location on their clothing that is visible to all persons.
13. When a licence under this By-law is defaced, destroyed or lost, the licence holder shall apply to the Clerk for a replacement and on payment of the prescribed fee as set out in the *Licence Fee and Charges By-law*, the Clerk shall issue a replacement licence to the person.
14.
 - (1) Every licence issued under this By-law shall expire at 4:30 p.m. on the 31st day of December of each year.
 - (2) Notwithstanding subsection (1) of this section, if December 31st falls on a Saturday, Sunday or holiday, then every licence issued under this By-law shall expire at 4:30 p.m. on the following business day.

PART V – RENEWAL OF LICENCE

15. (1) Every person licensed under this By-law who applies for a renewal of a licence shall comply with all provisions under Parts II to IV of this By-law, with necessary modification.
- (2) The fee for each renewal of a licence issued under this By-law shall be in accordance with the *Licence Fees and Charges By-law*.
- (3) Every application for a renewal of a licence under this By-law must be delivered to the Clerk, in full, before the licence expires.

PART VI – OPERATIONS

16. No person licensed under this By-law shall acquire, hold or offer to sell a Second-Hand Good that has had a serial number or name altered, obliterated, removed or concealed unless the serial number or name has been altered, removed or concealed by the manufacturer of the Second-Hand Good.
17. No person licensed under this By-law shall obtain a Second-Hand Good from a person who is under the age of eighteen (18) years.
18. (1) No person licensed under this By-law shall obtain a Second-Hand Good from another person without first observing at least two (2) pieces of identification.
- (2) For the purposes of subsection (1) of this section, a person licensed under this By-law shall observe at least one of the following forms of identification:
 - (i) a driver's licence with a photograph of the person to whom the licence is issued;
 - (ii) a citizenship card with a photograph of the person to whom the card is issued;
 - (iii) a passport;
 - (iv) an identification card with a photograph of the person that is issued by the Canadian Armed Forces;
 - (v) a firearms licence;
 - (vi) immigration documents with a photograph of the person that is issued by the Government of Canada; or
 - (vii) an age of majority card.
- (3) This section shall not apply where the person licensed under this By-law obtains the Second-Hand Good from an auction.
19. (1) No person licensed under this By-law shall sell or otherwise dispose of a Second-Hand Good within fifteen (15) calendar days of the date that the Second-Hand Good was acquired from another person.
- (2) No person who holds a Second-Hand Good Shop Licence shall remove, or allow another person to remove, the Second-Hand Good from the person's Second-Hand Good Shop during the fifteen (15) calendar days as required under subsection (1) of this section.
- (3) A person licensed under this By-law, upon the demand of the Clerk, a Municipal Law Enforcement Officer or a Police Officer, shall deliver up

a Second-Hand Good for inspection that is required to be held under subsections (1) and (2) of this section.

- (4) This section shall not apply where the person licensed under this By-law obtains the Second-Hand Good from an auction.

PART VII – REGISTER

20. (1) Every person who holds a Second-Hand Good Shop Licence shall maintain a Register.
- (2) Where a person owns or operates more than one Second-Hand Good Shop, then such person shall maintain a separate Register for each licensed Second-Hand Good Shop.
- (3) A Register as required under this By-law shall either be in the form of:
- (i) a paper booklet; or
 - (ii) a computer software program that has been approved by the Clerk in writing.
- (4) Every person who holds a Second-Hand Good Shop Licence who acquires a Second-Hand Good from another person shall immediately record in their Register, in English and, where applicable, in legible script using permanent ink:
- (i) the full name, gender and date of birth of the person from whom they received the Second-Hand Good;
 - (ii) the form of identification, and any serial number thereon, that is shown pursuant to subsection 18(2) of this By-law;
 - (iii) the name of the licensed person or the licensed person's employee or agent who obtained the Second-Hand Good;
 - (iv) the consideration given for the Second-Hand Good;
 - (v) a general description of the Second-Hand Good including, where applicable, the serial number, make and model ; and
 - (vi) the date received.
- (5) Where a person who holds a Second-Hand Good Shop Licence acquires a Second-Hand Good from an auction, the person, in substitute for the requirement under subsections (4)(i) and (ii) of this section, shall record the full name and address of the auctioneer.
- (6) Every person who holds a Second-Hand Good Shop Licence who sells a Second-Hand Good to another person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale.
- (7) Every person who holds a Second-Hand Good Shop Licence shall make their Register and receipts available for inspection upon demand by the Clerk, a Municipal Law Enforcement Officer or a Police Officer.
- (8) Every person who holds a Second-Hand Good Shop Licence who maintains their Register through a computer software program as approved in writing by the Clerk shall, upon demand by the Clerk, a Municipal Law Enforcement Officer or a Police Officer:

- (i) allow the Clerk, Municipal Law Enforcement Officer or Police Officer to review the onscreen information for the Register; and
 - (ii) print out or otherwise copy the Register or any part thereof and provide such to the Clerk, Municipal Law Enforcement Officer or Police Officer.
- (9) Every person who holds a Second-Hand Good Shop Licence shall ensure that their Register is in a neat condition and that no pages or computer information are removed, destroyed, obliterated or altered.
- (10) No person who holds a Second-Hand Good Shop Licence shall remove or allow any other person, with the exception of the Clerk, a Municipal Law Enforcement Officer or a Police Officer, to remove their Register from their Second-Hand Good Shop.

PART VIII – OPERATIONS AND REGISTER (GENERAL)

21. Every person who holds a Second-Hand Good Shop Licence shall ensure that the person's employees and agents abide by the requirements of Parts VI and VII of this By-Law.
22. Parts VI and VII of this By-law shall not apply where a Second-Hand Good is exchanged for another retail item of equal or greater value.

PART IX – INSPECTIONS

23. Every person who holds a Second-Hand Good Shop Licence shall allow the Clerk, a Municipal Law Enforcement Officer or a Police Officer, at any reasonable time, to inspect the licensed premise, and any Second-Hand Good therein, for compliance with this By-law.
24. Every person who holds a Second-Hand Good Dealer Licence shall allow the Clerk, a Municipal Law Enforcement Officer or a Police Officer, at any reasonable time, to inspect their vehicle, and any Second-Hand Good therein, that is being used for the purposes of obtaining or selling a Second-Hand Good.

PART X – REFUSAL, SUSPENSION AND REVOCATION

25. (1) Council, in addition to any other penalty or remedy, may refuse to grant or to renew, or may suspend or revoke a licence under this By-law by reason of the ground that the conduct of the person applying for or holding a licence under this By-law, or where the person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable grounds for belief that the person will not carry on or engage in its business in accordance with the law or with honesty and integrity.
- (2) For greater certainty, "law" under subsection (1) of this section includes the laws and regulations of Canada and the Province of Ontario and the by-laws of The Regional Municipality of Waterloo, including this By-law, and any other municipality having lawful jurisdiction.
- (3) Before acting under subsection (1) of this section, a hearing shall be held by the Licensing and Retail Committee whereupon the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, or any successor thereof, with the exception of sections 17, 17.1, 18 and 19, shall apply.
- (4) Upon the conclusion of the hearing under subsection (3) of this section, the Licensing and Retail Committee shall, as soon as practicable, provide

its recommendations to Council after which Council may make the decision.

- (5) Where reasonably appropriate, Council, when acting under subsection (4) of this section and as an alternative to refusing to grant, renew, revoke or suspend a licence, may impose special conditions upon the person as a requirement of being issued or holding a licence.
- 26.
- (1) Where a licence issued under this By-law has been suspended or revoked, the holder of the licence shall return the licence to the Clerk within twenty-four (24) hours of service of written notice of the revocation or suspension.
 - (2) Notice under subsection (1) of this section is sufficiently given if delivered personally to the licence holder or is sent by registered mail to the last address given by the licence holder to the Clerk.
 - (3) Where service is effected by registered mail under subsection (2) of this section, notice shall be deemed to have been made on the fifth (5th) day after the date of mailing.

PART XI – PENALTY

- 27.
- (1) Every individual who contravenes a provision of this By-law, and every director or officer of a corporation who concurs in the contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000 exclusive of costs, for each offence, pursuant to subsection 161(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, or any successor thereof.
 - (2) Every corporation who contravenes a provision of this By-law is guilty of an offence and on conviction is liable to a fine not exceeding \$50,000 exclusive of costs, for each offence, pursuant to subsection 161(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, or any successor thereof.

PART XII – ADMINISTRATION AND ENFORCEMENT

- 28.
- (1) The Clerk shall have all necessary authority to administer this By-law.
 - (2) Without limiting subsection (1) of this section, the Clerk shall have the authority to:
 - (i) prescribe administrative forms required under this By-law;
 - (ii) issue any licence where the applicant meets the conditions under this By-law; and
 - (iii) verify any information provided by an applicant or licence holder.
29. This By-law may be enforced by the Clerk, a Municipal Law Enforcement Officer or a Police Officer.
30. If any section or sections of this By-law or parts of it are found by any Court to be illegal or beyond the power of the Council to enact, such section or sections or parts shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.
31. This By-law may be cited as the “Second-Hand Goods By-law”.

32. This By-law comes into force and effect on the date of final passage hereof.
33. (1) By-law 01-011 of The Regional Municipality of Waterloo in regard to The Regional Municipality of Waterloo's authority to licence, regulate and govern second-hand good shops and dealers, shall be repealed effective on the coming into force and effect of this By-law.
- (2) Notwithstanding subsection (1) of this section, By-law Number 01-011 of The Regional Municipality of Waterloo in regard to The Regional Municipality of Waterloo's authority to licence, regulate and govern second-hand good shops and dealers, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (3) Notwithstanding subsection (1) of this section, all second-hand shop and dealer licences issued under By-law 01-011 of The Regional Municipality of Waterloo that are in effect at the time this By-law is passed, shall be deemed to be Second-Hand Good Shop Licences and Second-Hand Good Dealer Licences issued under this By-law, with all necessary modifications, and all the rules, requirements and regulations of this By-law shall apply.
34. Pursuant to subsection 150(13) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, this By-law shall expire the earlier of the five (5) years after it comes into force and effect or the day it is repealed.

By-law read a first, second and third time and finally passed at the Council Chamber in the Regional Municipality of Waterloo this 23rd day of November, A.D. 2005.


Regional Clerk


Regional Chair

SCHEDULE "A"

SECOND-HAND GOODS

Collectible paper currency of Canada or other countries
Collector coins
Collector stamps of Canada or other countries
Computer equipment, including, but not limited to, computers, computer screens, printers, scanners and speakers or any parts thereof

Computer games, computer game equipment, software programs or parts thereof
Electronic equipment, including, but not limited to, pagers, electronic mail devices, telephones, cellular telephones and facsimile machines

Hand held recording devices
Jewellery and watches or any parts thereof
Precious metals and gemstones
Military objects, including, but not limited to, uniforms, weapons, medals and photographs or any parts thereof
Musical instruments and electronic amplifiers
Photographic equipment, including, but not limited to, cameras, lenses, tripods or any parts thereof
Radios, portable stereos, home stereos, car stereos, stereo speakers of any nature, headphones, walkmans or any parts thereof

Records, tapes, compact disc recordings and digital video display recordings
Small electrical appliances, including, but not limited to, microwaves, toaster ovens, toasters and coffee makers
Sports equipment, including, but not limited to, bicycles, golf clubs, hockey, football, basketball, baseball, skiing and tennis equipment, and any parts thereof

Television sets
Tools
Video cassette recorders and digital video display players
Video games, but not limited to, cartridges or compact discs
Video gaming units