

**THE CORPORATION OF THE CITY OF THUNDER BAY
THE THUNDER BAY POLICE SERVICES BOARD**

BY-LAW NUMBER PC8 - 2005

A By-law pursuant to Section 150 of the Municipal Act to provide for the Licensing and Regulation of Second Hand Goods Dealers, Pawnbrokers, Auction Dealers, Consignment Dealers, and Salvage Dealers for safety, nuisance protection and consumer protection reasons in the City of Thunder Bay, in the District of Thunder Bay.

Recitals:

1. The Municipal Act authorizes Council to license and regulate a variety of businesses, including various businesses dealing in Second Hand Goods. The Municipal Act also authorizes Council to delegate this authority to the Police Services Board.
2. The Council has delegated to the Board the authority to license and regulate Adult Entertainment Establishments
3. The authority in the Municipal Act includes: the power to issue Licenses on condition, revoke Licenses, suspend Licenses, to regulate or govern the place used in the carrying on of business, and many other matters.
4. The Board considers it appropriate to License and/or regulate certain Second Hand Goods Dealers who operate in Thunder Bay.
5. From a safety standpoint, licensing Second Hand Goods Dealers deters thieves from using them to fence stolen or unlawfully obtained items. If thieves have difficulty fencing items, then theft itself may be deterred. As theft of property is a violation of privacy, deterrence can be seen as an increase in safety and security of possession of one's personal property.
6. The Council and the Board consider the trade in stolen or unlawfully obtained goods to be a public nuisance. From a nuisance control standpoint, licensing Second Hand Goods Dealers enables Police to more efficiently and effectively investigate and prevent this nuisance. In addition, regulation deters the use of Second Hand Goods Dealers by unscrupulous Sellers.
7. From a consumer protection standpoint, licensing Second Hand Goods Dealers helps to prevent the trade in stolen or unlawfully obtained goods, and protects consumers from being victims of such trade.

Accordingly, the Thunder Bay Police Services Board enacts this By-law PC8-2005.

Article 1.00: Interpretation

- 1.01 **Definitions:** Wherever a term set out below appears in the text of this By-law with its initial letter capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.
- (a) **“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.
 - (b) **“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.

- (c) **“Antique Dealer”** means any person, either principal or agent or Employee, whose regular business includes selling or receiving Second Hand Goods where ninety (90) per cent, measured according to value, of the Second Hand Goods on hand at all times, consists of Antiques.
- (d) **“Applicant”** means a person making application for issuance of a License or renewal of a License under this By-law.
- (e) **“Auction Dealer”** means any person, either as principal or agent or Employee, 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.
- (f) **“Automated Reporting System”** means an electronic system approved by the Police Chief which is capable of recording, storing and providing Transaction information from a Second Hand Goods Dealer to the Police Chief.
- (g) **“Billable Transaction”** means a Transaction conducted by a Second Hand Goods Dealer using the Automated Reporting System. The single exception involves circumstances when a Pawnbroker conducts renewals, redemptions, or extensions of existing pawns on Second Hand Goods previously reported and continuously in the Pawnbroker’s possession.
- (h) **“Board”** means the Police Services Board for Thunder Bay, established pursuant to the Police Services Act.
- (i) **“Business”** means the offering of Second Hand Goods for sale, in any manner, to the public. The term includes: operating as a Second Hand Goods Dealer, a Pawnbroker, an Auction Dealer, a Salvage Dealer or a Consignment Dealer.
- (j) **“By-law”** means this By-law, as it may be amended from time to time, unless another by-law is expressly referenced by name or number. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it.
- (k) **“City”** means The Corporation of the City of Thunder Bay.
- (l) **“Committee”** means the committee of the Board to which the Board has delegated the responsibility of handling Licensing matters. Where there has been no delegation, the term refers to the Board.
- (m) **“Company”** means the company that provides the Automated Reporting System.
- (n) **“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, and provided no money is forwarded to the Seller until

after the expiration of a minimum of seven (7) days after the consigned Second Hand Good is sold, for the purpose of:

- 1) offering the Second Hand Goods for sale to the public,
 - 2) a conditional sale to the Consignment Dealer for the purpose of resale to the public, or
 - 3) displaying the Second Hand Goods by the Consignment Dealer for sale to the public.
- (o) **“Consignment Dealer”** means any person, either as principal or agent or Employee 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.
- (p) **“Contract”** means a written or printed agreement between a Seller or Pawner and a Second Hand Goods Dealer created in the prescribed form and manner for the purpose of conducting a Transaction.
- (q) **“Employee”** means any person who works for a Second Hand Goods Dealer, whether or not that person receives remuneration for the work.
- (r) **“False Bidder”** means a person used by an Auction Dealer for the purpose of manipulating the bidding process so as to compromise the integrity of the bidding process.
- (s) **“Fire Chief”** means the person within the City’s administration who fulfills the function of the fire chief as required by the Fire Protection and Prevention Act, 1997. The term also includes his or her designate.
- (t) **“Flea Market Operator”** means any person, either as principal or agent or Employee, 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 (36) hours of operation in any consecutive seven (7) day period, or who advertises or holds himself or herself out as carrying on that business.
- (u) **“Flea Market Dealer”** means any person, either principal or agent or Employee, 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 (36) hours of operation in any consecutive seven (7) day period.
- (v) **“Hold Period”** means the amount of time for which a Second Hand Good must be held by a Second Hand Goods Dealer after it obtains exclusive ownership of the Second Hand Good.
- (w) **“License”** means a License to operate a Business issued pursuant to this By-law.
- (x) **“Licensee”** means the Owner of a License.
- (y) **“Manager”** means the Manager of the Licensing & Enforcement Division of the Development Services Department for the City. The term also includes his or her

designate.

(z) **“Municipal Law Enforcement Officer”** means a Police Officer, a law enforcement officer, the Manager, or another person duly appointed to enforce the by-laws of the City.

(aa) An **“Operator”** is a person who has care and control of a Business at any given point in time. The term includes any one or more of the following persons:

- (1) the Owner of a location from which a Business is conducted;
- (2) the operator of a Business;
- (3) the person responsible for the day to day business conducted at a Business, whether on a full-time or part-time basis or on a regular or temporary basis;
- (4) the occupier of a location from which a Business is conducted;
- (5) one who assists or acts on behalf of the Owner or occupier of a location from which a Business is conducted, including a manager or supervisor;
- (6) one who has the care or management of a location from which a Business is conducted; or
- (7) a Licensee.

The terms **“Operate”**, **“Operation”** and words of like import or intent have corresponding meanings.

(bb) **“Owner”** is a person with legal title to real or personal property. The terms **“Own”**, **“Ownership”**, and words of like import or intent have corresponding meanings.

(cc) **“Pawn”** means either of the following Transactions:

1. A loan of money in which the creditor receives Second Hand Goods as security for repayment of cash advanced, which goods are Redeemable by the debtor on certain conditions,
2. An agreement in which a person agrees to purchase and hold Second Hand Goods for a specified period of time, and allows the Pawner the exclusive right to repurchase the Second Hand Goods on certain conditions during that time period.

(dd) **“Pawnbroker”** means any person, either as principal, agent, Employee or other representative, who carries on the business of making Pawns or who advertises or holds himself or herself out as carrying on that business. The term expressly excludes: banks, trust companies, credit unions or other similar institutions.

(ee) **“Pawner”** means a person who delivers goods to be Pawned.

(ff) **“Police”** means the Thunder Bay Police Service.

(gg) **“Police Chief”** means the person within the Board’s administration who fulfills the function of the police chief as required by the Police Services Act. The term also includes his or her designate.

(hh) **“Precious Metals”** means gold, silver, platinum, and sterling silver whether as a separate item or in combination as a piece of jewelry or other crafted item except items plated with precious metal(s) and the plating equals less than one (1%) percent of the items total weight.

- (ii) **“Premises”** means any site from which a Business is operated. The term includes: any building or part of a building, booth or stall where goods are stored, displayed or offered for sale by Retail, any yard, storage facility or other property associated with conducting the Business.
- (jj) **“Redeem”** means the act whereby a Pawner receives the Second Hand Goods 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.
- (kk) **“Redemption Period”** in relation to pawned Second Hand Goods, means the period of time within which the Second Hand Goods are redeemable.
- (ll) **“Register”** means the compilation of all Transaction Records recorded by a Second Hand Goods Dealer.
- (mm) **“Repair Business Dealers”** means any person, whether principal, agent or Employee, where ninety (90) percent of the money received from customers is derived from repair work to items owned by the customer.
- (nn) **“Rental Business Dealer”** means a person, either principal or agent or Employee, where ninety (90) percent of the money received from customers, is derived from rental arrangements with their 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.
- (oo) **“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.
- (pp) **“Retailers”** means any person, either as principal or agent or Employee, where ninety (90) percent of the money received from customers is derived from the Retail sales of new items.
- (qq) **“Salvage Yard Dealer”** means a person, either as principal or agent or Employee, or any other legal entity, however organized, who purchases previously used metal in any form, including automobiles, for the purpose of recycling or resale.
- (rr) **“Second Hand Goods”** means any new, previously owned, used, rented or leased item or items. The term does not include the following, unless same are obtained by a Second Hand Goods Dealer by way of Pawn:
1. any Second Hand Goods obtained through any of the following manners:
 - A) 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,
 - B) the Second Hand Goods are acquired from a law enforcement agency or officer acting in an official capacity,
 - C) the Second Hand Goods are acquired from a trustee in bankruptcy, executor, administrator, or receiver who has presented to the Second Hand Goods Dealer proof of such status,

- D) the Second Hand Goods are acquired from any public official acting under judicial process or authority and who has presented to the second hand dealer proof of such status,
- 2. any Second Hand Goods for which the Police Chief has provided an exemption in writing, for those Second Hand Goods,
- 3. any of the following Second Hand Goods regardless of how they are obtained:
 - A) second hand books, magazines, journals, periodicals or other such printed materials;
 - B) postage stamps;
 - C) second hand appliances including: fridges, freezers, stoves, washers, dryers, dishwashers, garbage compactors, etc.,
 - D) second hand infant, toddler or children's clothing, shoes, appliances, furniture, or safety devices,
 - E) adult clothing or shoes, except leather jackets and coats,
 - F) second hand furniture,
 - G) second hand cookware, glassware, and eating utensils that do not contain Precious Metals,
 - H) manually operated lawn or garden equipment and tools, or
 - I) motor vehicles, except for salvage purposes,
- 4. any of the following Second Hand Goods unless the Second Hand Goods Dealer paid twenty-five (\$25.00) dollars or more, in cash or other consideration, or which the Second Hand Goods Dealer intends to offer for sale, or broker, for fifty (\$50.00) dollars or more:
 - A) household appliances including: toasters, toaster ovens, kettles, popcorn makers, blenders, food processors, etc.;
 - B) any sporting goods except: golf clubs and golf bags, skis, snowboards, roller blades and goalie pads;
 - C) tents or other camping equipment;
 - D) electric or gas powered yard or garden equipment and tools, or
 - E) china, stone or metal figurines.
- 5. any of the following Second Hand Goods unless the Second Hand Goods Dealer paid fifty (\$50.00) dollars or more in cash or other consideration or which the Second Hand Goods Dealer intends to offer for sale, or broker, for one hundred (\$100.00) dollars or more
 - A) costume jewelry which does not contain Precious Metals;
 - B) architectural elements, lighting fixtures or lamps that are, or contain stained, etched, leaded, beveled or art glass, or
 - C) artist-signed or artist attributed works of art.

(ss) **"Second Hand Goods Dealer"** means any person, either as principal or agent or Employee, who purchases, or receives for the making of Pawns, 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 that business. The term includes: Pawnbrokers, 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.

(tt) **"Seller"** means a person who sells or delivers for Consignment or delivers for auction or

delivers in Trade, Second Hand Goods to a Second Hand Goods Dealer. For the purposes of Article 4.00, the term includes a Pawner.

- (uu)“**Thunder Bay**” means the geographic area under the jurisdiction of the City.
- (vv)“**Trade**” is a verb meaning to exchange Second Hand Goods for one or more items of value, either with or without cash also exchanging hands. “Traded” is the past tense of this defined verb.
- (ww)“**Transaction**” means any transaction conducted by a Second Hand Goods Dealer where he or she obtains possession and/or title of any number of Second Hand Goods.
- (xx)“**Transaction Number**” means the number assigned chronologically to a Transaction conducted by a Second Hand Goods Dealer and used in a Transaction Record.
- (yy)“**Transaction Record**” means a written, printed or electronic record of a Transaction conducted by a Second Hand Goods Dealer.
- (zz)“**Transmission Fee**” means the amount of money charged for a Billable Transaction.

- 1.02 **Legislation, By-laws:** Each reference to Provincial legislation in this By-law, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to another by-law in this By-law, unless otherwise specified, is a reference to a by-law of the City, and, in every case, includes all applicable amendments to this By-law, including successor By-laws.
- 1.03 **Construing this By-law:** The captions, articles and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation. This By-law is to be read with all changes of gender or number required by the context. The words “**include**”, “**includes**”, “**including**” and “**included**” are not to be interpreted as restricting or modifying the words or phrases which precede them. The term “**person**” refers to a natural person or any organization recognized as a person at law, including corporations.
- 1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

Article 2.00: Administration of This By-law

- 2.01 **Administration of By-law:** Unless otherwise indicated, the administration of this By-law is assigned to the Police Chief, who may delegate the performance of his or her functions under this By-law from time to time as occasion requires.

- 2.02 **Application:** Applications for all Licenses under the provisions of this By-law:
- (a) shall be made to the office of the Licensing & Enforcement Division of the Development Services Department of the City, on forms to be provided;
 - (b) when received by the Licensing & Enforcement Division office, will be stamped with the date of receipt and processed in the order in which they are received; and
 - (c) must be finalized unless a hearing before the Board is pending within ninety (90) days of the date referenced in (b).
- 2.03 **Application Information Required:** Every Applicant 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 License fee as set out in By-law Number PC9-2005;
 - (b) where applicable, payment of any fees, as prescribed by the City or the Board, for inspections or searches required as part of the License application process or as part of the administration of the License;
 - (c) if applicable, the identification of the site or sites to be authorized by the License; and
 - (d) any other document or information as may be required in any other part of this By-law.
- 2.04 **Information Required in the Application Form:** The application form referenced in Section 2.03 above shall require, as a minimum, that the Applicant provide the following information:
- (a) whether the Applicant holds a license to carry on business as any type or class of Second Hand Goods Dealer (as defined in this By-law) in any other Canadian municipality or another level of government in Canada;
 - (b) whether the Applicant has previously been denied or had revoked or suspended, a license to carry on business as any type or class of Second Hand Goods Dealer (as defined in this By-law) in any other Canadian municipality or another level of government in Canada;
 - (c) the location of the Premises, including any Alternate Storage Facilities; and
 - (d) Canadian Police Certificates certifying that the Applicant, together with each of the persons referred to in Section 2.11 of this By-law, does not have a criminal conviction for offences under Parts 9 through 12 of the Criminal Code of Canada.
- 2.05 **License Fee:** The basic fee for obtaining a License shall be as set out in By-law Number PC9-2005 of the Board. In addition, there may be fees payable to boards or agencies for information or supporting documents required in or by the application form. No fee is refundable except in the event that a License is revoked by reason of municipal staff error. In that case the Licensee is entitled to a full refund.

2.06 **Application Subject to Approval:** Every site for which the Applicant seeks a License is subject to investigation approvals from the City's Fire Services Department and the Licensing & Enforcement Division of the City's Development Services Department.

2.07 **Classes & Types of License:** There are two different classes of Second Hand Goods Dealer Licenses under this By-law, as follows:

1. A Class A Second Hand Goods Dealer License regulates any Second Hand Goods Dealer conducting one hundred (100) or more Transactions in any one (1) calendar year; and
2. A Class B Second Hand Goods Dealer License regulates any Second Hand Goods Dealer conducting fewer than one hundred (100) Transactions in any one (1) calendar year.

In addition to the classes of License set out above, there are three types of Licenses granted pursuant to this By-law, being: the general Second Hand Goods Dealer License, the Pawnbroker License, and the Salvage Dealer License.

2.07 **License Surrender:** A Licensee may at any time surrender a License. Surrender of a License does not entitle the Licensee to a refund of all or any portion of the License fee paid.

2.08 **Transfer Prohibited:** Every License, at all times, is Owned by the Board and is valid only in respect of the person and/or the site named in the License. No License may be sold, purchased, leased, mortgaged, charged, encumbered or assigned. Should a Business relocate, the Licensee must apply for a new License for the new site.

2.09 **Circulation Requirement:** Before issuance of a License, the Applicant shall circulate the application to those persons or agencies as set out in the relevant application, as applicable to the class and status of the License. In all cases, the Police Chief shall confirm with the Development Services Department that the zone for the site from which the Business is to be carried out is appropriate.

2.10 **Negative Comments:** The circulation referred to in Section 2.09 may result in negative comments to the Police Chief. Negative comments may result in the disqualification of the Applicant for a License under this By-law. Alternatively, negative comments may result in the issuance of a License upon specific conditions. Examples of negative comments include:

- 1) the Premises is the object of an order to comply made under the Property Standards By-law, or an order made under the Ontario Building Code Act;
- 2) the Premises is not in compliance with the Zoning By-law or any other applicable by-law of the City;
- 3) the Premises requires corrective action pursuant to an order of the Fire Chief;
- 4) the Premises requires modification in order to remove a barrier as that term is defined in the Ontarians With Disabilities Act or similar legislation;
- 5) the Applicant was previously convicted of an offence pursuant to this or a predecessor By-law;

- 6) Section 2.11 applies; or
- 7) the Applicant is financially obligated to the City in some manner.

- 2.11 **Mandatory License Refusal without a Hearing:** The Police Chief shall refuse to issue a License to any Applicant where a conviction has been registered pursuant to Parts 9 through 12 of the Criminal Code of Canada against any of the following:
- (a) the Applicant or his or her spouse;
 - (b) any Operator and/or Employee of the Applicant;
 - (c) any shareholder, officer or director of a corporate Applicant;
 - (d) any partner, or spouse of a partner, of an Applicant that is a partnership or limited partnership
 - (e) any debt instrument holder of the Applicant; or
 - (f) any other person having influence over the Business, or sharing directly or indirectly in the profits of the Applicant.
- 2.12 **Mandatory Revocation:** The Police Chief shall immediately revoke the License of any Second Hand Goods Dealer where the Police Chief discovers the existence of any conviction listed in Section 2.11.
- 2.13 **Reasons for Refusal:** Where a License is refused, the reasons for the refusal shall be specified in writing, and the Police Chief shall provide the Applicant with the reasons.
- 2.14 **License Issuance:** Where no negative comments are received as a result of the circulation required by Section 2.09, where Section 2.11 does not apply, and where the Applicant's documentation is in order and the applicable fee has been paid, the Police Chief shall grant the License, or the renewal, as applicable, to the Applicant.
- 2.15 **License with Conditions:** The Police Chief may, in response to negative comments resulting from the circulation required in Section 2.09, issue a License subject to specific conditions. The conditions must address any deficiencies identified in the negative comments.
- 2.16 **Time Limit:** Except as otherwise provided in this By-law, Licenses shall come into effect on the date that they are issued and do not expire.
- 2.17 **Duplicate License:** A duplicate License may be issued by the Police Chief to replace any License previously issued which has been lost, stolen or destroyed, upon written application by the Licensee and upon payment of a fee as set out in By-law Number PC9-2005 of the Board.
- 2.18 **Revocation or Suspension:** No person enjoys a vested right in the continuance of a License.
- (a) **License Suspension or Revocation by Committee:** The Police Chief may recommend to the Committee that a License be revoked or suspended for a certain period of time in the following circumstances:
- 1. the Licensee becomes disqualified to hold the License;
 - 2. the Licensee fails to comply with any condition imposed upon the License under Section 2.13 of this By-law; or

3. the Licensee has been convicted of an offence pursuant to any section of this By-law other than Section 4.20 on more than two (2) occasions within a twenty-four (24) month period.
- (b) **Automatic License Suspension by Police Chief:** The Police Chief shall immediately suspend a License where a Licensee is convicted of an offence pursuant to Section 4.20 of this By-law and:
1. the time within which an appeal must be launched has expired; or
 2. all possible appeal avenues have been exhausted and the conviction has not been overturned.

The first mandatory suspension issued by the Police Chief under this Section shall be for a period of fourteen (14) days. If a second mandatory suspension is issued by the Police Chief under this Section within a twenty-four (24) month time period, it shall be for a period of twenty-eight (28) days. Once a Licensee has had his or her License suspended under this Section twice, every subsequent suspension, regardless of the time period within which it occurs, shall each be for thirty-six (36) days.

Article 3.00: Committee

- 3.01 **Delegation to Committee:** Pursuant to Section 159 of the Municipal Act, licensing powers contained in Part IV of the Municipal Act with respect to Second Hand Goods businesses have been assigned by the Council to the Board. The Board shall make all final decisions with respect to refusal to issue, suspension or revocation of a License under this By-law.
- 3.02 **Applicant Request for Hearing:** An Applicant may, within ninety (90) days of the date in Section 2.02(b) of this By-law, request a hearing of the Committee to:
- (a) review the determination by the Police Chief that the Applicant is disqualified from holding a License; or
 - (b) review any conditions imposed upon a License pursuant to Section 2.12 of the By-law.
- 3.03 **Administration Request for Hearing:** Where the Police Chief intends to recommend to the Committee that a License be revoked or suspended, he or she shall give notice of the intended recommendation to the Applicant or Licensee, together with the reason for the intended recommendation, as well as to such other persons, civic departments, boards, commissions, authorities or agencies as appear to have an interest in the recommendation. The notice shall include the details required by Section 3.04 of this By-law.
- 3.04 **Notice of Hearing:** The notice required by Section 3.03 shall:
- (a) contain a reference to Sections 150 and 252 of the Municipal Act under which the hearing will be held;
 - (b) contain the reasons for the proposed conditions, refusal, suspension or revocation;
 - (c) specify the time, place and purpose of the hearing of the Committee at which the proposed refusal, suspension or revocation will be considered;

- (d) inform the affected Applicant or Licensee that he or she is entitled to attend the hearing and to present evidence and to make submissions regarding the proposal and that, in his or her absence, the Committee may proceed to consider the proposal, and the Applicant or Licensee will not be entitled to any further notice of the proceeding;
- (e) afford the affected Applicant or Licensee a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the License; and
- (f) be given at least fifteen (15) days prior to the date of the Committee hearing.

3.05 **Hearing by Committee:** At the hearing, the Committee may suspend, revoke or refuse to issue any License, may amend conditions imposed on a License, or may add conditions to a License:

- (a) for any reason that would disqualify the Licensee for a License if he or she were an Applicant;
- (b) where the Licensee or Applicant is in breach of a condition of the License or of this By-law;
- (c) if a report is filed subsequent to the date of the issuance of the License or by any department or agency which originally provided its approval to the issuance of the License which indicates that the Licensee no longer complies with any of the provisions of this By-law; or
- (d) if the conduct of an Applicant or Licensee affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the Business in accordance with the law or with honesty or integrity.

3.06 **Committee Decision:** Where the Committee is the Board, a decision of the Board refusing, suspending, amending or adding conditions to, or revoking an Application or a License takes effect upon the rendering of the decision by the Board. Where the Committee is not the Board, a decision of the Committee refusing, suspending, amending or adding conditions to, or revoking an Application or a License takes effect upon the ratification by the Board of the Committee's decision. In these circumstances, there is no re-hearing of the matter at the Board level.

Article 4.00: Regulations & Offences Relating to any Business

4.01 **Operating without a License:** It is an offence for a person to Operate a Business without having first taken out a License from the City pursuant to this By-law.

4.02 **Exemptions:** Despite Section 4.01, the following persons do not require a License to Operate a Business:

1. an Antique Dealer, an Auction Dealer, a Consignment Dealer, a Flea Market Operator, a Flea Market Dealer, a Rental Business Dealer;
2. a Second Hand Goods Dealer whose merchandise is restricted to second hand books;
3. a Second Hand Goods Dealer whose merchandise is restricted to second hand clothing;

4. a Second Hand Goods Dealer whose merchandise is restricted to large household appliances such as refrigerators, freezers and stoves;
5. a Retailer that does not conduct Transactions were Second Hand Goods are offered for sale;
6. Persons holding what is commonly known as a garage sale, a yard sale or an estate sale, where all of the following conditions are met:
 - (a) the sale is held on property occupied as a dwelling by the Seller, or owned, rented or leased by the Seller from a charitable organization;
 - (b) the Second Hand Goods Dealer owns the Second Hand Goods that are offered for sale and none of the Second Hand Goods offered for sale were 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 (72) consecutive hours; and
 - (e) no more than two (2) such sales are held in any twelve (12) month period.
7. Individual Employees of a Licensee operating at the Premises under the authority of the Licensee;
8. Persons engaged in the sale of Second Hand Goods for charitable purposes; and
9. Persons to whom the Police Chief has granted written exemption.

4.03 **Police Chief Exemptions:** The Police Chief may give written exemption under Section 4.02(h) to any Second Hand Goods Dealer if the Police Chief believes it would not thwart the spirit and intention of this By-law and it is reasonable in the particular circumstances.

4.04 **Offence for Operating While Under Suspension:** It is an offence for a Licensee whose License has been suspended under Section 2.18 of this By-law to conduct Business. Notwithstanding the foregoing, if the suspension of License involves a Pawnbroker, he or she may continue to conduct the Business of a Pawnbroker during the suspension period, but only for the purpose of Redeeming existing pawns, and only unless and until all existing pawns are Redeemed or have passed their due date.

4.05 **Operation at Unauthorized Site:** It is an offence for any person to Operate a Business from a site which is not authorized by a Licence.

4.06 **Posting Licenses:** It is an offence for a Licensee to fail to post the License in a conspicuous place at each site to which the License applies. This Section of the By-law is complied with through posting of a photocopy or other reproduction of the License, provided the original License is maintained at the site of the Business and can be readily produced upon request.

4.07 **Cessation or Sale of a Business:** It is an offence for a Licensee to fail to report to the Police Chief the cessation or sale of his or her Business.

- 4.08 **Change of Address:** It is an offence for a Licensee to fail to report to the Police Chief every change of mailing address or telephone number of that Licensee within fifteen (15) days of the change.
- 4.09 **Building or Grounds Maintenance:** The Operator of the Business shall keep in good order any building, grounds or other premises in respect of which a License has been issued under this By-law.
- 4.10 **Employees:** It is an offence for a Second Hand Goods Dealer or the Operator of the Business to employ persons under the age of eighteen (18) years within the Business, unless that Employee's work does not require that he or she deal with Sellers.
- 4.11 **Preconditions to Employment:** It is an offence for any Second Hand Goods Dealer or the Operator of the Business to employ any person within the Business unless and until:
- (a) that person has been trained in all aspects of this By-law that are applicable to the Business;
 - (b) that person has signed a copy of the certification required by Section 4.12; and
 - (c) the certification required by Section 4.12 has been delivered to the Police Chief as required by Section 4.13.
- 4.12 **Employee Certification:** Once an Employee has received the training required in Section 4.11, he or she shall sign a statement that certifies, at a minimum:
- (a) The Employee's full name, date of birth, residential address and telephone contact information;
 - (b) The date on which the statement was signed; and
 - (c) A personal statement as follows: "I, the undersigned, agree and confirm that I have received sufficient training with respect to conducting Transactions in accordance with Thunder Bay's licensing requirements and regulations, and I understand that I will be liable to prosecution for the contravention of the City's By-law regulating Second Hand Goods Dealers, and that all the information contained in this document is true and can be used in any court or other proceeding as required".
- 4.13 **Delivery of Certificate:** The original certificate required by Section 4.12 shall be provided to the Police Chief. Copies (or duplicate originals) may be maintained by the Second Hand Goods Dealer and the Employee.
- 4.14 **Transaction Records in Register:** Every Second Hand Goods Dealer conducting a Transaction shall make a Transaction Record and shall record the information for each Transaction in a Register. Transaction Records shall include all of the following:
- (a) the day, month, year and time of the Transaction;
 - (b) the Transaction Number;
 - (c) the name, address, phone number, and date of birth of the Seller;
 - (d) a record of the Seller's identification required by Section 4.18;
 - (e) a description of the Seller, including: height, weight, gender, hair colour, and eye colour;
 - (f) a detailed description of each Second Hand Good that is reasonably sufficient to identify it, including, as applicable: make, model, serial numbers and identifying marks and titles;
 - (g) one of the following, as applicable:

- (i) the price paid for a Second Hand Good;
 - (ii) the amount of value exchanged for a Second Hand Good received in Trade;
 - (iii) the amount loaned on Pawn;
 - (iv) the agreed selling price for a Second Hand Good taken on Consignment; or
 - (v) the reserve bid for a Second Hand Good received for sale at auction; and
- (h) the identity of the Operator, Employee or other person conducting the Transaction on behalf of the Second Hand Goods Dealer.
- 4.15 **Goods Purchased for Resale at Garage or Yard Sales:** For the purposes of Section 4.14, where Second Hand Goods are purchased for re-sale by or on behalf of a Second Hand Goods Dealer at an event meeting the description in Subsection 4.02(6), the Transaction Record for that purchase shall include the date and location of the sale. Notwithstanding Section 4.20, the particulars required by Subsections 4.14 (c), (d), and (e) are not required.
- 4.16 **Goods Purchased for Resale from Another Thunder Bay Merchant:** For the purposes of Section 4.14, where Second Hand Goods are purchased for re-sale by or on behalf of a Second Hand Goods Dealer from a merchant, manufacturer, retailer or wholesaler having an established permanent place of business in Thunder Bay, the Transaction Record for that purchase shall indicate the address of the place of business and the name of the company or proprietor, as applicable. Notwithstanding Section 4.20, the particulars required by Subsections 4.14 (c), (d) and (e) are not required.
- 4.17 **Particular Descriptions:** For the purposes of Subsection 4.14(f), the following rules apply:
- (a) for the purpose of identifying coins, where more than ten (10) coins are received in any one Transaction, the Second Hand Goods Dealer shall cause to be recorded the exact number of coins received, and a description of the ten (10) most valuable coins;
 - (b) for the purpose of identifying coins, where ten (10) or fewer coins are received in any one Transaction, the Second Hand Goods Dealer shall cause to be recorded a description of each coin;
 - (c) for the purpose of identifying collector cards, the Second Hand Goods Dealer shall cause to be recorded the exact number of cards received, and a description of the ten (10) most valuable cards if more than ten (10) cards are received; and
 - (d) for the purpose of identifying pre-recorded audio tapes, compact discs and digital video disks, the Second Hand Goods Dealer shall cause to be recorded the exact number of pre-recorded audio tapes, compact discs, or digital video disks purchased in any one Transaction, and any unique identifying marks, where applicable, but is not required to record the name of each artist and the title of each recording.
- 4.18 **Identification:** For the purposes of Subsection 4.14(c), or other references in this By-law, the following pieces of identification are acceptable:
- (a) a valid driver's license issued by a Canadian province or territory, or issued by a state in the United States of America, that bears a photograph of the person licensed;
 - (b) a passport issued by the government of origin;
 - (c) a "Bring Your Identification" or "B.Y.I.D." 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 that bears a photograph of the person released; or
- (g) a combination of an original birth certificate issued by a Province or Territory of Canada and another piece of valid identification that bears a current photograph of the person named in the birth certificate, together with his or her name.

It is an offence for a Second Hand Goods Dealer to accept goods from any Seller who does not produce (and match) valid identification in one of the forms listed.

- 4.19 **Maintenance of Integrity of Register:** It is an offence for a Second Hand Goods Dealer to alter or remove all or any part of the Register or any entry in the Register.
- 4.20 **Records Required:** It is an offence for a Second Hand Goods Dealer to fail to maintain the records required by Sections 4.14 through 4.17, inclusive, of this By-law.
- 4.21 **Contracts:** Prior to completing a Transaction, a Second Hand Goods Dealer shall cause to be signed two (2) original identical Contracts which shall include all of the elements required by Section 4.22 of this By-law and/or all of the elements within the requirements of the Article of this By-law that governs the particular Second Hand Goods Dealer in question.
- 4.22 **Requirements for Contracts:** Each Contract shall include, as a minimum:
 - (a) all of the information required by 4.14, 4.15 or 4.16, as applicable;
 - (b) clear identification of which party is the “Seller” as defined in this By-law;
 - (c) the signatures of both the Seller and the person entering the Contract on behalf of the Second Hand Goods Dealer, with the names of the signatories printed legibly beneath their signatures; and
 - (d) the statement “The Seller accepts the conditions and contents of this agreement and authorizes the use of this information for investigative purposes. The Seller certifies that he or she is the sole and lawful owner of the above mentioned item(s) and that they are clear of all liens and all notes. The Seller certifies that the information contained in this Contract is accurate and true.”
- 4.23 **Distribution of Contracts:** The first original Contract shall be provided to the Seller. The second original Contract shall be maintained by the Second Hand Goods Dealer for a minimum of two (2) years after completion of the Transaction.
- 4.24 **Contracts are Mandatory:** It is an offence for any person to undertake a Transaction that does not have an accompanying Contract as required by Section 4.21.
- 4.25 **Retention of Contract:** It is an offence to fail to maintain a copy of the Contract as required by Section 4.23.
- 4.26 **Use of Information:** The Records required to be created and/or retained by Sections 4.11, 4.12, 4.14 through 4.16, inclusive, 4.21 through 4.23, inclusive, 4.25 and/or 9.06 of this By-law will contain personal information. It is an offence for any Second Hand Goods Dealer or any Operator or Employee of any Second Hand Goods Dealer to use the information in those records for any purpose other than a purpose authorized by this By-law or by legislation in effect in the Province of Ontario.

- 4.27 **Inspections:** The Manager, or the Police Chief, or any person acting under those persons, may at reasonable times, during regular business hours, inspect:
- (a) any premises or place where a Business is carried on or there are reasonable and probable grounds to believe a Business is being carried on;
 - (b) 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/or
 - (c) any Second Hand Goods, wares, merchandise, articles, books, equipment, records or other documents of, or relating to, the Business.
- 4.28 **Hindering Inspections:** It is an offence for any person to hinder or obstruct or to attempt to hinder or obstruct any person exercising any power authorized by Section 4.27.
- 4.29 **Re-Inspection Fee:** When a re-inspection is required to:
- (a) confirm compliance with a condition imposed;
 - (b) rectify a deficiency to prevent negative comments; or
 - (c) because the Applicant or Operator failed to appear at a scheduled inspection;
- a fee may be charged as set out in By-law PC9-2005.
- 4.30 **Required Signs:** Every Second Hand Goods Dealer shall display a sign within the Premises that is readily visible to the public, which contains, at a minimum, the statement “All information required for a Transaction is provided to the Police and is available to the police for investigative purposes”. To comply with this Section, the sign must be of sufficient size so as to accommodate letters and numbers which are no smaller than thirteen (13 mm) millimeters or one half (1/2") inch in size.
- 4.31 **Offence:** It is an offence for a Second Hand Goods Dealer to fail to post the sign required by, and meeting the specifications contained in, Section 4.30.
- 4.32 **Tracking Second Hand Goods:** Every Second Hand Goods Dealer shall attach a label to every item offered for sale, Trade or on Consignment, or purchased or received on Pawn or received in Trade so as to identify the Transaction Record in the Register which corresponds to the acquisition of that item and the label must remain on the item until the item is sold, Redeemed, Traded or otherwise legally disposed of by the Second Hand Goods Dealer.
- 4.33 **Transaction Records to the Police:** Every Second Hand Goods Dealer shall provide to the Police Chief an accurate and legible Transaction Record for each Transaction conducted within three (3) business days of the date of the Transaction.
- 4.34 **Mandatory Delivery:** It is an offence to fail to provide the Transaction Records required in Section 4.33.

- 4.35 **Reporting Items Suspected to be Stolen:** Every Second Hand Goods Dealer shall immediately report to the Police the particulars of any Second Hand Goods that are offered for sale, Trade, on Pawn, or on Consignment to the Second Hand Goods Dealer where the Second Hand Goods Dealer has reasonable cause to suspect that the Second Hand Goods so offered are stolen or otherwise unlawfully obtained. The Second Hand Goods Dealer shall keep a record of the name of the officer to whom the report was made and the date on which the report is made.
- 4.36 **Altered Identifying Marks:** It is an offence for a Second Hand Goods Dealer to accept any Second Hand Goods as part of a Business Transaction if the identification feature, such as a serial number, associated with the item has been removed, altered or damaged.
- 4.37 **Possession:** Second Hand Goods Dealers shall maintain actual physical possession, at the Premises or at an Alternate Storage Facility, of all Second Hand Goods held in accordance with the Business. It is an offence to accept title documents or any other form of security in lieu of keeping actual possession of the merchandise.
- 4.38 **Hold Period:** Every Second Hand Good that is accepted by a Second Hand Goods Dealer as the result of a Transaction must be held by that Second Hand Goods Dealer for a minimum period of thirty (30) days after the date upon which it was obtained before it can be offered for sale to the general public. Where the Redemption Period pursuant to a Contract associated with a Pawn Transaction is longer than thirty (30) days, this Section shall be interpreted as having a Hold Period equal to the Redemption Period.
- 4.39 **Mandatory Hold Period:** It is an offence for a Second Hand Goods Dealer to do any of the following to any Second Hand Goods during the applicable Hold Period prescribed in Section 4.38:
- (a) offer them to the public for sale, rent or Trade;
 - (b) melt or otherwise alter the form of them; or
 - (c) dispose of them.
- 4.40 **Storage/Access During Hold Period:** It is an offence for a Second Hand Goods Dealer to store Second Hand Goods at a location accessible to the public during the applicable Hold Period referenced in Section 4.38.
- 4.41 **Alternate Storage Facilities:** Where a Second Hand Goods Dealer operates Alternate Storage Facilities associated with his or her Business, he or she shall notify the Police Chief of the location of the Alternate Storage Facilities, and shall keep that information current on file with the City.
- 4.42 **Exemption from Hold Period:** Despite Section 4.38, upon the request from a Second Hand Goods Dealer, the Police Chief may provide a written exemption for all or part of the Hold Period, at the discretion of the Police Chief, if the need for such written exemption is unique and reasonable. The second hand dealer given such exemption may be required, by the Police Chief in writing, to record the full name, address and phone number of the person to whom the Second Hand Goods are sold and shall provide such information to the Police Chief when required by the Police Chief to do so.

- 4.43 **Prohibited Transactions Certain Sellers:** It is an offence for a Second Hand Goods Dealer to conduct a Transaction where the Seller is:
- (a) a person under eighteen (18) years of age; or
 - (b) a person who appears to be under the influence of alcohol or drugs; or
 - (c) any person appearing to be of unsound mind.
- 4.44 **Prohibited Transactions in Contracts:** It is an offence for a Second Hand Goods Dealer to conduct any Transaction where the subject matter of the Transaction is a Contract made in accordance with this By-law.

Article 5.00: Regulations & Offences Specifically Relating to Pawnbrokers

- 5.01 **Article 5.00:** The regulations and offences set out in Article 5.00 apply to Pawnbrokers in addition to all of the regulations and offences detailed in Article 4.00.
- 5.02 **Information for the Required Sign:** For Pawnbrokers, the sign required by Section 4.30 must also contain the following information;
- (a) the rate or rates of interest and any other fee or charge, applicable, upon redemption, on the cash advanced by the Pawnbroker;
 - (b) the Redemption Period duration for pawns; and
 - (c) The following statement - “Pawned goods become the property of the Pawnbroker, without further notice, upon the expiration of the Redemption Period, if the item has not been Redeemed or repurchased and there is no agreement to extend the advance of cash”.
- 5.03 **Contracts:** Prior to completing a Transaction, a Pawnbroker shall cause to be signed two (2) original identical Contracts which shall include all of the elements required by Section 5.04 of this By-law.
- 5.04 **Requirements for Contracts:** Each Contract shall include, as a minimum:
- (a) all of the information required by 4.14, substituting “Pawner” for “Seller” within the requirements shown;
 - (b) clear identification of which party is the “Pawner” as defined in this By-law;
 - (c) clear indication, where appropriate, of the identification of any person other than the Pawner who has rights to Redeem the item Pawned;
 - (d) the signatures of both the Pawner and the person entering the Contract on behalf of the Pawnbroker, with the names of the signatories printed legibly beneath their signatures;
 - (e) the amount loaned on Pawn;
 - (f) a statement of the value of the goods Pawned agreed to by both parties to the Contract for the purposes of this By-law;
 - (g) a statement of the amount of interest charged on the amount loaned, and the amount of all other charges which make up the amount due, over and above the amount loaned;
 - (h) the amount to be paid by the Pawner on or before the date in (j) below, in order to Redeem the Pawn and prevent the forfeiture referenced in (5.14) below;
 - (i) the length of the Redemption Period;

- (j) the due date by which the Pawner must Redeem the Pawn;
- (k) the statement “all the items are deemed to have been sold to the Pawnbroker the day following the due date if the amount due has not been paid in full by the due date”; and
- (l) these statements “The Pawner accepts the conditions and contents of this agreement and authorizes the use of this information for investigative purposes. The Pawner certifies that he or she is the sole and lawful owner of the above mentioned item(s) and that they are clear of all liens and all notes. The Pawner certifies that the information contained in this Contract is accurate and true.”

- 5.05 **Distribution of Contracts:** The first original Contract shall be provided to the Pawner. The second original Contract shall be maintained by the Pawnbroker for a minimum of two (2) years after completion of the Pawner Redeems the goods or the goods become the property of the Pawnbroker, as applicable.
- 5.06 **Contracts are Mandatory:** It is an offence for any person to undertake a Pawn that does not have an accompanying Contract as required by Section 5.03.
- 5.07 **Retention of Contract:** It is an offence to fail to maintain a copy of the Contract as required by Section 5.05.
- 5.08 **Hold Period:** Despite Sections 4.38 and 4.39, a Pawnbroker may return an item to the Pawner at any time after a minimum Hold Period of three (3) business days where the Pawner fulfills the terms for Redemption of the item.
- 5.09 **Minimum Redemption Period:** It is an offence for a Pawnbroker to require a Pawner to sign a Contract that specifies a Redemption Period less than thirty (30) days in length.
- 5.10 **Pawner’s Rights:** At any time during the Redemption Period specified in the Contract, a Pawner has the right to pay the full amount of cash advanced, together with all applicable interest and charges. Upon doing so, and upon proof of identification through documentation meeting the requirements of Section 4.18, and upon signing the Contract to indicate that the Contract is terminated, the Pawner has the right to obtain possession of the item pawned.
- 5.11 **Additional Pawners:** Where the Contract references more than one person as being capable of redeeming the item Pawned, each of those persons is a “Pawner” for the purposes of Section 5.10.
- 5.12 **Redemption Record:** It is an offence for a Pawnbroker to fail to record the change of status of the item in the Register upon Redemption of the item by the Pawner.
- 5.13 **Death of a Pawner:** Where a Pawner dies, and the Pawnbroker becomes aware of the Pawner’s passing, the Pawnbroker shall contact a representative of the estate of the Pawner. The Pawnbroker shall return the item Pawned to the deceased’s representative provided that person:
- (a) produces the Contract;
 - (b) produces proof of his or her representation of the deceased; and

(c) produces proof that the Pawner is deceased.

In these circumstances, the deceased's representative becomes the "Pawner" for the purposes of this By-law. Further, in these circumstances, the Redemption Period specified in the Contract is deemed to have commenced on the date of the Pawner's death.

- 5.14 **Forfeiture of Pawned Second Hand Goods:** If a pawned Second Hand Good is not Redeemed within the Redemption Period, the Second Hand Good is forfeited to the Pawnbroker and is the Pawnbroker's absolute property to dispose of as the Pawnbroker wishes.
- 5.15 **Procedure for Lost Pawn Contracts:** Subject to the requirements of this Section 5.15, a Pawnbroker is not required to return Pawned Second Hand Goods unless and until the Contract is returned to the Pawnbroker. There may be circumstances, however, where the Pawner loses the Contract and cannot return it. The Pawner may attend at the office of the Police Chief and swear a statement with respect to the loss of the Contract. If the Pawner presents the sworn document to the Pawnbroker, the Pawnbroker may deal with the Pawner as if he or she had presented the original Contract. The Pawnbroker shall verify the authenticity of the Contract with the Police Chief before relying upon it.
- 5.16 **Liability For Lost, Stolen, Damaged, or Destroyed Items:** If Pawned goods are lost, stolen, damaged, or destroyed, the Pawnbroker is liable and shall, upon the request of the by the Pawner during the Redemption Period for the goods, pay the Pawner the value of the Second Hand Goods as stated in the Contract after deducting the amount of cash advanced and all applicable interest and charges.
- 5.17 **Reporting Requirement:** It is an offence for a Pawnbroker to fail to report to the Police any loss, theft, damage or destruction of Second Hand Goods held by the Pawnbroker under Pawn Contracts.
- 5.18 **Advertising:** It is an offence for a Pawnbroker to publish, advertise, cause to be published or cause to be advertised in any manner the following information:
- (a) any representation of a charge for, or condition of, obtaining a cash advance from the Pawnbroker without a full and complete disclosure, made prominently, clearly and truthfully, of the true cost of borrowing; or
 - (b) any false, misleading or deceptive statement relating to the obtaining of a cash advance from the Pawnbroker.

Article 6.00: Regulations & Offences Relating to Auction Dealers

- 6.01 **Article 6.00:** The regulations and offences set out in Article 6.00 apply to Auction Dealers in addition to all of the regulations and offences detailed in Article 4.00.
- 6.02 **Contract Requirement:** At the time of accepting Second Hand Goods for auction, an Auction Dealer shall prepare an auction agreement and shall provide the Seller with a copy of the auction agreement which shall contain:
- (a) all of the information required by 4.14;
 - (b) clear identification of which party is the "Seller" as defined in this By-law;

- (c) clear indication, where appropriate, of the identification of any person other than the Seller who has rights to claim unsold or unclaimed goods after the sale;
- (d) the signatures of both the Seller and the person Auction Dealer, with the names of the signatories printed legibly beneath their signatures;
- (e) the reserve bid agreed to by the Auction Dealer and the Seller for the sale of each Second Hand Good, or, where goods are to be sold in lots, the reserve bid for the lot;
- (f) a statement of the value of each of the Second Hand Goods, agreed upon by both parties for the purposes of this By-law;
- (g) the amount payable to the Auction Dealer, for the services provided by the Auction Dealer, expressed as:
 - 1. a fixed amount payable only if the Second Hand Goods are sold;
 - 2. a fee for service that is:
 - A) a fixed amount payable whether or not the Second Hand Goods are sold;
 - B) a percentage of the actual selling price of the Second Hand Goods payable only if the Second Hand Goods are sold;
 - C) an amount that exceeds an agreed upon minimum selling price of the Second Hand Goods only if the Second Hand Goods are sold; or
 - 3. Any combination of the fees for services under subparagraph 2.A), B), or C)
- (h) the term of the Contract;
- (i) a description of any warranty or guarantee assignable by the client;
- (j) a description of how the Seller will be notified of the sale of the Second Hand Goods;
- (k) a description of how the Auction Dealer will reimburse the Seller for the sale price of the Second Hand Goods (less applicable earned fees);
- (l) a statement of how long the Second Hand Goods will be held by the Auction Dealer on the Seller's behalf after the end of the term of the Contract, to allow the Seller to collect the unsold or unclaimed Second Hand Goods; and
- (m) a statement of how Second Hand Goods not collected at the end of the period in (l) will be disposed of.

6.03 **Liability For Lost, Stolen, Damaged, or Destroyed Items:** If goods being held pending a sale by auction are lost, stolen, damaged, or destroyed, the Auction Dealer is liable and shall pay the Seller the value of the Second Hand Goods as stated in the Contract.

6.04 **Reporting Requirement:** It is an offence for an Auction Dealer to fail to report to the Police any loss, theft, damage or destruction of Second Hand Goods held by the Auction Dealer under Contracts.

6.05 **Use of False Bidders:** It is an offence for an Auction Dealer to use, or to permit the use of, False Bidders during an auction sale.

Article 7.00: Regulations & Offences Relating to Salvage Yard Dealers

7.01 **Article 7.00:** The regulations and offences set out in Article 7.00 apply to Salvage Yard Dealers in addition to all of the regulations and offences detailed in Article 4.00

- 7.02 **Addition to 4.14:** In addition to the requirements of Section 4.14, a Salvage Yard Dealer shall also record the license plate number of any vehicle delivering scrap metal to his or her Premises.
- 7.03 **Item Descriptions:** With respect to the requirements of Section 4.14(f), 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 in each Transaction.
- 7.04 **Hold Period:** Despite Section 4.38, the Hold Period for scrap metal is five (5) business days.

Article 8.00: Regulations & Offences Relating to Consignment Dealers

- 8.01 **Article 8.00:** The regulations and offences set out in Article 8.00 apply to Consignment Dealers in addition to all of the regulations and offences detailed in Article 4.00.
- 8.02 **Contract Requirement:** At the time of accepting Second Hand Goods on Consignment, a Consignment Dealer shall prepare an agreement and shall provide the Seller with a copy of the Consignment agreement which shall contain:
- (a) all of the information required by 4.14;
 - (b) clear identification of which party is the “Seller” as defined in this By-law;
 - (c) clear indication, where appropriate, of the identification of any person other than the Seller who has rights to reclaim unsold goods;
 - (d) the signatures of both the Seller and the Consignment Dealer, with the names of the signatories printed legibly beneath their signatures;
 - (e) the minimum sale price agreed to by the Consignment Dealer and the Seller for the sale of each Second Hand Good, or, where goods are to be sold in lots, the minimum sale price for the lot;
 - (f) a statement of the value of each of the Second Hand Goods, agreed upon by both parties for the purposes of this By-law;
 - (g) the amount payable to the Consignment Dealer, for the services provided by the Consignment Dealer, expressed as:
 1. a fixed amount payable only if the Second Hand Goods are sold;
 2. a fee for service that is:
 - A) a fixed amount payable whether or not the Second Hand Goods are sold;
 - B) a percentage of the actual selling price of the Second Hand Goods payable only if the Second Hand Goods are sold;
 - C) an amount that exceeds an agreed upon minimum fee only if the Second Hand Goods are sold; or
 3. Any combination of the fees for services under subparagraph 2.A), B), or C)
 - (h) the term of the Contract;
 - (i) a description of any warranty or guarantee assignable by the client;
 - (j) a description of how the Seller will be notified of the sale of the Second Hand Goods;
 - (k) a description of how the Consignment Dealer will reimburse the Seller for the sale price of the Second Hand Goods (less applicable earned fees);

- (l) a statement of how long the Second Hand Goods will be held by the Consignment Dealer on the Seller's behalf after the end of the term of the Contract, to allow the Seller to collect the unsold or unclaimed Second Hand Goods; and
- (m) a statement of how Second Hand Goods not collected at the end of the period in (l) will be disposed of.
- 8.03 **Liability For Lost, Stolen, Damaged, or Destroyed Items:** If goods being held pending a sale on Consignment are lost, stolen, damaged, or destroyed, the Consignment Dealer is liable and shall pay the Seller the value of the Second Hand Goods as stated in the Contract.
- 8.04 **Reporting Requirement:** It is an offence for a Consignment Dealer to fail to report to the Police any loss, theft, damage or destruction of Second Hand Goods held by the Consignment Dealer under the Contract.
- 8.05 **Hold Period:** Despite Sections 4.38 and 4.39, a Consignment Dealer may return an item to the person from whom it was originally obtained at any time after a minimum Hold Period of three (3) business days where that person is entitled to return of the item in accordance with the Contract.

Article 9.00: Electronic Record Keeping

- 9.01 **Automated Reporting System:** Every Class "A" Second Hand Goods Dealer shall maintain the Transaction Records, Contracts and Registers required by this By-law in electronic data format on an Automated Reporting System.
- 9.02 **System Obligations:** Every Second Hand Goods Dealer shall be responsible to obtain, maintain or upgrade the computer hardware, printer, any other necessary equipment, and Internet capability, all as per the Company's specifications for the purpose of operating the Automated Reporting System.
- 9.03 **Electronic Reporting:** All reports to the Police that are required by this By-law, and delivery of all documents or information that is required by this By-law shall be completed, maintained, and delivered to the Police through the Automated Reporting System.
- 9.04 **Employee Training:** In addition to the training required by Section 4.11, every Second Hand Goods Dealer shall ensure that every Employee who conducts Transactions has been trained on and familiar with the use of the Automated Reporting System, as per the Company's specifications. The Employee's certification required by Section 4.12 shall be deemed to include training on the Automated Reporting System.
- 9.05 **Transmission Fees:** Every Second Hand Goods Dealer shall collect the Transmission Fee from each Seller or Pawner and shall remit the collected Transmission Fee to the Company within sixty (60) days of billing for Billable Transactions by the Company.
- 9.06 **Photographs of Pawnors and Sellers:** In addition to obtaining the information required from Sellers and Pawnors throughout this By-law, every Second Hand Goods Dealer

shall take and record a photograph of the Seller or Pawner at the time of a Billable Transaction in accordance with the procedure established by the Company for this purpose.

- 9.07 **System Inoperability:** In the event that the Automated Reporting System fails or is inoperative for any reason whatsoever at the time of a Transaction, the Second Hand Goods Dealer shall make all documentation and record all information by hand. Information taken in this manner shall be input into the Automated Reporting System as soon as reasonably practical once same is again operable.
- 9.08 **Operating Guide:** The Company shall provide a user's guide for the Automated Reporting System, approved by the Police Chief, to every Second Hand Goods Dealer and the user's guide shall document instruction for use of the system and all the computer hardware, equipment, specifications for training, protocols for maintenance and help desk support, and a clear indication of the responsibilities of each involved party, required to operate the Automated Reporting System.

Article 10.00: Investigations, Enforcement & Penalties

- 10.01 **Enforcement:** This By-law may be enforced by any Municipal Law Enforcement Officer.
- 10.02 **Penalties:** Every person who commits an offence pursuant to this By-law is liable, upon conviction, to the penalties prescribed in the Provincial Offences Act.
- 10.03 **Investigative Hold:** Where the Police Chief reasonably suspects that Second Hand Goods in the possession of a Second Hand Goods Dealer may be stolen or otherwise unlawfully obtained the Police Chief may extend the Hold Period by up to sixty (60) days, by providing notification in writing to the Second Hand Goods Dealer. If the Police Chief is unable to notify the Second Hand Goods Dealer in writing immediately, the Police Chief shall cause verbal notification to be provided to the Second Hand Goods Dealer, and shall cause the written notification to be delivered within three (3) business days of the verbal notification. The Police Chief shall immediately notify the Second Hand Goods Dealer in writing as soon as the investigative Hold Period is no longer necessary.
- 10.04 **Investigative Removal:** Where the Police Chief reasonably suspects that Second Hand Goods in the possession of a Second Hand Goods Dealer may be stolen or otherwise illegally obtained, and he or she requires the removal of the Second Hand Goods for expert examination for the purpose of confirming that belief, the Police Chief may remove such Second Hand Goods for a period of up to seven (7) business days after providing written notification of the removal to the Second Hand Goods Dealer. The Police Chief may renew the investigative removal period for subsequent seven (7) day periods, provided the Police Chief provides a new written notification of removal to the Second Hand Goods Dealer each time, and further provided that such extended investigative removal is required to complete the investigation. The Police Chief shall return the Second Hand Goods at the first reasonable opportunity once the examination is completed, unless it is confirmed that the goods were stolen or unlawfully obtained.

- 10.05 **Requirements of Notice:** The written notification for an investigative hold or an investigative removal shall include the Second Hand Goods Dealer's name, the police case number, if applicable, a contact phone number and officer with the Police, and a description of the Second Hand Goods which are to be held or removed. The Second Hand Goods Dealer may provide that information to any Pawner or Seller who had delivered the Second Hand Goods in question.
- 10.06 **Seizure:** Where an investigation conducted during an investigative hold period or during an investigative removal period confirms that the goods were stolen or unlawfully obtained by the Seller, Pawner or Second Hand Goods Dealer, or by some as yet unidentified person, the Police shall seize the goods in question and hold same in accordance with the laws of evidence. The goods shall only be delivered by the Police to such persons as a Justice with jurisdiction in the matter shall order.
- 10.07 **Offence:** It is an offence for a Second Hand Goods Dealer to fail to co-operate when served with notice of an investigative hold or an Investigative removal in accordance with this Article.

Article 11.00: Repeals, Predecessor By-laws, Effective Date

- 11.01 **Repeals:** There are no predecessor By-laws of the Board relating to the subject matter of this By-law. Predecessor by-laws are those of the Council, and will be repealed by the Council in due course.
- 11.02 **References to Predecessor By-laws:** References in other by-laws of the Board or the City, or any policies or procedures of the Police to any historically applicable licensing by-law for Second Hand Goods Dealers are deemed to be references to this By-law.
- 11.03 **Effective Date:** All of this By-law, excepting Sections 4.11 and 4.10 (relating to employees) and Article 9.00 (electronic record keeping) shall come into force on January 1, 2006. Sections 4.11 and 4.10 will come into effect on June 1, 2006. Article 9.00 will come into effect on a date to be prescribed by the Board which shall be no earlier than June 1, 2007.
- 11.04 **Transition for Section 4.10:** Where a Second Hand Goods Dealer employs a person who is under the age of eighteen (18) years on the date that this By-law takes effect, that employment contract may continue indefinitely without violation of Section 4.10. The onus of proof of employment on the effective date of this By-law rests with the Second Hand Goods Dealer.

Enacted and passed this 6th day of December, A.D. 2005 as witnessed by the Seal of the Board and the hands of its proper Officers.

Chair

Secretary

Read a First and Second time this 6th day of December, A.D., 2005

Read a Third Time and finally passed this 6th day of December, A.D., 2005