

The Corporation of the Town of Ajax
By-Law Number 104-2013

A By-law for the licensing, regulating and governing of Second Hand Goods Businesses

Whereas the Municipal Act, 2001, as amended, authorizes a Municipal Council to pass by-laws for licensing, regulating, governing, classifying and inspecting any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

Now therefore the Council of The Corporation of the Town of Ajax enacts as follows:

1. Short Title

1.1. This By-law may be cited as the "Second Hand Goods Business By-law."

2. Definitions

2.1. In this By-law:

- (a) "Committee" means the Committee of Council to which Council has delegated the responsibility of handling licensing matters;
- (b) "Council" means the Council of the Town;
- (c) "Licensing Officer" means a person appointed by the Town to issues Licences, and includes a person appointed by Council for the express purpose of issuing Licences under this By-law, and includes a Municipal Law Enforcement Officer;
- (d) "Licencee; means a person who has been issued a Second Hand Good Business Licence;
- (e) "Municipal Law Enforcement Officer" means a municipal law enforcement officer appointed by the Town to enforce the By-laws of the Town;
- (f) "Officer" means a Municipal Law Enforcement Officer or a Police Officer;
- (g) "person" includes a corporation;
- (h) "Second Hand Goods" means any article, that has been used for the purpose for which it was designed;
- (i) "Second Hand Goods Business" means a person who deals in Second Hand Goods;
- (j) "Second Hand Goods Business Licence" means a licence as issued by the Licensing Officer under this By-law to operate a Second Hand Goods Business;
- (k) "Seller" means a person who sells or who offers to sell any Second Hand Goods to a Second Hand Goods Business;
- (l) "Town" means The Corporation of the Town of Ajax;
- (m) "Transient Second Hand Goods Business" means a person who trades in Second Hand Goods in the Town, other than on a permanent basis, and for a period of less than forty-five consecutive days;

3. Prohibitions

- 3.1. No person shall carry on a Second Hand Goods Business in the Town unless that person holds a Second Hand Goods Business Licence.
- 3.2. The provisions of this By-law, which require a licence, are not applicable to employees of a Second Hand Good Business, provided their employer is licenced pursuant to this By-law.

- 3.3. The provisions of this By-law shall not apply to persons who are engaged solely in the sale of goods for charitable purposes.
- 3.4. A person who receives a Second Hand Goods Business Licence shall comply with this By-law, all Municipal By-laws, and all conditions imposed by the Town in the Licence.

4. Licence Application

- 4.1. Every applicant shall appear in person before a Licensing Officer and shall complete such application forms as may be provided from time to time by the Licensing Officer in accordance with the requirements of this By-law and shall provide all information, documents and payments requested thereon, such information shall include:
 - (a) The applicants full name address, phone number and date of birth;
 - (b) The name under which the applicant carries on or intends to carry on business;
 - (c) The address of the premises;
 - (d) The type of Second Hand Goods;
 - (e) A Transient Second Hand Goods Business applying for a Second Hand Goods Business Licence shall include the date(s) when the business will be conducted, the location where the business will be conducted and the premises where the Second Hand Goods will be kept in accordance with Section 8.11 of this By-law;
 - (f) Information on whether the person, or any officer or director of the person, has been convicted of an offence relating to a Second Hand Goods Business; and,
 - (g) The fee in accordance with Schedule "A" to this By-law.
- 4.2. In the case of a Second Hand Goods Business that is owned by a partnership, such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners.
- 4.3. Without limiting the generality of any other provision in this Bylaw, persons associated in a partnership applying for a licence shall file with their application a statutory declaration, in writing, signed by all members of the partnership, which declaration will state:
 - (a) The full name of every partner and the address of his ordinary residence;
 - (b) The name or names under which it carries on or intends to carry on business;
 - (c) That the persons therein named are the only members of the partnership;
 - (d) The mailing address of the partnership;
 - (e) The date the statutory declaration was entered into by each member.

The statutory declaration shall be dated within 30 days of the application.

- 4.4. Without limiting the generality of any other provision in this By-law, every corporation applying for a Second Hand Goods Business Licence shall file with their application a copy of its articles of incorporation or other incorporating documents and shall file a statutory declaration, in writing signed by an officer of the corporation, which declaration shall state:
 - (a) The full name of every shareholder and director and the address of his or her ordinary residence;
 - (b) The name or names under which it carries on or intends to carry on business;

- (c) That the persons therein named are the only shareholders of the corporation;
- (d) The mailing address for the corporation.

The statutory declaration shall be dated within 30 days of the application.

- 4.5. Receipt of the application or the fee by the Town shall not represent approval for the application for the issuance of a Second Hand Goods Business Licence nor shall it obligate the Town to issue a Licence.
- 4.6. Every application for a renewal of a Second Hand Goods Business Licence under this By-law shall be delivered to the Licensing Officer, in full, before the Licence expires.

5. Change of Status

- 5.1. Where there is any change in any of the particulars relating to a person licenced under this By-law, which particulars are required to be filed with the Town upon applying for a licence, such person shall report the change, in writing, to the Licensing Officer within six days of the change.
- 5.2. Where there is to be a change in the composition or the controlling interest of a partnership licenced under this By-law, the persons licenced hereunder in partnership shall obtain the approval of the Licensing Officer to such change prior thereto. Where there has been any change in the controlling interest of the partnership by virtue of a number of transactions, the licence may be suspended despite the Licensing Officer's prior approval of any one or more such transactions.
- 5.3. Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licenced under this By-law, the corporation shall obtain the approval of the Licensing Officer to such change prior thereto. Where there has been any change in the controlling interest of the corporation by virtue of a number of transactions, the licence may be suspended, despite the Licensing Officer's prior approval of any one or more such transactions.

6. Nature of Licence

- 6.1. No person shall enjoy a vested right in the continuance of a Second Hand Goods Business Licence and the value of a licence shall be the property of the Town and shall remain so irrespective of the issue, renewal or revocation thereof.
- 6.2. The Second Hand Goods Business Licence required by this By-law shall, unless it is expressed for a longer or shorter time, be for the period up to and including the 31st day of December in the year of issuance, unless it is sooner forfeited or revoked.
- 6.3. No Second Hand Goods Business Licence shall be transferred or assigned and if a Licencee leases or otherwise disposes of his interest in the business carried on as a Second Hand Goods Business, their Licence in respect to such activity shall, notwithstanding any other provision of this By-law, be revoked.
- 6.4. A duplicate Second Hand Goods Business Licence may be issued by the Licensing Officer to replace any Licence previously issued which has been lost, stolen or destroyed, upon written application by the Licencee and payment of the fee as stated in Schedule "A" of this By-law.
- 6.5. Any Second Hand Goods Business Licence that has not been renewed as of December 31st in the year of issuance or renewal shall expire on January 1st in the year following its issuance or renewal.

7. Issuance, Suspension and Revocation of Licence

Issuance

- 7.1. The Licensing Officer shall:
- (a) Receive and process all applications for licences and renewal of licences;
 - (b) Co-ordinate the enforcement of this By-law;
 - (c) Generally perform all the administrative functions conferred upon him by this Bylaw;
 - (d) Make or cause to be made all investigations and inspections which he deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws;
 - (e) Issue licences to persons who meet the requirements of this By-law, and revoke licences pursuant to the requirements of this By-law;
 - (f) Where a licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the licences of persons who meet the requirements of this By-law;
- 7.2. The Licensing Officer shall issue or renew the licence only where:
- (a) All the information which the applicant is required to provide under this By-law has been provided and verified;
 - (b) All the documents which the applicant is required to provide under this By-law have been provided;
 - (c) The licence fee is paid;
 - (d) The investigations do not disclose that the issuing of such licence may be adverse to the public interest;
 - (e) The Licensing Officer has no grounds to believe the applicant will not conduct himself in accordance with the law or with honesty and integrity.
- 7.3. Where the Licensing Officer determines that a licence should not be issued as a result of any matter in section 7.2 of this By-law, he shall notify the applicant.
- 7.4. Where an applicant advises the Licensing Officer in writing, and within fourteen days of the notification in section 7.3, that he disputes the determination made by the Licensing Officer under section 7.3 of this By-law or submits that the licence applied for should be issued despite that determination, the matter shall be referred forthwith by the Licensing Officer to the Committee which shall hear representations from the Licensing Officer and the applicant.
- 7.5. The Committee may authorize the Licensing Officer to issue the licence where it concludes that the determination in section 7.3 of this By-law is not sufficient to justify refusing to issue the licence.
- 7.6. Where the Committee determines that a licence should not be issued, the Licensing Officer shall advise the applicant of such determination.

Suspension/Revocation

- 7.7. The Licensing Officer shall notify a Licencee, that the licence shall be suspended or revoked, when:
- (a) The Licensing Officer has cause to believe, on reasonable grounds, that the Licencee will not carry on or engage in the business in accordance with the law or with honest and integrity;
 - (b) The Licencee has been convicted of an offence which is a contravention of this By-law;

- (c) The Licensing Officer has cause to believe that the Licencee has failed to engage in business in accordance with the conditions imposed upon the licence.
- 7.8. Where a Licencee advises the Licensing Officer, in writing within thirty days that he disputes the suspension or revocation of the licence, the matter shall be referred forthwith to the Committee which shall hear representations from the Licencee and either confirm the suspension or revocation of the licence or reinstate it as it sees fit.
- 7.9. The Licensing Officer shall advise the Licencee of the Committee's determination.
- 7.10. Where the Licencee does not dispute the suspension or revocation of the licence, within thirty days of the notification referred to in section 7.7, the Licensing Officer shall forthwith suspend or revoke the licence.

Suspension Without Hearing

- 7.11. The Licensing Officer may suspend a licence for a period not to exceed fourteen days, without a hearing, providing the Licensing Officer:
 - (a) Is satisfied that the continuation of the business poses an immediate danger to the health and safety of any person or property; and
 - (b) Has notified the Licencee, either orally or in writing, prior to the suspension of the licence, with the reasons for the suspension and provided the Licencee with an opportunity to respond.
- 7.12. When a licence has been suspended in accordance with Section 7.11, the matter shall be referred forthwith, by the Licensing Officer, to the Committee, which shall hear representations from the Licencee.
- 7.13. The Committee may:
 - (a) Reinstate the licence, with or without special conditions;
 - (b) Suspend the licence for a specified period of time, and may impose conditions on the licence;
 - (c) Revoke the licence.

8. General Provisions

- 8.1. Every person who holds a Second Hand Goods Business Licence under this By-law shall notify the Licensing Officer within 6 calendar days of any criminal conviction registered against the person that is related in any way to an act of dishonesty, fraud or theft.
- 8.2. No person who applies for a Second Hand Goods Business Licence under this By-law shall knowingly misstate or provide false information to the Licensing Officer.
- 8.3. No person may receive Second Hand Goods from a person who is under the age of 16 years or from any person who appears to be under the influence of alcohol or drugs.
- 8.4. No person may receive Second Hand Goods on a holiday or between the hours of 9:00 p.m. and 8:00 a.m. the following day.
- 8.5. Every Second Hand Goods Business shall keep the Second Hand Good Business Licence issued in respect to this By-law posted in a conspicuous place in the premises, in a manner satisfactory to the Licensing Officer.
- 8.6. No Second Hand Goods Business shall permit any employee to work at a premises without first instructing such employee in the regulations of this By-law

and ensure that such employee complies with these regulations. Every Second Hand Goods Business shall be responsible for the acts or omissions of its employees in the carrying on of the business conducted on the premises in the same manner and to the same extent, as though the acts or omissions were the acts or omissions of the Second Hand Goods Business.

- 8.7. No Person shall obstruct or hinder the entry or the inspection of the premises by an Officer or the Licensing Officer.

Transaction Records

- 8.8. Every person who holds a Second Hand Goods Business Licence under this By-law shall maintain a Register.

- 8.9. A Register as required under this By-law shall be in the form of:

- (a) a paper booklet; or
- (b) an electronic format which has been approved by the Licensing Officer.

- 8.10. Every person who holds a Second Hand Goods Business Licence who conducts a transaction at their premises, either personally or through an employee or agent, from a Seller shall immediately record in the Register, in English, and where applicable in a legible script, using permanent ink:

- (a) The date and time of acquisition;
- (b) The full name and address of the Seller;
- (c) A description of the Seller reasonably sufficient to identify such person, and where the Seller who delivers the articles states that he is the agent of its owner, the name and address of the owner;
- (d) The full particulars of the Seller's identification;
- (e) A description of each Second Hand Good that is reasonably sufficient to identify it, such as make, model, serial number, markings, or other identifying features as applicable;
- (f) The price paid by the Second Hand Goods Business or the value of the goods exchanged for the Second Hand Good; and,
- (g) The name of the person who conducted the transaction.

Retention Period

- 8.11. No Second Hand Goods Business may sell, exchange, alter, melt, or otherwise dispose of any Second Hand Good within the earlier of 7 days from the date of obtaining possession thereof and during this period such goods shall be kept in the premises used by the Second Hand Goods Business and shall be separate from and not commingled with other Second Hand Goods in the same premises.

Inspection

- 8.12. Every person who holds a Second Hand Goods Business Licence shall make their Register available for inspection upon request of a Police Officer.
- 8.13. Every person who holds a Second Hand Goods Business Licence who maintains their Register in an electronic format shall upon the request of a Police Officer:
- (a) Allow the Police Officer to review the on-screen information for the Register; and,
 - (b) Print or otherwise copy the Register or any part thereof and provide such to the Police Officer.

- 8.14. Every person who holds a Second Hand Goods Business Licence shall ensure that their Register is in a neat condition and that no pages or computer information is removed, destroyed, obliterated or altered.
- 8.15. Every person who holds a Second Hand Goods Business Licence shall allow the Licensing Officer or an Officer, at any reasonable time, to inspect the premises for which the Licence has been issued for compliance with this By-law.

9. Administration and Enforcement

- 9.1. This By-law shall be administered by a Licensing Officer and shall be enforced by an Officer.
- 9.2. The Town's authority to licence, regulate and govern Second Hand Goods Businesses that are in effect at the time this By-law comes into effect, shall be deemed to be Licences issued under this By-law, with all necessary modifications. All the rules and requirements and regulations of this By-law shall apply.
- 9.3. The annual fee for a licence shall be set out in Schedule "A" to this By-law.
- 9.4. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.
- 9.5. Any person who contravenes any section of this By-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of cost as prescribed by the Provincial Offences Act, R.S.O. 1990.
- 9.6. That By-law 15-2008 is hereby repealed.

Read a first and second time this
Twenty Fifth day of November,
2013

Read a third time and passed this
Twenty Fifth day of November,
2013

Mayor, Steve Parish

D-Clerk, Nicole Wellsbury

Schedule "A"

To By-Law 104-2013

Licence Fee for a Second Hand Goods Business Licence	\$60.00 per calendar year
Fee for a Transient Second Hand Goods Business Licence	\$100.00 for each business event
Fee for a Replacement Licence	\$5.00