

BY-LAW # 854-07

**A BY-LAW RESPECTING PAWNBROKERS & SECOND-HAND DEALERS
IN THE TOWN OF SUSSEX**

The Council of the Town of Sussex, under authority vested in it by Section 165, 166 & 167 of the Municipalities Act, R.S.N.B. 1973, c.M-22 and amendments thereto, enacts as follows:

I. TITLE

- (a) This by-law may be cited as the “Pawnbrokers and Second-Hand Dealers By-Law”.
- (b) The provisions of this by-law apply to the entire area within the Town limits of the Town of Sussex.

II. DEFINITIONS

In this by-law,

- (a) “*Building Inspector*” means an officer appointed by Council as Building Inspector;
- (b) “*Clerk*” means the Clerk of the Town of Sussex;
- (c) “*Council*” means the Council of the Town of Sussex;
- (d) “*estate sales*” means goods acquired as antiques from a public auction from an unrelated business involved in the sale of used goods, or from a private residence;

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- (e) *“goods”* means all second-hand, resold, used, discarded or surplus bicycles; collector cards; coins; compact discs; computers; computer accessories, including monitors, printers and fax modems; computer games; computer software, including cartridges and discs; computer hardware; electronic equipment; fur coats, fur stoles, glass, ceramic, china, stone, or metal figurines; jewellery; coins, medals and other precious metals for the purposes of smelting; leather jackets; musical instruments; photographic equipment; pre-recorded audio tapes; pre-recorded videotapes; radios; sports equipment; stereos; telephones; television sets; tools; video games; video game systems; video laser discs; watches; and all articles of every other description, but does not include bottles, furniture, books or clothing other than set out above;
- (f) *“identification”* means any one or more of the following provided it is integrated with a picture or signature of the bearer;
- (1) valid driver’s license issued by a Canadian province or territory;
 - (2) provincial identity card;
 - (3) passport issued by the government of origin;
 - (4) Certificate of Indian Status issued by the Government of Canada;
 - (5) Certificate of Canadian Citizenship issued by the Government of Canada;
 - (6) conditional release card issued by Correctional Services Canada;
 - (7) provincial health insurance card issued by the Canadian provincial government of origin;

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- (8) identification cards issued by a member institution of the Association of Universities and Colleges of Canada;
- (9) employee identification cards issued by the Government of Canada or the Canadian provincial government or municipal government of origin;
- (g) *“license”* means the actual license issued under this by-law and includes a renewal thereof;
- (h) *“licensed premises”* means the premises where the licensee carries on the licensed business;
- (i) *“municipality”* means the Town of Sussex;
- (j) *“pawnbroker”* means any person who engages in the business of granting consumer credit and who takes a security interest in the form of a pledge of goods to secure credit or who purchases goods under an agreement or undertaking that those goods may be afterward repurchased or redeemed on terms, but does not include banks, trust companies, credit unions, caisse populaires, and other similar institutions;
- (k) *“pawnshop”* means a building or part of a building, booth, stall, warehouse, yard or other premises in which goods are stored, displayed or kept pending resale or delivery to another person;
- (l) *“peace officer”* means a police officer as defined in the *Police Act*, S.N.B. 1977, c. P-9.2 or a member of the Royal Canadian Mounted Police;
- (m) *“person”* in relation to licensee, includes not only an individual, but also a partnership and body corporate and any association and the heirs, executors, administrators, successors and assigns or other legal representatives thereof to whom the context may apply;

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- (n) *“purchase”* includes buy, barter, deal in, take in exchange, take in part payment, or receive on consignment; *“purchasing”* and *“purchased”* shall be construed accordingly;
- (o) *“receiving”*, *“receipt”*, or *“received”* is deemed to include *“receiving in pledge”*;
- (p) *“register”* means the pawnbrokers’ register referred to in section III (i) of this by-law and/or the second-hand dealers’ register referred to in section IV (i) of this by-law;
- (q) *“second-hand dealer”* means:
 - (1) every person carrying on the trade or business of purchasing or selling any good as defined by this by-law, or who keeps a shop or other such place of business for the purpose of carrying on such trade or business;
 - (2) every person who, while licensed or required to obtain a license for any business, occupation or calling other than business referred to in this by-law, purchases or stores, either as principal or agent, any second-hand goods, wares or merchandise;but does not include a person who only buys or sells second-hand bottles, books, furniture or clothing other than leather jackets, fur coats, or fur stoles; and does not include a person who only buys goods at auctions, or estate sales;
- (r) *“seller”* means any person who owns a good, which shall include a pawn, and sells, offers for sale or offers in exchange such a good to a pawnbroker or second-hand dealer;
- (s) *“taking in exchange”* is deemed to include *“receiving in pledge”*;

- (t) *“transaction”* includes purchase or receipt by a pawnbroker;
- (u) *“transaction record”* means any document related to the purchase or taking in exchange of any good; and
- (v) *“Treasurer”* means the Treasurer of the Town of Sussex.

III. PAWNBROKER STIPULATIONS

- (i) Every pawnbroker shall keep a record of all goods other than bottles, furniture, books or clothing purchased or otherwise received by such dealer. This record shall be legibly written in ink, or electronically entered, and shall be made at the time of purchase in a book known as the pawnbrokers' register. This record shall include the following particulars:
 - (1) a full and complete description, including the make, model and serial number of any goods pawned or received;
 - (2) the credit extended for goods;
 - (3) the precise date and hour of receipt of goods, and a receipt number recognizing the transaction;
 - (4) the name, residence or street address;
 - (5) confirmation of the identity, including name, residential address, and signature of the person from whom the goods were received, proof of identification, including any identification number and name of the authority who issued it; the proof of identification required should include a picture identification that is integrated with information such as the name, date of birth, and address of the bearer or so much thereof as may be available;

- (6) identification and one non-picture identification that includes the name, date of birth, and address of the bearer;
 - (7) at the time a borrower deposits or delivers any personal property as security for a loan, the pawnbroker shall, without requiring or accepting any fee or charge for so doing, give to the borrower a copy of a note or memorandum signed by the pawnbroker containing a summary of the information which is required to be inserted in the record pursuant to section III. (i); and
 - (8) the pawnbroker shall conform to the requirements in section III (ii) through the use of Schedule "A", the standard transaction record form provided by the municipality for the pawnbrokers' register or any other transaction record form containing the requirements mentioned hitherto.
- (ii) Every pawnbroker shall, at all reasonable times during business hours, produce the pawnbrokers' register for the inspection of any peace officer. The register may be removed at any time by any peace officer for inspection at the headquarters of the police force of this municipality. Immediately upon return of a register to the dealer, the dealer shall enter therein, in proper sequence, each and every transaction involving the receipt of goods made during the absence of the register. The register shall not be held for a period longer than 72 hours unless proceedings in respect of an offence have been commenced in which case the record may be kept until the proceedings have been concluded.
 - (iii) No pawnbroker shall permit any entry made in a register to be erased, obliterated or defaced, or permit any page or other portion of a register to be cut out or removed.
 - (iv) No person, while licensed as a pawnbroker, shall carry on a pawnbroker business except at the place designated in the license.

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- (v) If a person licensed as a pawnbroker moves the business from the place designated in the license, that person shall immediately provide notification in writing to the Clerk, who shall alter the license accordingly.
- (vi) No pawnbroker shall receive in the way of business any goods where the serial number or other identifiable marking has been tampered with or removed.
- (vii) No pawnbroker shall receive in the way of business any goods from any person:
 - (1) under the age of 18 years, unless the individual has provided to the pawnbroker a written permission to sell or pawn goods executed by a parent or guardian;
 - (2) under the age of 18 years, unless the individual has provided to the pawnbroker a written permission to sell or pawn goods executed by a parent or guardian;
 - (3) who is or who appears to be under the influence of alcohol or drugs; or
 - (4) failing to identify himself as set out in section III. (i).
- (viii) Upon demand by a peace officer, a pawnbroker shall present for view to that person any and every good demanded that has come into possession of the pawnbroker in the course of business.
- (ix) Every pawnbroker who is also licensed to carry on business as a second-hand dealer shall keep all goods purchased or received in the course of doing business as a pawnbroker physically separate from goods purchased as a second-hand dealer, and shall ensure that all goods are clearly and individually tagged to indicate whether they were received or purchased or left in pawn.

- (x) A pawnbroker shall not sell any property which he has received as security for a loan before the later of the redemption date of the pawn or 30 days from the date the borrower pawned the property.

IV. SECOND-HAND DEALERS

- (i) Every second-hand dealer shall keep a record of all goods other than bottles, furniture, books or clothing purchased or otherwise received by the dealer. This record shall be legibly written in ink, or electronically entered, and shall be made at the time of purchase in a book known as the second-hand dealers' register. This record shall include the following particulars:
 - (1) a full and complete description, including the make, model and serial number, of any goods purchased or received;
 - (2) the price paid for the goods;
 - (3) the precise date and hour of purchasing or receiving the goods;
 - (4) the name, residence or street address of the person from whom the goods were purchased or received; and
 - (5) confirmation of the identity, including name, residential address and signature, of the person from whom the goods were purchased or received by way of identification including a complete description of the identification and name of the authority who issued it.

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- (ii) Every second-hand dealer shall, at all reasonable times during business hours, produce the second-hand dealers' register for the inspection of any peace officer. The register may be removed at any time by any peace officer for inspection at the headquarters of the police force of the municipality. Immediately upon return of a register to the dealer the dealer shall enter therein, in proper sequence, each and every transaction involving the purchase of goods made during the absence of the register. The register shall not be held for a period of longer than 72 hours unless proceedings in respect of an offence have been commenced in which case the goods or record may be kept until the proceedings have been concluded.
- (iii) No second-hand dealer shall permit any entry made in a register to be erased, obliterated or defaced, or permit any page or other portion of a register to be cut or removed.
- (iv) No person, while licensed as a second-hand dealer, shall carry on business as a pawnbroker unless such person has also taken out a license as a pawnbroker.
- (v) No person licensed as a second-hand dealer shall carry on business except at the place designated in the license.
- (vi) If a person licensed as a second-hand dealer moves the business from the place designated in the license, that person shall immediately provide notification in writing to the Clerk, who shall alter the license accordingly.
- (vii) No second-hand dealer shall purchase or receive in the way of business any goods where the serial number or other identifiable marking has been tampered with or removed.
- (viii) No second-hand dealer shall purchase or receive in the way of business any goods from any person:

- (1) under the age of 18 years, unless the individual has provided to the second-hand dealer a written permission to sell or pawn goods executed by a parent or guardian;
 - (2) who is or who appears to be under the influence of alcohol or drugs; or
 - (3) who fails to identify himself as set out in section IV.
- (ix) Upon demand by a peace officer, a second-hand dealer shall present for view to that person any and every good demanded that has come into possession of the dealer in the course of business where it remains in his possession.
- (x) Every second-hand dealer who is also licensed to carry on business as a pawnbroker shall keep all goods purchased or received in the course of doing business as a second-hand dealer physically separate from goods left in pawn, and shall ensure that all goods are clearly and individually tagged to indicate whether they were received or purchased or left in pawn.

V. GENERAL PROVISIONS

- (i) (1) No person shall carry on the business of a pawnbroker, or own or operate a pawnshop in this municipality, unless he is the holder of a valid pawnbroker's license issued under this by-law.
- (2) No person shall carry on the business of a second-hand dealer, or own or operate a second-hand shop in this municipality, unless he is the holder of a valid second-hand dealer's license issued under this by-law.
- (ii) (1) A separate license shall be taken out for each pawnshop or second-hand shop in which the person who owns or operates a pawnshop carries on his business.

- (2) Notwithstanding section V. (ii) (1) no person shall require separate licenses for a pawnshop and second-hand shop operating immediately adjacent to each other. In this case, the books and records of both businesses shall be maintained at the same location.
- (iii) Every license issued to a pawnbroker for each pawnshop shall state the exact location of all the pawnshops and second-hand shops operated by that pawnbroker.
- (iv) Notwithstanding any other provision of this by-law, no license shall be required by persons engaged in the sale of second-hand goods for patriotic or charitable purposes.
- (v) Notwithstanding any other provision of this by-law, no license shall be required by an individual, a tenant association or a community association that holds a sale of personal household effects that are owned by the individual or by persons who are members of the association.
- (vi) On the application for a license, or renewal thereof, the applicant shall:
 - (1) complete the application attached as Schedule "B" of this by-law;
 - (2) furnish to the municipality such information as the municipality may direct to be furnished;
 - (3) file the completed application with the Clerk; and
 - (4) pay a fee of one hundred dollars (\$100.00) to the Clerk.
- (vii) No license shall be issued, or renewed, pursuant to section V. (vi) unless:

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- (1) the applicant has completed the prescribed application forms;
 - (2) the shop complies with the zoning, building and property standards requirements of the municipality; and
 - (3) the applicant has paid the one hundred dollar (\$100.00) fee to the Clerk.
- (viii) Every license issued under this by-law shall expire on December 31 of each year.
- (ix) Every licensee shall ensure that all employees understand and comply with the provisions of this by-law.
- (x) Every licensee shall be responsible for the act or acts of any employees in the carrying on of business of the pawnshop or second-hand shop in the same manner and to the same extent as though the act or acts were done by the licensee.
- (xi) Every licensee shall post the license in a prominent position on the licensed premise so as to be clearly visible to the public.
- (xii) Subject to section III. (i) and (ii), every licensee shall keep on the premises, where the business or trade is carried on, any register required under this by-law that contains an entry that is less than 24 months old.
- (xiii) No person shall vend pawned goods or second-hand goods on any part of a road allowance or sidewalk.
- (xiv) This by-law shall be enforced by the Building Inspector and/or peace officer(s).
- (xv) The Building Inspector and/or peace officer(s) is hereby authorized to inspect:

- (1) as much of a place or premise as is used for the carrying on of the business of a pawnshop or second-hand shop; and
 - (2) any goods, wares, merchandise, articles, records, books or other documents of or relating to the pawnshop or second-hand shop.
- (xvi) No person shall obstruct, hinder or otherwise interfere with any of the inspections referred to in section V. (xv).

VI. OFFENCES AND PENALTIES

- (i) Every person who violates any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this by-law, or who neglects to do or refrains from doing anything required to be done by way of the provisions of this by-law, or who does any act which violates any of the provisions of this by-law, and any director or officer of a corporation who concurs in such contravention by the corporation, commits an offence and shall be deemed to be guilty of an infraction thereof.
- (ii) Every second-hand dealer and pawnbroker shall at all reasonable times permit any peace officer to enter into and inspect any premises used in connection with the business, and any person who refuses entry commits an offence.
- (iii) The Clerk may issue a license or a renewal thereof under this by-law to any person who:
 - (1) has not been successfully prosecuted for more than one infraction under this by-law within the last 5 years; and

- (2) has not, within the last 5 years, been convicted of an offence involving possession of stolen property under Section 354 of the *Criminal Code*, R.S.C. 1985, c. C-46 or its successor legislation, or if convicted has been pardoned.
- (iv)
 - (1) The Clerk may issue a certificate stating that a pawnshop or second-hand shop has not been issued a license under this by-law.
 - (2) The certificate mentioned in section VI. (iv) (1), signed or purported to be signed by the Clerk, may be received and considered by the Court for the purposes of this by-law as *prima facie* evidence of the contents thereof.
- (v) Where a pawnbroker or second-hand dealer is being prosecuted for an offence under this by-law and his records are proven to be incorrect, he may use the defence that he was misinformed by the vendor only if he can show that he took reasonable precautions to ensure the correctness of the information entered in his register or records.
- (vi)
 - (1) A person who carries on business as a pawnbroker or as a second-hand dealer who violates or fails to comply with section V. (ii) of this by-law commits an offence punishable under Part II of the *Provincial Offences Procedure Act*, S.N.B. 1987, c. P-22.1, as a Category E offence.
 - (2) A person who violates or fails to comply with any section of this by-law other than section V. (ii) commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category C offence.

- (vii) (1) Upon a second conviction under section VI. (vi) committed within 5 years of a first conviction, the Clerk shall revoke the pawnbroker's license.
- (2) The Clerk shall revoke a pawnbroker's or second-hand dealer's license where a pawnbroker or second-hand dealer has been convicted within the last 5 years of an offence involving possession of stolen property under Section 354 of the Criminal Code, or its successor legislation, or if convicted, has been pardoned.
- (viii) No licensee shall operate or carry on the business of a second-hand goods shop or pawnshop for which the license was issued while the license is under suspension.

VII. PLURAL OR FEMININE TERMS

In this by-law plural or feminine terms may apply whenever the singular, masculine or feminine is used. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

VIII. VALIDITY

If a court of competent jurisdiction declares any provision or part of this by-law to be of no force or effect, it is the intention of the Council in enacting this by-law that each and every other provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

FIRST READING BY TITLE	<u>NOVEMBER 26, 2007</u>
SECOND READING BY TITLE	<u>NOVEMBER 26, 2007</u>
READ IN ENTIRETY	<u>DECEMBER 17, 2007</u>
THIRD READING BY TITLE AND ENACTED	<u>DECEMBER 17, 2007</u>

RALPH A. CARR
MAYOR

PAUL I. MAGUIRE
TOWN CLERK

BY-LAW # 854-07

**A BY-LAW RESPECTING PAWNBROKERS & SECOND-HAND DEALERS
IN THE TOWN OF SUSSEX**

**SCHEDULE "A"
PAWNBROKERS & SECOND-HAND DEALERS
TRANSACTION RECORD FORM**

DATE: _____

TIME RECEIVED OR REDEEMED: _____

RECEIPT NUMBER: _____

AMOUNT LOANED OR PAID: _____

DESCRIPTION OF ARTICLE(S) OR GOODS:
(must include make, model and serial number where applicable)

NAME & ADDRESS OF PERSON PLEDGING OR SELLING:

DESCRIPTION OF PERSON: _____

DATE OF BIRTH: _____

MALE/FEMALE (M/F): _____

IDENTIFICATION PRODUCED: _____

TYPE OF IDENTIFICATION: _____

IDENTIFICATION NUMBER: _____

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**A BY-LAW RESPECTING PAWNBROKERS & SECOND-HAND DEALERS
IN THE TOWN OF SUSSEX**

**SCHEDULE "B"
APPLICATION FOR PAWNBROKERS/SECOND-HAND DEALERS
BUSINESS LICENSE**

OPERATING NAME OF BUSINESS: _____

REGISTERED NAME OF BUSINESS: _____
(if different than above)

CIVIC ADDRESS OF REGISTERED BUSINESS: _____

MAILING ADDRESS: _____
(if different than above)

CONTACT INFORMATION: _____

TELEPHONE: _____

FAX: _____

E-MAIL: _____

BUSINESS STATUS: SOLE PROPRIETOR PARTNERSHIP CORPORATION

IF THE APPLICANT IS A PARTNERSHIP OR CORPORATION, LIST THE MEMBERS OF THE PARTNERSHIP OR THE OFFICERS AND DIRECTORS OF THE CORPORATION.

SIGNATURE OF APPLICANT: _____

DATE: _____

**FEE OF \$100.00 IS PAYABLE TO THE "TOWN OF SUSSEX" UPON
SUBMISSION OF APPLICATION**

\$100.00 FEE RECEIVED BY: _____
Signature of Town Clerk

THE LOCATION OF THE BUSINESS DESCRIBED HEREIN IS IN CONFORMITY WITH THE PROVISIONS OF BY-LAW NO. 1350-04, THE ZONING BY-LAW FOR THE TOWN OF SUSSEX:

YES _____ NO _____

Signature of Development Officer