

Authority: Item 5, Planning Committee
Report 17-011 (PED17102)
CM: June 28, 2017
Ward: City Wide
Bill No. 128

**CITY OF HAMILTON
BY-LAW NO. 17-128**

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

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

WHEREAS this By-law deletes and replaces Schedule 22 – Salvage and Second-Hand Goods, Pawnbrokers, and Jewellery and Precious Metals Businesses.

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

1. Schedule 22 of By-law No. 07-170 is deleted and replaced with Appendix “A” entitled “Second-Hand Goods, Jewellery and Precious Metals Businesses”.
2. That the General Provisions section 6(1)(e)(i) is amended by:
 - (a) Deleting the words “Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses” beside Schedule 22 and adding “Second-Hand Goods, Jewellery and Precious Metals Businesses”.
3. That the General Provisions section 30 is amended by:
 - (a) Deleting the words “Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses” and adding “Second-Hand Goods, Jewellery and Precious Metals Businesses”.
4. Appendix “B” to Bylaw 07-170 referring to “Departmental Policy Standard Character and Driving Record Criteria For Conditional Issuance and Refusal of Establishment and Trade Licence Applications or Renewals” is deleted and replaced with:
 - (a) Schedules 1 (Adult Entertainment Establishments), 3 (Bed and Breakfasts, Hotels and Motels), 4 (Body Rub Parlours), 5 (Pawnbrokers), 9 (Lodging Houses), 10 (Salvage Businesses), 16 (Public Garages - Classes A, B1, B2 and B3 only), 20 (Residential Care Facilities), 22 (Second-Hand Goods, Jewellery and Precious Metals Businesses), 25 (Taxicabs - Cab Broker only), 29 (Trades)

5. Despite the repeal of Schedule 22 under section 1:
- (a) the Schedule shall continue to apply to proceedings in respect of offences that occurred before its repeal; and
 - (b) all licences issued under the Schedule that are in effect at the time of the repeal shall be deemed to be licences as issued under this Schedule, with all necessary modifications, and all the rules, requirements and regulations of this Schedule shall apply.
6. This By-law comes into force on the day it is passed.

PASSED this 28th day of June, 2017.

D. Skelly
Acting Mayor

J. Pilon
Acting City Clerk

SCHEDULE 22

SECOND-HAND GOODS, JEWELLERY AND PRECIOUS METALS BUSINESSES

DEFINITIONS

1. In this Schedule:

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

“**bicycle**” includes but is not limited to a unicycle or a tricycle;

“**electronic products**” means any type of electronic device, including but not limited to smartphones, computers, laptops, radios, television receivers and monitors, video cameras, digital audio players, music systems and associated equipment, microwave appliances, and global position systems;

“**goods**” means second-hand bicycles, coins, electronic products, jewellery, precious gems, musical instruments, time pieces or tools;

“**jewellery**” means goods of personal adornment made in whole or part of precious gems or precious metals;

“**jewellery and precious metals business operator**” means a person operating a business that purchases jewellery or precious metals for the purpose of smelting the jewellery or precious metals and includes a jewellery and precious metal business operator who operates for a short period of time at temporary premises;

“**precious metals**” includes but are not limited to gold, platinum, or silver;

“**purchase**” includes but is not limited to taken in exchange, received on consignment ticket or otherwise received;

“**second-hand goods**” means any article that is offered to or taken by a second hand goods business operator for resale;

“**second-hand goods business operator**” means a person operating a business that sells used or previously owned goods, including jewellery and precious metals regardless of age and condition; and

“**seller**” means a person who sells or who offers to sell any second-hand goods to a second-hand business or jewellery and precious metals business.

APPLICATION OF SCHEDULE

2. This Schedule does not apply to:
 - (a) the business of purchasing or selling antiques or works of art; or
 - (b) a registered charitable corporation.

GENERAL PROHIBITIONS

3. No person shall operate a second-hand goods business, or jewellery and precious metals business without a licence to do so.
4. No second-hand goods business operator or jewellery and precious metals business operator shall purchase, any goods from a person appearing to be under:
 - (a) the age of 18 years old; or
 - (b) the influence of alcohol or drugs.

REQUIREMENTS

5. Every person required to obtain a licence under this Schedule shall obtain a separate licence for each premises.
6. Every second-hand goods business operator and jewellery and precious metals business operator shall:
 - (a) keep their licence posted in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to a Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence;
 - (b) review the electronic Identifiable Stolen Property list sent out by the Hamilton Police Service on Tuesday, or as needed, and in the event a seller attempts to sell any of the described goods, contact the Hamilton Police Service within 24 hours;
 - (c) notify the Hamilton Police Service of the name and description of any goods which are believed to have been stolen or unlawfully obtained; and
 - (d) post a sign giving notice of the collection of personal information from sellers in a form satisfactory to the Director of Licensing in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner

satisfactory to the Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence.

Record of Purchase

7. Every second-hand goods business operator, and jewellery and precious metals business operator shall ensure that, without delay, at the time any good is purchased, a record of the purchase is made and includes:
 - (a) the day, month, year and time of the purchase;
 - (b) the price or other consideration given;
 - (c) the type of identification presented;
 - (d) the full name, telephone number and address of the seller as shown on at least 1 piece of identification that contains this information as well as a photograph of the seller;
 - (e) a detailed description of each good that shall be reasonably sufficient to identify it, including; make, model, serial numbers, weight, colour, engravings, markings and titles, where applicable and, in the case of a temporary business, a photograph or photographs clearly showing the jewellery or precious metals;
 - (f) a signed certificate of ownership from the seller certifying that they are the owner of each good; and
 - (g) the name of the employee who conducted the transaction.
8. Every second-hand goods business operator and jewellery and precious metals business operator shall ensure that the record of purchase under section 7 is:
 - (a) made by hand in ink or electronically, either as approved in advance by the Director of Licensing;
 - (b) easily readable and in English;
 - (c) not altered or deleted once completed;
 - (d) protected from loss or destruction;
 - (e) kept for a minimum of one year; and
 - (f) submitted electronically to the Hamilton Police Service via storereports@hamiltonpolice.on.ca, weekly each Thursday before close of business, or as requested, excluding 7 (c), (d) and (f).

9. Every second-hand goods business operator and jewellery and precious metals business operator shall only deliver the signed certificate of ownership from the seller and the full name, telephone number and address of the seller to the Hamilton Police Service, if requested in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

Retention Period

- 10.(1) Every second-hand goods business operator and jewellery and precious metals business operator shall retain all purchased goods on the premises of the business in an unchanged condition for a period of at least 30days after the day on which the good was purchased.
 - (2) The 30-day retention period commences on the day following the day on which the good was purchased, and ends with the close of business on the 30th day thereafter.
11. Section 10 does not apply to the sale of pre-recorded or recordable audio or video media.
12. During the 30-day retention period, every second-hand goods business operator and jewellery and precious metals business operator shall:
 - (a) make the goods available for inspection by a Municipal Officer or the Hamilton Police Service; and
 - (b) not sell or otherwise dispose of or permit the sale or other disposal of the goods.
13. Despite section 10, for the purpose of completing an investigation, the Hamilton Police Service may request that a good suspected of having been stolen be retained for an additional period of time beyond the 30-days and when so requested, the second-hand goods business operator and jewellery and precious metals business operator shall ensure that the said good is not sold, exchanged, altered, repaired, disposed of or in any way parted with until after the expiration of the additional period of time.

Alternate Storage

14. A second-hand goods business operator and jewellery and precious metals business operator may store goods at an alternate storage facility within a 50 km radius of the City during the retention period if:
 - (a) the size, value or quantity of the goods requires such alternate storage; or

- (b) in the case of a temporary business, the location of the event does not reasonably allow for the secure storage of the goods.
15. If a second-hand goods business operator or a jewellery and precious metals business operator, stores goods at an alternate storage facility pursuant to section 14, the location of the goods must be reported to the Hamilton Police Service via storereports@hamiltonpolice.on.ca in writing immediately following the transfer to the alternate storage facility.