

# LICENCE

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Schedule 'A' - Business Licence Procedure

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WHEREAS *it is deemed expedient to exercise the powers conferred on Council by the Municipal Act, 2001, S.O. 2001, c. 25;*

AND WHEREAS *Council has determined that Old Gold dealers are in a unique position to alter the appearance of items so they cannot be recognized;*

AND WHEREAS *Council has determined that requiring certain records to be kept by licensees altering, selling, exchanging, repairing, or disposing of Old Gold will assist the police in locating items that may have been stolen and thereby protect consumers from purchasing stolen items;*

AND WHEREAS *Council has determined that having a record of licence holders and the ability to require legal and honest operation of such businesses and to hold licensees responsible when the business is not conducted in accordance with the law or with integrity encourages licensees to comply with the by-law;*

AND WHEREAS *notice of a public meeting was given by advertisement in a local newspaper on October 8, 2004;*

AND WHEREAS *a public meeting was held on October 18, 2004 to allow any person attending to make representations with respect to this by-law.*

## **Article 1 INTERPRETATION**

### **569.1.1 Business day - defined**

“business day” does not include Sundays and statutory holidays.

### **569.1.2 Dealer - defined**

“dealer” means any person who, for hire or gain, purchases or deals in old gold.

### **569.1.3 Obtain - defined**

“obtain” means to purchase, receive or take in exchange or pledge.

### **569.1.4 Old gold - defined**

“old gold” means gold or any other precious metal which is not newly minted, and includes old jewelry or similar articles intended to be smelted or dismantled.

## **Article 2 GENERAL PROVISIONS**

### **569.2.1 General provisions - Chapter 500**

The provisions of Chapter 500 of the City of Kitchener Municipal Code shall apply to this Chapter. In the event of any conflict, the provisions of this Chapter shall apply.

### **569.2.2 Fees - Chapter 501**

The fees for a licence under this Chapter shall be as set out in Chapter 501 of the City of Kitchener Municipal Code.

### **569.2.3 Schedule ‘A’ - Business Licence Procedure**

The provisions of Schedule ‘A’ hereto shall form a portion of this Chapter.

### **569.2.4 Operation - without licence - prohibited**

No person shall act as a dealer without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

**569.2.5 Investigations - documentation - requirement**

In addition to the investigations set out in Chapter 500, the Manager of Licensing may require the applicant to have investigations conducted by, to obtain documentation from and provide to the Manager of Licensing, or have documentation provided by the Director of Planning or his/her designates.

**569.2.6 Applicable - all locations - within - outside - City**

The provisions of this Chapter apply to any trade, occupation, calling or business described herein that is carried on either wholly or partly within the City even if the business is being carried on from a location outside the City.

**569.2.7 Change of information - notification**

In the event of a change in the officers and directors of a corporate licensee, the licensee shall notify the Manager of Licensing forthwith and in advance where possible of the change of officers and directors, providing the Manager of Licensing with the names, addresses and birth dates of the new officers and directors.

**569.2.8 Purchase - restrictions**

No person shall obtain any old gold from any person who is known to be or appears to be:

- (a) under the age of eighteen years; or
- (b) under the influence of alcohol or a drug.

**569.2.9 Hours of operation - prohibition**

No person shall obtain any old gold between the hours of 11:00 p.m. one day and 7:00 a.m. the following business day.

**569.2.10 Seller - identification - requirements**

No person shall obtain old gold without requesting and being presented with identification containing a photograph and the name of the person selling, exchanging, or disposing of the old gold.

**569.2.11 Purchases - retention periods - conditions**

No person shall alter, sell, exchange, repair, dispose of or in any way part with any old gold obtained until after the expiration of 16 business days from the date of obtaining the old gold and during those 16 business days such old gold shall remain on the premises in respect to which the licence is issued and shall be kept in a separate location from any other old gold. Provided that if the old gold were obtained by a licensed dealer from another licensed dealer who was licensed so to do by another municipality within the Regional Municipality of Waterloo, if the other licensed dealer had held the old gold for the requisite 16 business days.

**569.2.12 Old gold register - maintained - requirements**

Every person licensed under this Chapter shall keep a book known as “The Old Gold Register” in which shall be entered a record of all old gold obtained. The entry shall:

- (a) be in the English language written in ink in a plain, legible hand;
- (b) be made at the time of obtainment or immediately thereafter;
- (c) include the date and hour of the obtainment;
- (d) contain a full description of the old gold, without limiting the generality of the foregoing including materials, size and inscription;
- (e) contain the price paid for the old gold; and
- (f) contain a description of the person from whom the old gold was obtained including the name, address, birth date on the identification presented, the signature of the person and the type of identification presented.

**569.2.13 Old Gold Register - open to inspection**

The “Old Gold Register” shall be produced to any peace officer for examination on demand.

**569.2.14 Item purchased - photographed - identified**

Every person licensed under this Chapter shall photograph every piece of old gold obtained. The photograph shall clearly show each piece of old gold and shall bear an identifying mark to connect it to the item in the register.

**569.2.15 Licence - location specific**

Every licence issued pursuant to this Chapter applies only with respect to the specified location.

**569.2.16 Operation - licence suspended - revoked - prohibited**

No person shall act as a dealer while a licence issued under this Chapter is suspended or revoked by Council.

**569.2.17 Conditions of licence - compliance**

No person shall violate any condition that Council places on a licence issued under this Chapter.

### **Article 3 ENFORCEMENT**

#### **569.3.1 Fine - for contravention - person**

Every person other than a corporation who contravenes any provision of this Chapter and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding Twenty-Five Thousand Dollars (\$25,000).

#### **569.3.2 Fine - for contravention - corporation**

Every corporation that contravenes any provision of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Fifty Thousand Dollars (\$50,000).

### **Article 4 VALIDITY**

#### **569.4.1 Severability**

It is hereby declared that each and every of the foregoing sections of this Chapter is severable and that, if any provisions of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

### **Article 5 REPEAL - ENACTMENT**

#### **569.5.1 By-law - previous**

By-law 2000-51, section 21 of By-law 2000-228, By-law 2001-201, section 23 of By-law 2001-233, section 21 of By-law 2001-239, section 18 of By-law 2001-241, section 23 of By-law 2002-233 and the contents of the previous Chapter 569 are hereby repealed as of January 1, 2005.

#### **569.5.2 Effective date**

This Chapter comes into force and effect on January 1, 2005. By-law 2004-253, 6 December, 2004.

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## SCHEDULE

### Schedule 'A' - Business Licence Procedure

1. Upon receipt of a complete licence application the Manager of Licensing shall either issue or renew a licence hereunder or shall refer the matter to Council or a Committee of Council where appropriate under the provisions of this Chapter or any other by-law of Council.
2. Save as otherwise provided herein, every licence issued or renewed pursuant to this Chapter shall be issued in the name of Council by the Manager of Licensing.
3. The Manager of Licensing shall not process an application where that application is incomplete. An application will be deemed incomplete where:
  - (a) required information has not been provided on the application form;
  - (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
  - (c) the prescribed licence fee is unpaid; or
  - (d) the Manager of Licensing has received an unsatisfactory report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City and the conditions causing the report to be unsatisfactory have not been remedied.
4. Where the Manager of Licensing receives an incomplete application, the Manager of Licensing shall, where an address or other contact information has been provided, notify the applicant that the application is incomplete and of the steps required to complete the application.
5. Where the Manager of Licensing decides an application is incomplete, the applicant shall have the right to appeal that decision to Council or a Committee of Council.
6. If the Manager of Licensing is unable to determine whether an application is incomplete, he/she may refer the matter to Council or a Committee of Council for consideration.
7. The Manager of Licensing may refer an application or a licence to Council or a Committee of Council where:

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- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
  - (b) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
  - (c) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
  - (d) without limiting the generality of Section 7(c), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
  - (e) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met; or
  - (f) the provisions of this Chapter provide grounds not to issue or renew in the circumstances.
8. When any matter has been referred or appealed to Council or a Committee of Council, the applicant or licensee shall be given reasonable notice of the time and place of the hearing and shall be invited to make submissions.
9. When any matter has been referred or appealed to Council or a Committee of Council, after due consideration of the application or licence and after Council or a Committee of Council has heard such representations as the applicant or licensee and staff may care to make, Council may direct that the licence be issued or renewed, or may refuse, suspend, revoke or add conditions to a licence where:

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- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
- (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
- (c) the application is incomplete or the prescribed licence fee is unpaid;
- (d) the Manager of Licensing receives an unfavourable report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City;
- (e) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
- (f) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (g) without limiting the generality of Section 9(f), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
- (h) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met;
- (i) the provisions of this Chapter provide grounds not to issue or renew in the circumstances; or

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- (j) the applicant or licensee has consented to the refusal, suspension, revocation or adding of conditions to the licence.
10. Where a licensee is convicted of an offence under any federal or provincial Act, any regulation made thereunder, or any by-law of the City in relation to or during the carrying on of the trade, calling, business or occupation licensed hereunder, the licence may be suspended forthwith by Council until such time as the matter can be heard and finally determined by Council. By-law 2004-253, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.