

LICENCE

Chapter 572 PAWNBROKERS

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SCHEDULE

Schedule 'A' - Business Licence Procedure

WHEREAS it is deemed expedient to exercise the powers conferred on Council by the Pawnbrokers Act, R.S.O. 1990, c. P.6;

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

AND WHEREAS the Pawnbrokers Act prohibits a person from carrying on the business of a pawnbroker without a licence issued by the municipality in which the person carries on or proposes to carry on business;

AND WHEREAS *Council has determined that consumers using pawn services are protected when licensees operate in accordance with the law, particularly with respect to charging lawful interest rates and holding items for necessary redemption periods in accordance with the Pawnbrokers Act;*

AND WHEREAS *Council has determined having a record of licence holders, requiring licensees to act with honesty and integrity and in accordance with the law and the ability to hold licensees responsible when the business is not conducted in accordance with the law or with integrity encourages licensees to comply with the 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

572.1.1 Finance and Administration Committee - defined

“Finance and Administration Committee” means the Finance and Administration Committee of the Council.

572.1.2 Pawnbroker - defined

“pawnbroker” means a person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon.

572.1.3 Pledge - defined

“pledge” means an article pawned with a pawnbroker.

572.1.4 Shop - defined

“shop” means any place where the business of a pawnbroker is carried on.

Article 2 GENERAL PROVISIONS

572.2.1 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.

572.2.2 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.

572.2.3 Schedule 'A' - Business Licence Procedure

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

572.2.4 Operation - without licence - prohibited

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

572.2.5 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.

572.2.6 Partnership - same location - one licence only

Where two or more persons in partnership carry on business as pawnbrokers in the same shop, only one licence is necessary.

572.2.7 Applications - renewal - deadline

Applications must be received by the Manager of Licensing on or before October 31 in the year preceding the year for which the licence is intended to be renewed.

572.2.8 Investigation - all applicants - prior to licence issue

No licence shall be issued until the application has been referred to the Regional Chief of Police and the Director of Building and they have investigated and reported in writing in respect thereof.

572.2.9 Applications - review - report by Committee

All applications shall be referred to the Finance and Administration Committee for review and report by the Committee.

572.2.10 Report to Council - copy to applicant - prior to meeting

The report of the Finance and Administration Committee shall be referred to Council and a copy of the Finance and Administration Committee report shall be provided to the applicant prior to the Council meeting at which the applicant's licence application or licence renewal application will be heard.

572.2.11 Decision to licence - by Council

The Council shall review the Finance and Administration Committee's report and hear the submissions of the applicant and then make a decision on whether or not to issue the licence or renewal of licence.

572.2.12 Licence - location specific

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

572.2.13 Corporate licence - change - notice - deadline

In the event of a change in the officers and/or directors of a corporate licence holder, the licensee shall notify the Manager of Licensing within thirty days of the change of officers and/or directors, providing him/her with the names, addresses and birth dates of the new officers and/or directors.

572.2.14 Pawnbroker - not entitled to old gold dealers licence

No pawnbroker shall be entitled to an old gold dealers licence and no pawnbroker shall melt or smelt any gold, silver, platinum or other precious metal or old jewelry or other articles.

572.2.15 Letter of credit - requirement

Every pawnbroker, upon being issued a licence by the City, shall give to the City Treasurer a letter of credit (in form satisfactory to the City Treasurer) or such other security as the City Treasurer deems appropriate in the sum of Two Thousand Dollars (\$2,000) binding the Pawnbroker to the due observance of the *Pawnbrokers Act*, which shall be kept in force during the period of the licence or any renewal thereof.

272.2.16 Conviction for offence - penalties - loss of security

In the event of a licensed pawnbroker being convicted of an offence under the *Pawnbrokers Act* or the Criminal Code in addition to any penalties under those statutes and in addition to the options set out in Schedule 'A' the City may realize on the security posted with the City Treasurer.

272.2.17 Conviction for offence - licence renewal - refused

Where the person convicted of an offence under the *Pawnbrokers Act* or the Criminal Code is an individual member of a partnership then no further licence shall be issued to that person or to that partnership.

572.2.18 Conviction for offence - corporation

Where the person convicted of an offence under the *Pawnbrokers Act* or the Criminal Code is a corporation, then no further licence shall be issued to that corporation or an officer or director of that corporation who was such officer or director during the time of the committing of the offence.

572.2.19 Licence - location specific

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

572.2.20 Operation - while suspended - revoked - prohibited

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

572.2.21 Condition of licence - compliance

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

Article 3 ENFORCEMENT

572.3.1 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).

572.3.2 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

572.4.1 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

572.5.1 By-law - previous

By-law 2001-11, section 13 of By-law 2001-224, section 18 of By-law 2001-233, section 24 of By-law 2001-239, By-law 2002-8, section 24 of By-law 2002-233 and the contents of the previous Chapter 572 are hereby repealed as of January 1, 2005.

572.5.2 Effective date

This Chapter comes into force and effect on January 1, 2005. By-law 2004-245, 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 2004-245, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.