

By-law 2016-158

**A By-law of the City of Greater Sudbury to Amend By-law 2004-354
being a By-law of the City of Greater Sudbury Respecting the Licensing,
Regulating, and Inspecting of Retailers of Second Hand Goods,
Including Pawnbrokers and Salvage Yards**

Whereas the Council of the City of Greater Sudbury deems it desirable to amend By-law 2004-354 being A By-Law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards in order to provide for certain additional fees;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Replace Subsection 11.2(d)

1. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by repealing subsection 11.2(d) and enacting the following subsection 11.2(d) in its place and stead:

“11.2(d) pay the non-refundable processing fee in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect;”

Replace Paragraph 12(c)

2. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by repealing paragraph 12(c) and enacting the following paragraph 12(c) in its place and stead:

“12(c) the second hands goods shop or purchase event location complies with the zoning, fire, police, property standards, and building requirement of the City as indicated in Schedule “A” of this By-law.”

Replace Subsection 12(e)

3. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by repealing subsection 12(e) and enacting the following subsection 12(e) in its place and stead:

“12(e) the applicant has paid the fees in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect.”

Enact Subsections 13(3) to 13(5)

4. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by enacting the following subsections 13(3) to 13(5) immediately after subsection 13(2) and before section 14:

“13(3) Where a person holding a licence or Assistant’s licence issued under this By-law fails to renew the licence or Assistant’s licence by the expiry date of the licence or Assistant’s licence, the person may be permitted to renew the licence or Assistant’s licence provided the person:

- (a) submits the application for renewal within ninety (90) days after the expiry date in the licence or Assistant’s licence;
- (b) is otherwise entitled to a renewal under this By-law; and
- (c) pays a late renewal administrative fee, in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect, in addition to the renewal fee otherwise payable.

13(4) Where a person holding a licence or Assistant’s licence issued under this By-law fails to renew the licence or Assistant’s licence within ninety (90) days of the expiry date, the person shall no longer be entitled to renew the licence or Assistant’s licence and shall be required to apply for a new licence or Assistant’s licence, subject to the payment of such fees as may be required for a new application.

13(5) Subsections 13(3) and 13(4) shall not apply to a license issued pursuant to this by-law for a Purchase Event.”

Enact Subsections 15(3) to 15(7)

5. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by enacting the following subsections 15(3) to 15(7) inclusive immediately after subsection 15(2) and before section 16:

“15(3) Any applicant whose application for a licence or Assistant’s licence has been refused pursuant to paragraph 12(d) or subsection 15(1) may appeal the decision of the Licence Issuer to the Hearing Committee by submitting a written request to the Licence Issuer, and paying an administrative fee in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect.

(4) Upon receipt of the written request and payment of the applicable fee, the Licence Issuer shall request the City Clerk to schedule a hearing before the Hearing Committee. Notice of the day, time and place of the hearing shall be given to the applicant.

(5) On the day and time set by the City Clerk or such other day and time as may be established from time to time by the City Clerk or by the Hearing Committee, the person appealing may present evidence and make submissions to the Hearing Committee regarding the matter under appeal. The Hearing Committee may proceed to consider the matter, whether or not the person appealing is in attendance.

(6) On a hearing, the Hearing Committee may direct the issuance of a licence or Assistant’s licence despite the circumstances set out in subsection 15(1) or may refuse to direct the issuance of the licence or Assistant’s licence. The decision of the Hearing Committee shall be final and binding and takes effect upon being rendered.”

(7) For the purposes of this By-law, “Hearing Committee” shall mean the Hearing Committee appointed pursuant to the City’s Procedure By-law 2011-235 as amended or replaced.”

Enact Section 60.1

6. By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards, as amended, is hereby further amended by enacting the following section 60.1 immediately after section 60 and before section 61:

“Order to Comply

60.1.-(1) Where the by-law enforcement officer is satisfied that a contravention of this By-law has occurred, an order may be made requiring the Person who contravened this By-law or who caused or permitted the contravention or the Licence Holder to correct the contravention. The order shall set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred;
- (c) any work to be done or steps to be taken to comply with this By-law; and
- (d) the date by which the work must be done or steps taken.

(2) Pursuant to subsection 445(3) of the *Municipal Act, 2001*, as amended, an order pursuant to subsection 60.1(1) may require the work to be done even though the facts which constitute the contravention of the By-law were present before this By-law making them a contravention came into force.

(3) Service of an Order issued under subsection 60.1(1) shall be given to each person, by delivering personally to the person by registered mail at the address recorded for that person in the last filed application for a licence or renewal of a licence in the records of the Licence Issuer.

(4) Every Person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.

(5) A By-Law Enforcement Officer may enter on private property at all reasonable times to ascertain whether there is compliance with:

- (a) the provisions of this By-law;
- (b) a direction or order or notice given under this By-law; or
- (c) the conditions of a Licence issued under this By-law.

(6) An attendance fee in an amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect shall be payable on a time spent basis for the second and each subsequent inspection conducted by a by-law enforcement officer to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance.

(7) Any fee under subsection 60.1(6) shall be payable:

- (a) in accordance with the provisions of the City's Miscellaneous User Fee By-law then in effect; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction."

Transition

7. Where a part of a by-law is repealed by this By-law, the repeal does not:
- (a) affect the previous operation of the part of the by-law so repealed;
 - (b) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the part of the by-law so repealed; or
 - (c) affect any offence committed against any part of the by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

Effective

8. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 9th day of August, 2016



Mayor



Deputy
Clerk