

CORPORATION OF THE CITY OF NEW WESTMINSTER

BYLAW NO. 6408, 1997

A Bylaw to regulate Second Hand Dealers within the City of New Westminster

WHEREAS the Municipal Act authorizes a local government to regulate second hand dealers.

NOW THEREFORE the Council of the Corporation of the City of New Westminster in open meeting assembled ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as Second Hand Dealers' Regulation Bylaw No. 6408, 1997.

2. DEFINITIONS

"Buy" includes purchase, barter, deal in, take exchange, take in part payment, or receive on consignment;

"Chief Constable" means the person currently serving as the Chief Constable of New Westminster Police Service;

"Collectibles" means any item that may be rare or of a unique or unusual nature, which may be collected insets or series and which possess a reasonable monetary or sentimental value to their owners;

"Constable" means any municipal constable and any provincial constable as defined in the British Columbia Police Act, but does not include any special municipal constable or any special provincial constable;

"Junk" includes any of the following used or old articles or things: rubber, tires, metal, bottles, glass, paper, sacks, wire, ropes, rags, machinery, or any other article or similar things commonly found in a junk shop;

"Pawnbroker" means a person who carries on the business of taking goods and chattels in pawn;

"Picture Identification" means any valid identification issued by a Canadian Federal or Provincial Government Agency, Department or Ministry, a valid Driver's Licence issued by any State within the United States of America and a valid passport issued by any foreign country, provided that the identification is integrated with a picture of the bearer and provided that such identification is not more than five years old;

“Second Hand Articles” means second hand, used and pre-owned goods and chattels bought, sold, procured, or offered for sale and second hand, used and pre-owned goods and chattels taken in pawn. Without limiting the generality of the following, “Second Hand Articles” include the following second hand, used and pre-owned goods and chattels bought, sold, procured, offered for sale or taken in pawn:

- i) jewellery
- (ii) electronic home entertainment products, including but not limited to audio and video equipment and accessories
- (iii) audio or video cassettes, in any format, compact, video or computer discs and phonograph records
- (iv) home repair tools
- (v) construction tools
- (vi) metals, such as aluminum, copper, and other valuable salvage
- (vii) leather jackets and fur coats
- (viii) musical instruments
- (ix) bicycles, including bicycle parts and accessories
- (x) automotive parts
- (xi) computers, printers and fax machines and their accessories
- (xii) collectibles
- (xiii) cameras, including video and still cameras, related equipment and accessories
- (xiv) sports equipment

but does not include:

- (i) beer bottles
- (ii) books and magazines, except collectibles
- (iii) clothing, except leather jackets and fur coats.

“Second Hand Dealer” means a person carrying on the business of buying, selling, taking in trade, procuring or offering for sale Second Hand Articles. Without limiting the generality of the foregoing “Second Hand Dealer” includes:

- (i) any person or business who carries on the business of buying automobiles and or automobile parts or components for the purpose of resale of parts or components for re-use or as junk;
- (ii) any person or business who carries on the business of buying or selling junk;
- (iii) any person or business who carries on the business of taking goods and chattels in pawn;
- (iv) persons or businesses who keep a shop for the purpose of carrying on the business of Second Hand Dealer;

- (v) persons or businesses not hereinbefore enumerated who buy, store, or take in trade, either as principal or agent, any Second Hand Articles;

“Shop” includes any place where the business of Second Hand Dealer is carried on.

3. No person shall carry on the business of a Second Hand Dealer without first having obtained a business license from the City of New Westminster.
4. Every Second Hand Dealer must keep and use in his business a book or a computer record, known as the Second Hand Dealers’ Register, containing in the English language the following:
 - i) a correct account and description of each Second Hand Article bought, taken in trade, barter or pawn, or otherwise received in the course of business, including all descriptive marks, the make, model and serial numbers, be they stamped, engraved or on a label, and any other letters, numbers or names, or combinations thereof, on each article;
 - (ii) the precise minute, hour, and day of the receipt of each article;
 - (iii) the full name, address, and description of the person from whom the second hand article is received or bought, and confirmation of same by picture identification including the type and serial or registration number of the identification used;
 - (iv) whenever possible, the make, description, and provincial licence number of any motor vehicle used for delivery of such Second Hand Articles received or bought, with the exception of those persons who arrive via public transit or taxi cab; in such cases as the Second Hand Dealer is operating a drive-in facility, such as a scrap yard or junk yard, the recording of vehicle descriptive information shall be mandatory;
 - (v) in cases where only a single item is exchanged, the exact price paid for that item. In cases of multiple item exchanges to a total of less than \$400, a total price only will be required. In cases where the total price exceeds \$400, the price paid for each Second Hand Article will be required.
 - (vi) the name, initials or staff number of the staff person who takes in the item; and

no Second Hand Dealer shall permit any page or any entry made in the Register to be erased, obliterated, defaced or removed.

5. Every Second Hand Dealer must produce immediately, upon request, during business hours, the Second Hand Dealers' Register for inspection by the Chief Constable or any Constable and, upon request, give the Second Hand Dealers' Register for inspection elsewhere or for use as evidence in Court. Under some circumstances, at the discretion of the Chief Constable or the Constable requiring such evidence, an exact photocopy of printout of the specific page or pages of the Register, signed and dated by the Chief Constable or the Constable as an exact copy of the register, may be sufficient for investigative or Court purposes. In addition, every Second Hand Dealer must keep within his shop any Second Hand Dealer's Register that contains any entries which are less than 24 months old.
6. Other than in cases where the Second Hand Dealer's Register is maintained as a computer record, every Second Hand Dealer must keep a book labelled and known as the "Second Hand Dealers' Interim Register" in which must be recorded the same information as in the Second Hand Dealers' Register during those times when the Second Hand Dealers' Register has been removed from the premises for inspection or Court purposes. Upon return of the Second Hand Dealers' Register, all information in the Interim Register must be transferred to the Second Hand Dealers' Register.
7. Every Second Hand Dealer shall maintain within his shop and must keep open all books and documents relative to the operation of the business during business hours for inspection by the Chief Constable or any Constable and, upon request, must give the books and documents, or in the case of records maintained on a computer data base, an exact copy of that data base for inspection elsewhere or for use in Court.
8. In addition to the Second Hand Dealer's Register, for each business day every Second Hand Dealer shall complete a form in accordance with Schedule "A" to this bylaw which shall include all of the information included within the Second Hand Dealer's Register as set out in Section 4. Each completed form shall then be delivered to the Chief Constable no later than 9:30 a.m. of the business day following the business day for which the form has been completed. The Chief Constable may designate the format for the transfer of this information and may direct that it be communicated to his office by means of the Internet, fax or other telecommunications system. In any such case that the Chief Constable directs the information be transmitted via computer media, he may also direct the program which will be utilized in order to ensure unanimity between all Second Hand Dealers.

9. No Second Hand Dealer shall knowingly buy a second hand article from a person who is:
 - i) less than 18 years of age
 - (ii) inebriated
 - (iii) offering stolen goods
10. No Second Hand Dealer shall receive any Second Hand Articles outside of stated business hours.
11. Every Second Hand Dealer must, at the request of the Chief Constable, or a Constable, present for viewing any Second Hand Articles in possession.
12. Every Second Hand Dealer must place and maintain his name on his shop and on any vehicle he uses in his business.
13. A Second Hand Dealer must not alter, repair, dispose of, or allow a second hand article to be removed from his shop for 72 hours from the date of receipt. During this 72 hour period, Second Hand Articles held by this bylaw must be segregated and kept apart from all other articles in the shop and must be available for inspection by a Constable during business hours. In addition, at no time will a Second Hand Dealer remove or obliterate by any means any serial numbers or any other names, letters, or numbers, or combinations thereof (be they painted, stamped or engraved), any numbered or lettered label or tag, or any engraving on any Second Hand Article. The only exception to the 72 hour rule included within this section shall be for the return of the exchanged goods to the original seller.
14. Notwithstanding Section 13, the Chief Constable may in writing, according to Schedule "B", request a Second Hand Dealer to hold a Second Hand Article for a period longer than 72 hours and the second hand article must not be removed from the shop until the consent of the Chief Constable is obtained.
15. Where a Second Hand Dealer has bought Second Hand Articles from another Second Hand Dealer who has complied with Section 13 of this Bylaw, or, in the case of a Second Hand Dealer located in another community, where the purchasing Second Hand Dealer is satisfied that the selling Second Hand Dealer has complied with any reporting conditions which may exist within that community, the Chief Constable may in writing, according to Schedule "C", authorize the purchaser to dispose of the Second Hand Articles without holding them for 72 hours.

16. Notwithstanding Section 13 of this Bylaw, a Second Hand Dealer may notify the Chief Constable in writing, according to Schedule "D" of the desire to sell or otherwise dispose of a Second Hand Article prior to the end of the period. A Second Hand Dealer who receives written confirmation from the Chief Constable in writing, according to Schedule "C", may dispose of the Second Hand Article.
17. A Second Hand Dealer shall not be required to report the buying of any articles which are new and not second hand, and are obtained from a licensed merchant.
18. Any person who violates any of the provisions of this bylaw or who suffers or permits any thing or act to be done in contravention or in violation of this bylaw or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw shall be deemed to be guilty of any infraction thereof, and liable to the penalties imposed.
19. Every person who violates or who allows to be violated any of the provisions of this bylaw, shall be guilty of an offence against the bylaw and each day that such violation is caused or allowed to continue shall constitute a separate offence.
20. Every person who commits an offence against this bylaw shall, upon conviction be liable to a fine not less than five hundred dollars (\$500) and not exceeding the sum of ten thousand dollars (\$10,000) and costs (including the costs of committal and conveyance to the place of imprisonment) for each offence, and in default of payment therefore, to imprisonment to a term not exceeding six (6) months.
21. If any part of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that is valid shall not effect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw has been adopted without such invalid portions.
22. Second Hand Dealers' Regulation Bylaw No. 3823, 1962 is hereby repealed.

Adopted on August 25, 1997.