

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2524

A Bylaw to provide for the regulation of second-hand dealers

WHEREAS, Council may, pursuant to s. 8(6) of the *Community Charter*, regulate in relation to business;

AND WHEREAS, Council considers it necessary to regulate the businesses of second-hand dealers within the City of Courtenay;

AND WHEREAS, Council may, pursuant to s. 59 of the *Community Charter*, require and prohibit in relation to persons engaged in the business activity of purchasing, taking in barter or receiving used or second hand goods;

AND WHEREAS, Council may, pursuant to s. 154 of the *Community Charter*, delegate its powers, duties and functions to an officer or employee of the City;

AND WHEREAS, Council has given notice of its intention to adopt this Bylaw by publishing such notice in the Comox Valley Echo on January 11th, 2008 and January 15th, 2008, and has provided an opportunity for persons who consider they are affected by this Bylaw to make representations to Council at a Council meeting pursuant to s. 59 of the *Community Charter* on January 21st, 2008;

NOW THEREFORE the Council of the City of Courtenay, in open meeting assembled, enacts as follows:

SECTION 1 - INTRODUCTION

1.1 TITLE

This bylaw may be cited for all purposes as “Second-Hand Dealers Bylaw No. 2524, 2008”

1.2 DEFINITIONS

In this bylaw:

“Authorized Person” means the person appointed by Council as head of the Regulatory and Property Services Department, or a person designated in writing by the head of the Regulatory and Property Services Department, to carry out any act or function under this Bylaw.

“Chief of Police” means the appointed Officer in Charge of the Comox Valley Detachment of the Royal Canadian Mounted Police, or a person designated in writing by the appointed Officer in Charge of the Comox Valley Detachment of the Royal Canadian Mounted Police to carry out any act or function under this Bylaw;

“City” means the City of Courtenay;

“licence” means a licence to carry on a business under the Business Licence Bylaw 2523, 2008;

“minor” means a person under the age of majority established by the *Age of Majority Act* and does not include any person who, when requested to do so by any person holding a licence, produces picture identification that on reasonable examination indicates that the person is not under the age of majority;

“pawn” means the deposit of property as a pledge or collateral security for a debt;

“pawnbroker” means a person who carries on the business of taking property in pawn, or who operates a pawnbroker’s premises;

“pawner” means a person who pawns property to a pawnbroker

“picture identification” means:

- a) a driver’s license or passport issued by the Government of Canada or any other photo identification card issued by a ministry, department, or agency of any province of Canada or of the Government of Canada;
- b) a driver’s license issued by the government of a state of the United States or a ministry, department or agency of any such government; or
- c) a passport issued by a government of a foreign state recognized by Canada; that has not expired and includes a photograph of the bearer, and the date of issuance of which is not more than five years before the date of its production, under this Bylaw, for the purpose of identification;

“police force” means the Comox Valley Detachment of the Royal Canadian Mounted Police;

“premises” means any shop, store, or other place of business;

“purchase” means to buy, barter, deal in, take in exchange, take in part payment, acquire, acquire on consignment, or receive, but does not include pawning;

“register” means the second-hand dealers’ register referred to in sections 2.2 and 2.3;

“second-hand dealer” means a person who carries on the business of buying, selling, taking in trade, procuring, offering for sale or accepting in pawn second-hand property, or who operates a second-hand dealer’s premises, and for clarity, “second-hand dealer” includes a pawnbroker;

“second-hand property” means used or pre-owned goods, chattels, wares and merchandise bought, sold, procured or taken in pawn, and without limiting the foregoing, includes:

- a) jewellery, other than costume jewellery;
- b) electronic home entertainment products, equipment and accessories including
- c) televisions, stereos, computers, telephones, cameras and audio and video equipment;

- d) small household appliances including blenders, toasters, coffee makers, vacuums;
- e) construction tools, machinery and parts;
- f) motor vehicles or motor vehicle parts, or both, for the purpose of reselling parts or components;
- g) metal salvage including pipes, wires, chains, beams, railings, tubes;
- h) musical instruments;
- i) bicycles; and
- j) collectibles;

but does not include:

- a) clothing, shoes, boots and personal accessories;
- b) furniture;
- c) household items such as dishes, pots, pans, cooking utensils and cutlery;
- d) books, papers, magazines, vinyl records, long playing records; or
- e) recyclable cardboard, plastics, glass, paper, bottles, cans and similar household goods;
- f) large household appliances including washers, dryers, fridges, stoves, dishwashers; and
- g) electronic equipment and accessories procured for the purposes of recycling without an exchange or promise of consideration.

1.3 GENERAL PROVISIONS

1.3.1 Unless otherwise defined herein, words and phrases in this Bylaw shall have the meaning given to them in the *Interpretation Act*, the *Local Government Act* and the *Community Charter*.

SECTION 2 – REGULATION OF SECOND HAND DEALERS

2.1 Each second-hand dealer must establish and maintain a record, to be called the “Second-hand Dealer’s Register”, of all second-hand property purchased or taken in pawn by the second-hand dealer.

2.2 Each second-hand dealer must, immediately after the purchase or taking in pawn of any second-hand property, set out in a register in the English language a record of the purchase or pawn, in chronological order by date of purchase. The record must include:

- a) the name and address of the person from whom the second-hand property is

- purchased, or of the pawner from whom the second-hand property is taken in pawn;
- b) confirmation of the identity of the seller or pawner by way of picture identification, which must match the information provided under 2.2 (a);
 - c) a complete and accurate description of the second-hand property, including the make, model, and serial number and any identifiable or distinguishing marks on the second-hand property;
 - d) a notation as to whether the second-hand property was purchased or taken in pawn;
 - e) the price paid for the property or the amount paid for the property in pawn; and
 - f) the date and hour of purchasing the second-hand property or taking the second-hand property in pawn.

2.3 Each second-hand dealer must:

- a) record all information required under section 2.2 electronically;
- b) transmit to the Chief of Police electronically, to a database provided by the City of Courtenay via the Internet using a site licence and password provided by the Chief of Police, a report consisting of that information set out in sections 2.2 (c) to (f) with respect to each entry in the electronic register of property purchased or taken in pawn by the second-hand dealer business, immediately after the purchase or the pawn occurs;
- c) before the close of each business day, print out a hard copy of all electronic register information recorded during the course of the day, and maintain all such hard copies as a manual version of the register; and
- d) whenever the second-hand dealer is unable, for any reason, to record entries electronically, revert to maintenance of a handwritten register in the form attached as Schedule “A” to this Bylaw until electronic recording is again available so that no gap in the second-hand dealer’s record keeping or reporting will exist.
- e) if the second-hand dealer is unable, for any reason, to record or transmit electronically the report required under section 2.3(b), once electronic recording and transmitting is again available, immediately transmit to the Chief of Police electronic records for all purchases or pawns made by the second-hand dealer business and not previously recorded or transmitted.

2.4 A second-hand dealer must not amend, obliterate or erase any entry in the register, either wholly, partially, electronically or manually.

2.5 Each second hand dealer must:

- a) keep at its business premises the register, or any portion of the register, that contains

any entry that is less than 24 months old;

- b) keep within the Province of British Columbia, the register for seven years after the date of the last entry; and
- c) If the second-hand dealer sells, leases, licences or otherwise disposes of its business to any person or business, transfer possession of the whole register to such person or business.

2.6 A second-hand dealer must not carry on the business of buying or selling second-hand property or the taking in pawn of any second-hand property except at the premises designated in the licence issued under the Business License Bylaw 2523, 2008.

2.7 A second-hand dealer must not purchase or take in pawn any second-hand property from any person between 8 p.m. of one calendar day and 8 a.m. of the next calendar day.

2.8 A second-hand dealer must not purchase or take in pawn any second-hand property if the serial number or other identifiable marking has been wholly or partially tampered with or the second-hand property otherwise shows evidence of theft.

2.9 A second-hand dealer must not purchase or take in pawn any second-hand property from a minor.

2.10 Each second-hand dealer must place and maintain the second-hand dealer's name and business address plainly and visibly in English lettering on the front of the second-hand dealer's premises and on both sides of any vehicle or vessel used in carrying on the dealer's business.

2.11 Each second-hand dealer, with respect to each item of second-hand property that is purchased or taken in pawn, must:

- a) not alter, sell, exchange, or otherwise dispose of the second-hand property; and
- b) not suffer or permit any other person to alter, sell, exchange, or otherwise dispose of the second-hand property

for a period of 30 calendar days from the date the item is purchased or taken in pawn.

2.12 Notwithstanding section 2.11, a second-hand dealer may return an item of second-hand property to its original seller or pawner at any time.

SECTION 3 – SEVERABILITY

3.1 If any section, subsection, clause, sub-clause or phrase of this bylaw is for any reason held to be invalid, unlawful or unenforceable by the decision of any Court of competent jurisdiction, that section subsection, clause, sub-clause or phrase shall be struck from the Bylaw and its severance shall not affect the validity of the remaining portions of this Bylaw.

SECTION 4 – OFFENCE AND PENALTY

- 4.1** Every person who violates any provision of this Bylaw, or who permits, suffers or allows any act to be done in violation of any provision of this Bylaw, or who neglects to do anything required to be done by any provision of this Bylaw, commits an offence punishable upon summary conviction and is subject to a fine not less than \$2,000 and not more than \$10,000.00, or a term of imprisonment not exceeding three months, or both.
- 4.2** Each day during which any violation, contravention or breach of this Bylaw continues shall be deemed a separate offence.
- 4.3** This Bylaw may be enforced my means of a ticket in the form prescribed for the purpose of section 264 of the *Community Charter*.
- 4.4** Pursuant to section 264(1)(b) of the *Community Charter*, Bylaw Enforcement Officers, the Chief of Police, members of the police force and the Authorized Person are designated to enforce this Bylaw.
- 4.5** Pursuant to section 264(1)(c) of the *Community Charter*, the words or expression in Column 1 of Schedule “B” to this Bylaw designate the offence committed under the Bylaw section number appearing in Column 2 opposite the respective words or expression.
- 4.6** Pursuant to section 265(1)(a) of the *Community Charter*, the fine amount in Column 3 of Schedule “B” to this Bylaw is the fine amount that corresponds to the words or expression and section number set out in Columns 1 and 2 opposite the fine amount.
- 4.7** Council hereby delegates to Bylaw Enforcement Officers and the Authorized Person the authority to refer any disputed ticket informations to the Provincial Court.

Read a first time this 7th day of January, 2008

Read a second time this 7th day of January, 2008

Read a third time this 7th day of January, 2008

Finally passed and adopted this 21st day of January, 2008

Mayor

Manager of Corporate Administration

Schedule "A"
Form of Second-Hand Dealer's Register

The name and address of the person from whom the second-hand property is purchased, or of the pawnier from whom the second-hand property is taken in pawn:

The type of the picture identification and the name of the authority that issued it, which must match the information provided above:

A complete and accurate description of the second-hand property including the make, model, and serial number and any identifiable or distinguishing marks on the second-hand property:

A notation as to whether the second-hand property was purchased or taken in pawn:

The price paid for the property or the amount paid for the property in pawn:

The precise date and hour of purchasing the second-hand property or taking the second-hand property in pawn:

Schedule "B"
Municipal Ticket Information Fine Schedule

Column 1	Column 2	Column 3
Description of Offence	Section #	Fine
Fail to establish/maintain register	2.1	\$500.00
Fail to record address	2.2(a)	\$200.00
Fail to confirm identity	2.2(b)	\$200.00
Fail to record description of goods	2.2(c)	\$200.00
Fail to record price	2.2(e)	\$200.00
Fail to record date	2.2(f)	\$200.00
Fail to transmit	2.3 (b)	\$300.00
Receive property from minor	2.9	\$200.00
Dispose of property within 30 days	2.11 (a)	\$500.00
Allow disposal of property within 30 days	2.11(b)	\$500.00

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2558

A Bylaw to Amend Second-Hand Dealers Bylaw No. 2524, 2008

The Council of the City of Courtenay, in open meeting assembled, enacts as follows:

1. This bylaw may be cited for all purposes as “Second-Hand Dealers Amendment Bylaw No. 2558, 2008”
2. That “Second-Hand Dealers Bylaw No. 2524, 2008” be hereby amended as follows:
 - (a) That the definition of “Authorized person” be hereby repealed and substituted therefore with the following definition:

“Authorized Person” means the person appointed by Council as the Corporate Officer, or a person designated in writing by the Corporate Officer to carry out any act or function under this Bylaw.
 - (b) That the following sections be hereby repealed:
 - 4.5 *Pursuant to section 264(1)(c) of the Community Charter, the words or expression in Column 1 of Schedule “B” to this Bylaw designate the offence committed under the Bylaw section number appearing in Column 2 opposite the respective words or expression.*
 - 4.6 *Pursuant to section 265(1)(a) of the Community Charter, the fine amount in Column 3 of Schedule “B” to this Bylaw is the fine amount that corresponds to the words or expression and section number set out in Columns 1 and 2 opposite the fine amount.*
3. This Bylaw shall take effect upon the date of its adoption.

Read a first time this 20th day of October, 2008

Read a second time this 20th day of October, 2008

Read a third time this 20th day of October, 2008

Finally passed and adopted this 2nd day November, 2008

Mayor

Manager of Corporate Administration