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**TO:** CITY MANAGER **DATE:** 2007 October 30

**FROM:** DIRECTOR FINANCE

**SUBJECT:** **SECOND HAND DEALERS REGULATION BYLAW**

**PURPOSE:** To obtain Council Authority to amend the Burnaby Second Hand Dealers Regulation Bylaw No. 440

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**RECOMMENDATIONS:**

1. **THAT** the Burnaby Second Hand Dealers Regulation Bylaw No.440 be amended as noted in this report.

**REPORT**

The Burnaby Second Hand Dealers Regulation Bylaw No. 440 was initially adopted in September 1924 to regulate trade in used goods. Despite its age, the bylaw remains effective with amendments adopted in 1998 and 2004. Additionally, location restrictions for pawn shops and second hand stores were instituted in the Zoning Bylaw in 2004. Amendments to the bylaw are recommended as a result of a court ruling and for housekeeping and pragmatic reasons as detailed in this report.

**Court ruling**

In the recent decision of *Royal City Jewellers & Loans Ltd. v. New Westminster*, the B.C. Court of Appeal held that New Westminster's second hand bylaw, in some respects, went beyond the business regulation powers of the municipality as contained in the Community Charter.

The Burnaby Second Hand Dealers Regulation Bylaw is similar to the New Westminster bylaw in that it requires second hand dealers to record:

- a "description" of the person (over and above their name and address)
- the make, model, colour and licence plate number of any vehicle in which the goods were delivered.

The Court in the Royal City case determined that the requirement to obtain and record such “additional information” is outside the scope of the municipalities’ authority.

In addition, the Burnaby Bylaw requires weekly written reporting to the Chief Constable of the information required to be recorded for goods received as well as personal information of the persons from whom such goods were received.

The Court found that the power to require the dealer to notify the Chief Constable did not go so far as to require the dealer to provide any personal information about the seller of the goods, but only the description of the goods.

Amendments to the Burnaby bylaw are recommended to bring it into compliance with the recent Court decision.

**Holding period**

The bylaw requires that used goods obtained by a business are held for a specified period of time. This period of time starts when the goods are reported to the police and allows time for cross referencing reports of stolen property. Due to an oversight on a previous bylaw amendment and variable hold periods for the different types of used businesses, the hold period noted in the bylaw can be 3 days, 14 days or 1 year. Similar bylaw regulation in Metro Vancouver commonly cites a 30 day hold period for used goods businesses. To establish consistency within our bylaw and with regional cities, a bylaw amendment to a 30 days hold period for used goods is recommended.

**Hours of operation**

The bylaw stipulates hours of operation that recognize dated business practises and legislation. To update the bylaw, and to maintain consistency with regulation in other cities, a bylaw amendment limiting used goods business operations to between 6:00am and 6:00pm is recommended.

**Daily reporting**

The bylaw requires that used goods obtained in business be reported to the police on a weekly basis. Daily reporting of goods received provides police with improved response to property related issues and is consistent with other regional bylaws. A bylaw amendment requiring daily reporting of goods received, but not the personal information of the person from whom the goods were received, is recommended.

**Identification for pawners**

Persons selling used goods are required to present specified identification. Persons pawning goods are currently not subject to the same identification requirements. A bylaw amendment to require the same identification is recommended.

**Housekeeping amendments**

1. Update references to Mayor and the City.
2. Reference to the Burnaby Trades Licence Bylaw amended to Burnaby Business Licence Bylaw.
3. Used book sellers to be included in the exception to the second hand dealer definition and delete their exemption from business licensing.
4. Delete the requirement to hold a business licence for each vehicle used in junk peddling.
5. Add the requirement that no goods with altered serial numbers or identifying marks be accepted for pawn.

**Bylaw amendment process**

In considering a business regulation bylaw, the Community Charter requires the following.

59. (2) Before adopting a bylaw under subsection (1) or section 8 (6) [*business regulation*], a council must
- (a) give notice of its intention in accordance with subsection (3), and
  - (b) provide an opportunity for persons who consider they are affected by the bylaw to make presentations to council.

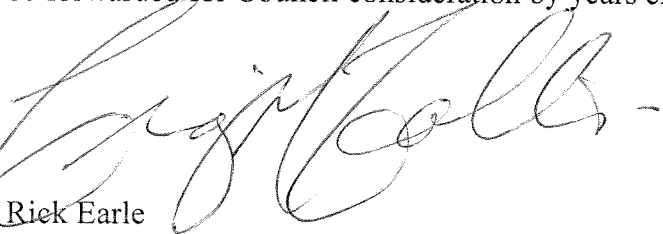
(3) Notice required under subsection (2) (a) may be in the form and manner, at the times and as often as the council considers reasonable.

There are two Burnaby businesses that hold business licences for a second hand dealer or pawn broker - Common Exchange at 7342 Kingsway and Metro Pawnbrokers at 4939 Kingsway. Should Council adopt the staff recommendation to have the bylaw amended, notification of the amendments would be sent to the two businesses directly and an advertisement would be placed in a local newspaper after first and second reading of the amending bylaw. A 30 day period would be granted for written submissions on the proposed amendments.

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**Scrap Metal Bylaw**

A regional working group that included Burnaby representation has concluded its work on a model bylaw to regulate scrap metal business. The model bylaw is being reviewed relative to the needs in our City and in coordination with existing bylaws. It is anticipated that the bylaw will be forwarded for Council consideration by years end.

*for*   
Rick Earle  
DIRECTOR FINANCE

CMC:sk

Copied to: City Solicitor  
O.I.C., R.C.M.P.