

# **LICENCE**

## **Chapter 879 SECOND HAND GOODS**

### **CHAPTER INDEX**

#### **Article 1 INTERPRETATION**

- 879.1.1 Council - defined
- 879.1.2 Commissioner - defined
- 879.1.3 Garage sale - defined
- 879.1.4 Licence - defined
- 879.1.5 Licence Hearings Committee - defined
- 879.1.6 Licensing Officer - defined
- 879.1.7 Pawnbroker - defined
- 879.1.8 Person - defined
- 879.1.9 Premises - defined
- 879.1.10 Salvage yard - defined
- 879.1.11 Second hand goods - defined
- 879.1.12 Second hand vendor - defined
- 879.1.13 Seller - defined
- 879.1.14 Town - defined

#### **Article 2 GENERAL PROVISIONS**

- 879.2.1 Operation - without licence - prohibited
- 879.2.2 Employees of licensee - not applicable
- 879.2.3 Vendors - charitable - garage sales - exemption

## SECOND HAND GOODS

- 879.2.4 Auctioneers - licensed - exemption
- 879.2.5 Regulations - set out
- 879.2.6 Goods - from person under 18 - intoxicated - prohibited
- 879.2.7 Receipt of goods - times - prohibited
- 879.2.8 Employee - instructed to regulations
- 879.2.9 Employer responsible for employee acts
- 879.2.10 Licence - posted - conspicuous - at all times
- 879.2.11 Employee - police clearance letter - required
- 879.2.12 Seller refusing to provide identification - notice to police
- 879.2.13 Nature of licence - property of Town
- 879.2.14 Advertisements - promotion - licensed name only
- 879.2.15 Licence - expiry
- 879.2.16 Licence - not renewed - expiry
- 879.2.17 Licence - transfer - disposal - prohibited
- 879.2.18 Licence - one location - only
- 879.2.19 Licence - to specify type of second hand goods
- 879.2.20 Application of Chapter - all lands - premises - within Town
- 879.2.21 Notice - materials - when deemed served

### Article 3

#### IDENTIFICATION RECORD REQUIREMENTS

- 879.3.1 Identification required - before goods received
- 879.3.2 Identification - requirements - seller
- 879.3.3 Goods from garage sale - address recorded
- 879.3.4 Goods from auction - other information required
- 879.3.5 Transaction records - requirements
- 879.3.6 Sale of collection - number of pieces - identification
- 879.3.7 Multiple purchases - identification requirements
- 879.3.8 Automated recording system - York Region - costs

## SECOND HAND GOODS

### Article 4

#### RETENTION PERIODS - STORAGE OF GOODS

- 879.4.1 Goods - held thirty days - kept separate
- 879.4.2 Transactions not exceeding 500 - voluntary recording
- 879.4.3 Compact discs - videos - games
- 879.4.4 Transactions - ice skates - automated recording
- 879.4.5 Records - documents - open to inspection
- 879.4.6 Inspection of goods - premises - permitted
- 879.4.7 Stolen property - removal for criminal investigation
- 879.4.8 Obstruction - hindering - entry inspection - prohibited

### Article 5

#### APPLICATION RENEWAL OF LICENCE

- 879.5.1 Application - information - in person - requirement
- 879.5.2 Applicant - two photographs - required
- 879.5.3 Licence - fees - payable upon application
- 879.5.4 Right of refusal of licence by Town
- 879.5.5 Application - partnership - information - requirements
- 879.5.6 Corporation as partner - condition of application
- 879.5.7 Application - corporation - information - requirements
- 879.5.8 Premises - documentation - right to occupy
- 879.5.9 Application - circulation for comments
- 879.5.10 Investigation - inspections - as necessary
- 879.5.11 Change of status - report - Licensing Officer - seven days
- 879.5.12 Partnership - change in composition - approval required
- 879.5.13 Corporation - change in composition - approval required

### Article 6

#### REPORT TO COUNCIL

- 879.6.1 Report to Council

## SECOND HAND GOODS

### **Article 7 LICENCE NON-TRANSFERABLE WITHOUT COUNCIL APPROVAL**

879.7.1 Licence not transferable

### **Article 8 GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

- 879.8.1 Licence - entitlement
- 879.8.2 Licence refused - financial position
- 879.8.3 Licence refused - past conduct of applicant
- 879.8.4 Licence refused - contrary to public interest
- 879.8.5 Licence refused - activities in contravention
- 879.8.6 Licence refused - use of premises
- 879.8.7 Licence refused - applicant provides false information
- 879.8.8 Licence refused - information - accuracy
- 879.8.9 Licence refused - fee not paid
- 879.8.10 Licence refused - applicant - non-compliant
- 879.8.11 Licence refused - applicant is corporation

### **Article 9 COUNCIL'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE**

879.9.1 Council's power to refuse to issue or renew a licence

### **Article 10 REFUND OF FEE ON REFUSAL TO ISSUE OR RENEW A LICENCE**

879.10.1 Licence not issued - refund of fee

### **Article 11 ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS**

879.11.1 Licence issued - terms and conditions

## SECOND HAND GOODS

### **Article 12 COUNCIL'S POWER TO REVOKE OR SUSPEND A LICENCE**

- 879.12.1 Licence revoked or suspended
- 879.12.2 Licence - suspension service of notice - duration
- 879.12.3 Suspension continuation - report to Council - direction
- 879.12.4 Suspension upheld until conditions remedied

### **Article 13 REFUND OF FEE ON REVOCATION OF A LICENCE**

- 879.13.1 Licence revoked - refund of fee
- 879.13.2 Refund of fee - not applicable

### **Article 14 CANCELLATION OF A LICENCE**

- 879.14.1 Licence - cancelled

### **Article 15 APPEALS TO THE LICENCE HEARINGS COMMITTEE**

- 879.15.1 Licence refused - recommendation to Council
- 879.15.2 Licence refused - written notice
- 879.15.3 Written notice - contents

### **Article 16 NOTICE OF HEARING**

- 879.16.1 Notice of hearing

### **Article 17 SERVICE OF WRITTEN NOTICE**

- 879.17.1 Written notice - service
- 879.17.2 Written notice - service - via registered or certified mail

## SECOND HAND GOODS

### **Article 18 HEARING BEFORE THE LICENCE HEARINGS COMMITTEE**

- 879.18.1 Applicant does not attend
- 879.18.2 Recommendation to Council

### **Article 19 COUNCIL AUTHORITY AFTER THE HEARING**

- 879.19.1 Council - recommendation of Licence Hearing Committee

### **Article 20 RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION**

- 879.20.1 Licence revoked - suspended - returned - Licensing Officer
- 879.20.2 Licence revoked - Licensing Officer to obtain licence

### **Article 21 TRANSITION**

- 879.21.1 By-law - previous

### **Article 22 SEVERABILITY**

- 879.22.1 Validity

### **Article 23 ENFORCEMENT**

- 879.23.1 Fine - for contravention
- 879.23.2 False - information - misleading - deemed violation
- 879.23.3 Compliance - by all persons - licensed or not
- 879.23.4 Enforcement - authorized persons

### **Article 24 REPEAL - ENACTMENT**

- 879.24.1 By-law - previous

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WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern the sale of second hand goods within the Town of Richmond Hill;

AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the by-law relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;
- the provision that the licensee shall maintain a detailed list of all transactions completed and that the police will monitor all transactions to ensure that the items are not obtained by illegal means;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Town of Richmond Hill Municipal Code - Public Notice.

## **Article 1 INTERPRETATION**

### **879.1.1 Council - defined**

“Council” means the Council of The Corporation of the Town of Richmond Hill.

**879.1.2 Commissioner - defined**

“Commissioner” means the Commissioner of Planning and Development for The Corporation of the Town of Richmond Hill.

**879.1.3 Garage sale - defined**

“garage sale” means a sale of goods from a residential premise where the sale lasts no longer than two days, the sale from that premise occurs no more than two times per year and the second hand vendor is either the user of the goods sold, or is one of not more than three households conducting a sale of goods used by the members of those households or is a tenant or condominium association relating to a residential building.

**879.1.4 Licence - defined**

“licence” means an authorization under this Chapter to carry on the trade, calling, business or occupation specified under this Chapter.

**879.1.5 Licence Hearings Committee - defined**

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter. By-law 195-05, 12 December, 2005.

**879.1.6 Licensing Officer - defined**

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licences. By-law 145-08, 14 July, 2008.

**879.1.7 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 and “pawnbroker” includes a person who offers a buy-back service in relation to such articles.

**879.1.8 Person - defined**

“person” means an individual, firm, corporation, association or partnership.

**879.1.9 Premises - defined**

“premises” means any place that is used by a pawnbroker or a second hand vendor to carry on the business of a pawnbroker or a second hand vendor, and includes any areas where such goods are stored and any area where records relating to such business are stored and “premises” includes any booth or stall used by a second hand vendor for the sale of second hand goods.

**879.1.10 Salvage yard - defined**

“salvage yard” means a yard or premise in which bicycles, automobile tires, old metal and other scrap material and salvage is received, purchased, taken in, processed or otherwise dealt with and includes an automobile wrecking yard or premise.



**879.1.11 Second hand goods - defined**

“second hand goods” means any article that has been used for the purpose for which it was designed and which is offered to or taken by a pawnbroker or a second hand vendor for resale.

**879.1.12 Second hand vendor - defined**

“second hand vendor” means a person who carries on the business of selling goods by way of retail that have previously been used for the purpose for which such goods were designed and “second hand vendor” includes any person who travels from place to place to sell second hand goods.

**879.1.13 Seller - defined**

“seller” means a person who sells or who offers to sell any second hand goods to a pawnbroker or a second hand vendor.

**879.1.14 Town - defined**

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

**Article 2****GENERAL PROVISIONS****879.2.1 Operation - without licence - prohibited**

No person may be a pawnbroker or a second hand vendor in the Town without making application for, obtaining and maintaining, pursuant to the terms of this Chapter, a licence therefor authorizing him or her to carry on such trade, calling, business or occupation in respect of the premise authorized on such licence.

**879.2.2 Employees of licensee - not applicable**

The provisions of this Chapter, which require a licence, are not applicable to employees of a pawnbroker or a second hand vendor provided their employer is licensed pursuant to this Chapter.

**879.2.3 Vendors - charitable - garage sales - exemption**

The provisions of this Chapter are not applicable to second hand vendors who are engaged in the sale of goods for charitable purposes, who are engaged in the sale of goods as part of a garage sale, whose second hand goods consist primarily of used books, maternity wear or infant’s accessories, whose second hand goods consist of used automobiles or whose second hand goods consist of articles purchased new and rented out in the normal course of business by the second hand vendor.

**879.2.4 Auctioneers - licensed - exemption**

The provisions of this Chapter are not applicable to second hand vendors whose sale of goods is conducted by auction, provided such persons are licensed pursuant to the applicable auctioneer's licensing by-law of the Town.

**879.2.5 Regulations - set out**

No person may be a pawnbroker or a second hand vendor or operate a premise except in accordance with regulations set out in Sections 879.2.6 through 879.2.13 inclusive.

**879.2.6 Goods - from person under 18 - intoxicated - prohibited**

No person may receive second hand goods from any person who is under the age of eighteen years or from any person who appears to be under the influence of alcohol or illegal drugs.

**879.2.7 Receipt of goods - times - prohibited**

No person may receive second hand goods from any person on a "holiday" as defined in the *Interpretation Act* or between the hours of 9:00 p.m. on one evening and 9:00 a.m. on the following day. For the purposes of this Section, "holiday" shall not include a Sunday.

**879.2.8 Employee - instructed to regulations**

No pawnbroker or second hand vendor may permit any employee to work at a premise without first instructing such employee in the regulations of this Chapter and ensuring that such employee complies with these regulations.

**879.2.9 Employer responsible for employee acts**

Every pawnbroker and second hand vendor shall be responsible for the acts or omissions of its employees in the carrying on of the sale of second hand goods and the business conducted from the premise in the same manner and to the same extent as though such acts or omissions were the acts or omissions of the pawnbroker or second hand vendor.

**879.2.10 Licence - posted - conspicuous - at all times**

Every pawnbroker and every second hand vendor shall keep their license certificate issued in respect of this Chapter posted in a conspicuous place in the premises in a manner satisfactory to the Licensing Officer, at all times during the currency of the licence.

**879.2.11 Employee - police clearance letter - required**

No pawnbroker or second hand vendor may engage any employee for the purpose of acquiring or selling second hand goods without first providing the Licensing Officer with a police clearance letter relating to that employee and every pawnbroker and second hand vendor shall keep a record of all persons employed by them for the purpose of acquiring or selling second hand goods.

**879.2.12 Seller refusing to provide identification - notice to police**

In circumstances where a seller refuses to provide identification as required in this Chapter, or where identifying features of the second hand goods presented by a seller have been removed or obliterated, or in other circumstances which might lead to the inference that the second hand goods have been stolen, the pawnbroker or second hand vendor shall not purchase such goods, shall attempt to ascertain the identify of the seller and shall contact the nearest police station as soon as is practicable to report such circumstances.

**879.2.13 Nature of licence - property of Town**

No person shall enjoy a vested right in the continuance of a licence and the value of a licence shall be the property of the Town and shall remain so irrespective of the issue, renewal or revocation thereof.

**879.2.14 Advertisements - promotion - licensed name only**

No person licensed to carry on any trade, calling, business or occupation pursuant to this Chapter shall advertise or promote or carry on such trade, calling, business or occupation under any name other than the name endorsed upon his or her licence.

**879.2.15 Licence - expiry**

The licences required by this Chapter shall, unless they are expressed to be for a shorter or longer time, be for the period up to and including the 31st day of December in the year of issuance, unless they are sooner forfeited or revoked.

**879.2.16 Licence - not renewed - expiry**

Any licence that has not been renewed as at December 31st in the year of its issuance or renewal shall expire on January 1st in the year following its issuance or renewal.

**879.2.17 Licence - transfer - disposal - prohibited**

No licence shall be transferred or assigned and if a person licensed under this Chapter sells, leases or otherwise disposes of his or her interest in the trade, calling, business or occupation, his or her licence shall, notwithstanding any other provision of this Chapter, be revoked.

**879.2.18 Licence - one location - only**

Every licence shall have endorsed thereon the location of a premise and such endorsement shall be for one location only and such licence shall be valid only for the location endorsed thereon.

**879.2.19 Licence - to specify type of second hand goods**

Licences issued pursuant to this Chapter may authorize a licensee to deal in one class only of second hand goods or in more than one class of second hand goods as is specified in the licence.

**879.2.20 Application of Chapter - all lands - premises - within Town**

The provisions of this Chapter shall apply to all lands and premises within the Town of Richmond Hill.

**879.2.21 Notice - materials - when deemed served**

Wherever notice or materials are required to be served upon or provided to any person pursuant to this Chapter, such provision shall be deemed effective upon mailing of such materials by registered mail to the last address of that person as indicated upon licence or other material filed with the Town or to the last assessed business address for the person indicated upon the taxation roll records.

**Article 3****IDENTIFICATION RECORD REQUIREMENTS****879.3.1 Identification required - before goods received**

No pawnbroker or second hand vendor may receive any second hand goods without first obtaining identification as required in this Chapter.

**879.3.2 Identification - requirements - seller**

For the purpose of identifying the seller, the pawnbroker or second hand vendor must be presented by the seller with at least two pieces of identification and at least one piece of identification must be listed below and must be integrated with a photograph of the seller:

- (a) valid driver's licence;
- (b) passport issued by the government of origin;
- (c) "Bring Your Identification Card" issued by the Alcohol and Gaming Control Commission;
- (d) Certificate of Indian Status issued by the Government of Canada;
- (e) Certificate of Canadian Citizenship issued by the Government of Canada; or

- (f) Conditions Release Card issued by Correctional Services of Canada.

**879.3.3 Goods from garage sale - address recorded**

Where second hand goods are obtained by a pawnbroker or a second hand vendor from a garage sale, the recipient shall record the address of the garage sale.

**879.3.4 Goods from auction - other information required**

Where second hand goods are obtained by a pawnbroker or a second hand vendor from an auction, the recipient shall record the name and address of the auctioneer and, where such information is available, the name and address of the former owner of the goods being auctioned.

**879.3.5 Transaction records - requirements**

No pawnbroker or second hand vendor may receive any second hand goods without maintaining a record of the following information:

- (a) the day, month, year and time of the transaction;
- (b) the full name, sex, date of birth, address and approximate height and weight of the seller;
- (c) the full particulars of both pieces of the seller's identification required to be presented pursuant to this Chapter;
- (d) a detailed description of each second hand good that is reasonably sufficient to identify it, including make, model, serial numbers, markings or other identifying features as applicable;
- (e) the price paid by the pawnbroker or second hand vendor or the value of goods exchanged for the second hand good; and
- (f) the name of the employee who conducted the transaction.

**879.3.6 Sale of collection - number of pieces - identification**

In circumstances where the second hand goods consist of a number of related or similar materials in the nature of a collection, the pawnbroker or second hand vendor shall record the exact number of articles received and any identifying features of such goods. In circumstances where more than 10 such related or similar goods are received, the exact number of articles received shall be recorded and the identifying features of the 10 most valuable articles in the collection shall be recorded.

**879.3.7 Multiple purchases - identification requirements**

Where more than 20 second hand goods are purchased by a second hand vendor from any person as part of a single transaction, which second hand goods do not consist of a number or collection of related or similar materials, notwithstanding the provisions of Section 879.3.5.(d) a second hand vendor shall not be required to record a detailed description of each second hand good for which was paid less than \$10 and shall not be required to record a detailed description of each second hand good that is offered by the second hand vendor for resale at less than \$30.

**879.3.8 Automated recording system - York Region - costs**

In circumstances where a system is in place with the York Region Police Department for the automated recording of transactions in second hand goods and where the annual number of transactions in second hand goods occurring at any premise exceeds 500, which transactions shall include acquisitions or dispositions of such goods, the Licensing Officer may require a licensee to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Region Police Department.

**Article 4****RETENTION PERIODS - STORAGE OF GOODS****879.4.1 Goods - held thirty days - kept separate**

No pawnbroker or second hand vendor may sell, exchange, alter, melt or otherwise dispose of any second hand goods within the earlier of thirty days from the date of obtaining possession thereof or thirty days after providing an automated transaction record relating to said second hand goods as required in this Chapter and, during this period, such goods shall be kept in the premises used by the pawnbroker or second hand vendor for the sale of second hand goods and shall be separate from and not commingled with other second hand goods in the same premises.

**879.4.2 Transactions not exceeding 500 - voluntary recording**

Notwithstanding Section 879.4.1, where a second hand vendor whose premises does not exceed 500 transactions, including all acquisition or disposition of goods, chooses to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Regional Police Department, said second hand vendor will be prohibited from selling, exchanging, altering, melting or otherwise disposing of any such second hand goods within twenty-one days after providing an automated transaction record relating to said second hand goods. During this period, such goods shall be kept in the premises used by the pawnbroker or second hand vendor for the sale of second hand goods and shall be separate from and not commingled with other second hand goods in the same premises.

**879.4.3 Compact discs - videos - games**

Notwithstanding Sections 879.4.1 and 879.4.2, where the business existing on the date of enactment of this Chapter of a second hand vendor consists of the purchase per month for sale of no fewer than 100 compact discs or 100 digital video discs or 100 video games or 100 videotapes, and such second hand vendor chooses to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Regional Police Department, said second hand vendor will be prohibited from selling, exchanging, altering, melting or otherwise disposing of any such second hand goods within fifteen days after providing an automated transaction record relating to said second hand goods. During this period, such goods shall be kept in the premises used by the pawnbroker or second hand vendor for the sale of second hand goods and shall be separate from and not commingled with other second hand goods in the same premises.

**879.4.4 Transactions - ice skates - automated recording**

Notwithstanding Sections 879.4.1 and 879.4.2, where the business existing on the date of enactment of this Chapter of a second hand vendor consists of the purchase per month for sale of no fewer than 25 pairs of ice skates, and such second hand vendor chooses to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Regional Police Department, said second hand vendor will be prohibited from selling, exchanging, altering, melting or otherwise disposing of any such second hand goods within fifteen days after providing an automated transaction record relating to said second hand goods. During this period, such goods shall be kept in the premises used by the pawnbroker or second hand vendor for the sale of second hand goods and shall be separate from and not commingled with other second hand goods in the same premises.

**879.4.5 Records - documents - open to inspection**

Every pawnbroker and every second hand vendor shall during the regular operating hours of the premise and at all times when second hand goods are provided therein make available for inspection by the Licensing Officer, a by-law enforcement officer or a peace officer, the original of any document or record referred to in this Chapter and shall provide a photocopy thereof upon request.

**879.4.6 Inspection of goods - premises - permitted**

Every pawnbroker and every second hand vendor shall, at all times during the regular operating hours of the premise and at all times when second hand goods are provided therein, permit the entry by and the inspection of the premise and of the second hand goods of the pawnbroker or the second hand vendor by the Licensing Officer, a by-law enforcement officer or a peace officer, together with such other persons who may be necessary to identify potentially stolen second hand goods.

**879.4.7 Stolen property - removal for criminal investigation**

In circumstances where a peace officer suspects that specified second hand goods were stolen, the peace officer shall be entitled, upon providing a receipt therefor, to remove such second hand goods for the purpose of criminal investigation, provided such second hand goods are either returned within sixty days or further retained by means of a Court Order.

**879.4.8 Obstruction - hindering - entry inspection - prohibited**

No person may obstruct or hinder the entry or the inspection of a premise by the Licensing Officer, a by-law enforcement officer or a peace officer.

**Article 5****APPLICATION RENEWAL OF LICENCE****879.5.1 Application - information - in person - requirement**

Every applicant shall appear in person before a Licensing Officer and shall complete such licence application forms as may be provided from time to time by the Licensing Officer in accordance with the requirements of this Chapter and shall provide all information requested thereon. In the case of a premise operated by a partnership such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners and in the case of a premise operated by a corporation, such appearance shall be made by an officer of the corporation and not by an agent thereof.

**879.5.2 Applicant - two photographs - required**

Every applicant for a licence, where such applicant is a natural individual shall provide two passport size photographs, which must be taken within thirty days of the licence application. Where the applicant is a corporation, such photograph shall be taken of an officer of the corporation. Where the applicant is a partnership, such photograph shall be taken of one of the partners.

**879.5.3 Licence - fees - payable upon application**

At the time of submission of their application, every applicant shall pay to the Town the fee set forth in Chapter 684 [Tariff of Fees] provided such fee shall not be reduced in the event that the period for which the licence is granted is less than one year.



**879.5.4 Right of refusal of licence by Town**

Receipt of the application and/or the licence fee by the Town shall not represent approval of the application for the issuance of a licence nor shall it obligate the Town to issue such license.

**879.5.5 Application - partnership - information - requirements**

Without limiting the generality of any other provision in this Chapter, persons associated in a partnership applying for a licence under this Chapter shall file with their application a statutory declaration, in writing, signed by all members of the partnership, which declaration shall state:

- (a) the full name of every partner and the address of his or her ordinary residence;
- (b) the name or names under which they carry on or intend to carry on business;
- (c) that the persons therein named are the only members of the partnership; and
- (d) the mailing address for the partnership.

**879.5.6 Corporation as partner - condition of application**

If any member of a partnership applying for a licence is a corporation, such corporation shall be deemed to be applying for an operator's licence in place and stead of the partnership.

**879.5.7 Application - corporation - information - requirements**

Without limiting the generality of any other provision in this Chapter, every corporation applying for a licence shall file with the Licensing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating document and shall file a statutory declaration, in writing signed by an officer of the corporation, which declaration shall state:

- (a) the full name of every shareholder and the address of his or her ordinary residence;
- (b) the name or names under which it carries on or intends to carry on business;
- (c) that the persons therein named are the only shareholders of the corporation; and
- (d) the mailing address for the corporation.

**879.5.8 Premises - documentation - right to occupy**

Every person applying for a licence shall file with the Licensing Officer, documentation satisfactory to the Licensing Officer demonstrating the applicant's right to possess or occupy the premises and if any applicant is not the registered owner of the property upon which the premise is to be located, such person shall file with the Licensing Officer a copy of his or her lease, if any, and a copy of any other document constituting or affecting the legal relationship relating to the said lands or premises between said applicant and the registered owner or owner in fee simple of the said real property.

**879.5.9 Application - circulation for comments**

The Licensing Officer shall make or cause to be made a circulation respecting the application which shall include circulation of the licence application to the Medical Officer of Health and Municipal and Provincial Police Departments for comments.

**879.5.10 Investigation - inspections - as necessary**

The Licensing Officer shall make or cause to be made all investigations and inspections which he or she deems necessary to determine whether an applicant meets the requirements of this Chapter and all applicable laws.

**879.5.11 Change of status - report - Licensing Officer - seven days**

Where there is any change in any of the particulars relating to a person licensed under this Chapter, which particulars are required to be filed with the Town on applying for a licence under this Chapter, such person shall report the change to the Licensing Officer within seven days of the change.

**879.5.12 Partnership - change in composition - approval required**

Where there is to be a change in the composition or the controlling interest of a partnership licensed under this Chapter, the persons licensed hereunder in partnership shall obtain the approval of the Licensing Officer to such change prior thereto. Where there has been any change in the controlling interest of the partnership, either by one transaction or a number thereof, the licence may be revoked despite the Licensing Officer's prior approval of any one or more such transactions.

**879.5.13 Corporation - change in composition - approval required**

Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licensed under this Chapter, the corporation shall obtain the approval of the Licensing Officer to such change prior thereto, failing which the licence may be revoked. Where there has been any change in the controlling interest of the corporation, either by one transaction or a number thereof, the licence may be revoked, despite the Licensing Officer's prior approval of any one or more such transactions.

**Article 6**  
**REPORT TO COUNCIL**

**879.6.1 Report to Council**

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 8 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

**Article 7**  
**LICENCE NON-TRANSFERABLE**  
**WITHOUT COUNCIL APPROVAL**

**879.7.1 Licence not transferable**

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

**Article 8**  
**GROUND FOR REFUSAL TO ISSUE**  
**OR RENEW A LICENCE**

**879.8.1 Licence - entitlement**

An applicant is entitled to be licensed and a licensee is entitled to have his or her licence renewed.

**879.8.2 Licence refused - financial position**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where, having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

**879.8.3 Licence refused - past conduct of applicant**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

**879.8.4 Licence refused - contrary to public interest**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the issuance of the licence or renewal of the licence would be contrary to the public interest and where the conduct of the applicant or licence holder or other related circumstances afford reasonable grounds for the belief that the carrying on by the applicant of the trade, calling, business or occupation in respect of the premises for which the licence is sought would infringe the rights, or endanger the health or safety of other members of the public.

**879.8.5 Licence refused - activities in contravention**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

**879.8.6 Licence refused - use of premises**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where there are reasonable grounds for belief that the nature, condition or use of the premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this Chapter or any other law.

**879.8.7 Licence refused - applicant provides false information**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant, contains a false statement or provides false information.

**879.8.8 Licence refused - information - accuracy**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the information provided to the Town by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the Town sufficient to allow the Council to conclude that the licence should be granted or maintained as valid and subsisting.

**879.8.9 Licence refused - fee not paid**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the fee payable in respect of the licence applied for has not been paid.

**879.8.10 Licence refused - applicant - non-compliant**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a licence.

**879.8.11 Licence refused - applicant is corporation**

Notwithstanding Section 879.8.1, a licence may not be issued or renewed where if the applicant or licensee is a corporation,

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
- (c) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
- (d) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

**Article 9****COUNCIL'S POWER TO REFUSE TO ISSUE  
OR RENEW A LICENCE****879.9.1 Council's power to refuse to issue or renew a licence**

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Article 8.

**Article 10****REFUND OF FEE ON REFUSAL TO ISSUE  
OR RENEW A LICENCE****879.10.1 Licence not issued - refund of fee**

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

**Article 11****ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS****879.11.1 Licence issued - terms and conditions**

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 879.18.1 of this Chapter.

**Article 12**  
**COUNCIL'S POWER TO REVOKE**  
**OR SUSPEND A LICENCE**

**879.12.1 Licence revoked or suspended**

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Article 8 of this Chapter.

**879.12.2 Licence - suspension service of notice - duration**

Such suspension shall take effect upon service of written notice thereof to the licensee and the licence shall remain suspended for no more than fifteen days from the date of service of this notice.

**879.12.3 Suspension continuation - report to Council - direction**

In order to continue this suspension beyond the fifteen day period or to revoke the licence, the Licensing Officer must prepare a report and receive Council's direction in this regard.

**879.12.4 Suspension upheld until conditions remedied**

Where any license is suspended, it shall not be reinstated until the Licensing Officer is able to confirm that the conditions leading to the suspension have been remedied.

**Article 13**  
**REFUND OF FEE ON REVOCATION OF A LICENCE**

**879.13.1 Licence revoked - refund of fee**

When a licence is revoked under Section 879.12.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

**879.13.2 Refund of fee - not applicable**

The provisions of Section 879.13.1 do not apply when the unexpired part of the term is less than four months.

**Article 14**  
**CANCELLATION OF A LICENCE**

**879.14.1 Licence - cancelled**

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

**Article 15**  
**APPEALS TO THE LICENCE HEARINGS COMMITTEE**

**879.15.1 Licence refused - recommendation to Council**

When an applicant or a licensee is not entitled to be licensed or to have his or her licence renewed for any of the grounds set out in Article 8, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 879.11.1, that Council issue a licence on terms and conditions.

**879.15.2 Licence refused - written notice**

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

**879.15.3 Written notice - contents**

The written notice to be given under Section 879.15.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer;
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

**Article 16**  
**NOTICE OF HEARING**

**879.16.1 Notice of hearing**

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

**Article 17**  
**SERVICE OF WRITTEN NOTICE**

**879.17.1 Written notice - service**

The written notice referred to in Sections 879.15.2, and 879.15.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

**879.17.2 Written notice - service - via registered or certified mail**

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

**Article 18**  
**HEARING BEFORE THE LICENCE**  
**HEARINGS COMMITTEE**

**879.18.1 Applicant does not attend**

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

**879.18.2 Recommendation to Council**

At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

**Article 19**  
**COUNCIL AUTHORITY AFTER THE HEARING**

**879.19.1 Council - recommendation of Licence Hearing Committee**

Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.



**Article 20**  
**RETURN OF THE LICENCE AFTER**  
**REVOCATION OR SUSPENSION**

**879.20.1 Licence revoked - suspended - returned - Licensing Officer**

When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

**879.20.2 Licence revoked - Licensing Officer to obtain licence**

When a person has had his or her licence revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, in accordance with Section 879.20.1.

**Article 21**  
**TRANSITION**

**879.21.1 By-law - previous**

A licence issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter, only until the earlier of its expiry or its revocation.

**Article 22**  
**SEVERABILITY**

**879.22.1 Validity**

If a court of competent jurisdiction declares any provision, or any part of a provision of this Chapter to be invalid or to be of no force and effect, it is the intention of the Council in enacting this Chapter, that each and every other provision of this Chapter authorized by law, be applied and enforced in accordance with its terms, to the extent possible according to law.

**Article 23**  
**ENFORCEMENT**

**879.23.1 Fine - for contravention**

Any person who contravenes the provisions of this Chapter is guilty of an offence and upon conviction is liable to the maximum penalty applicable pursuant to the provisions of the *Provincial Offences Act* as amended.

**879.23.2 False - information - misleading - deemed violation**

The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this Chapter shall be deemed to be a violation of the provisions of this Chapter.

**879.23.3 Compliance - by all persons - licensed or not**

Every person shall comply with the provisions of this Chapter applicable to him or her whether or not he or she is licensed under this Chapter.

**879.23.4 Enforcement - authorized persons**

This Chapter may be enforced by the Licensing Officer, a by-law enforcement officer for the Town or a peace officer.

**Article 24****REPEAL - ENACTMENT****879.24.1 By-law - previous**

Chapter 879 of the Municipal Code respecting Second Hand Goods be repealed in its entirety and replaced with the new Chapter 879. By-law No. 27-02 be repealed. By-law 195-05, 12 December, 2005; By-law 78-11, 11 July, 2011.