

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SECOND-HAND GOOD SHOPS AND DEALERS IN
SECOND-HAND GOODS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of second-hand goods businesses within the Region;

AND WHEREAS Part IV of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence second-hand good shops and second-

hand good dealers as a means of deterring the sale of stolen goods to second-hand shops and second-hand good dealers and deterring thefts overall within the Region;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” or **“Committee”** means the all citizen tribunal appointed by Council to conduct hearings under this by-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Pawnbroker” means a Person who exercises the trade of receiving or taking, by way of pawn or pledge, any goods for the repayment of money lent thereon;

“Person” includes an individual, a partnership, or a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the Register as required under Part VII of this By-law;

“Second-Hand Good Business” includes Second-Hand Shops and Second-Hand Good Dealers;

“Second-Hand Good Dealer” means a Person that does not have a fixed location at a building, booth, stall or other place but who goes from house to house or along highways, within the boundaries of the Region, to collect, purchase, sell or obtain Second-Hand Goods;

“Second-Hand Good Dealer Licence” means a Second-Hand Good Dealer Licence as issued by the Licensing Officer under this By-law;

“Second-Hand Good” means any item listed in Schedule “A” of this By-law, whether in new or used condition, that has been sold, traded, exchanged, consigned or otherwise disposed of by its original owner, and does not include books (hard cover or softcover), magazines, comics books, or clothing;

“Second-Hand Shop” means a building, booth, stall or other place, or any part thereof, that is a permanent or semi-permanent location, within the geographic boundaries of the Region, where:

- (1) A Second-Hand Good is offered for sale; or
- (2) There is an offer to acquire, consign or exchange a Second-Hand Good;

“Second-Hand Shop Licence” means a Second-Hand Shop Licence as issued by the Licensing Officer under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Second-Hand Goods Dealer; and
 - (ii) Second-Hand Shop.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region

PART III PROHIBITIONS

3. No Person shall carry on or engage in the provision of a Second-Hand Good Business within the Region unless that Person holds a valid and current Licence permitting them to do so.

4. No Person shall own or operate a Second-Hand Shop within the Region unless that Person holds a Second-Hand Shop Licence.
5. No Person shall act as a Second-Hand Good Dealer within the Region unless that Person holds a Second-Hand Good Dealer Licence.
6. Notwithstanding sections 3, 4 and 5 above, no Second-Hand Shop Licence or Second-Hand Good Dealer Licence is required where the Second-Hand Good:
 - (1) Is being offered for sale at a Person's residence or in a Person's residential neighbourhood as part of a garage or yard sale; or
 - (2) Is being offered for sale at a premises that is owned or operated by a not-for-profit or charitable organization.

PART IV LICENCE APPLICATION PROCESS

7. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, products and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Second-Hand Good Business suspended or revoked in the Region or in any other municipality within Canada;
- (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of a Second-Hand Good Business;
- (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with Schedule "B".
- (11) For an application for a Second-Hand Shop Licence only:
 - (i) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Second-Hand Shop; if zoned "legal non-conforming", the applicable Area Municipality must confirm this zoning status; and,

- (ii) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence, or has had an order issued against them, relating to the protection of the environment, fire safety, health standards, property standards, Building Code standards or zoning violations of a Second-Hand Goods Business within the previous twelve (12) month period; and,
- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
- 8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
- 9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- 10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law.
- 11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact and address information and insurance, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

- 12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
- 13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Second Hand Shop immediately, and surrender the applicable Licence to the Licensing Officer within twenty-four (24) hours of the non-compliance.

- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing satisfactory proof of compliance with all requirements of the application for the Licence in issue.
- 14. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
 - 15. No Licensee shall alter, erase, or modify, or permit the alteration, erasure or modification of that Licence or any part thereof.
 - 16. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Second-Hand Good Business location, as applicable.
 - 17. The Licensing Officer may approve the transfer of a Second-Hand Shop Licence from one Person to another, pursuant to the sale of a business, upon the parties providing to the Licensing Officer:
 - (i) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (ii) The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (iii) Confirmation of that the new Applicant meets the application requirements for a Second-Hand Shop Licence, as set out in Part IV of this By-law.
 - 18. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with Section 17.

PART VI OPERATIONS

- 19. Every Licensee shall ensure that the Licensee and their employees and agents abide by the requirements of this By-law.
- 20. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Second-Hand Goods Business.

21. Every Licensee shall report to the Licensing Officer within five (5) calendar days after the event, of any change in any information that was provided to the Licensing Officer pursuant to this By-law.
22. Every Person who holds a Second-Hand Shop Licence shall display their Licence in a conspicuous location so that it is visible to all persons in their Second-Hand Shop.
23. Every Person who holds a Second-Hand Goods Dealer Licence, when acting as a Second-Hand Dealer, shall display their Licence in a position where it may be readily seen and read by Persons, and shall produce it, upon request.
24. No Licensee shall acquire, hold or offer to sell a Second-Hand Good that has a serial number or name altered, destroyed, removed or concealed, unless that serial number or name has been altered, removed or concealed by the manufacturer of the Second-Hand Good.
25. No Licensee shall obtain a Second-Hand Good from a Person who is under the age of eighteen (18) years.
26.
 - (1) No Licensee shall obtain a Second-Hand Good from a Person without first obtaining two (2) pieces of identification, at least one being a government-issued photo identification card.
 - (2) Subsection (1) does not apply where the Licensee obtains the Second-Hand Good from an auction.
27.
 - (1) No Licensee shall sell or otherwise dispose of a Second-Hand Good within twenty-one (21) calendar days of the date that the Second-Hand Good was acquired from another Person.
 - (2) No Licensee shall remove, or allow another person to remove, the Second-Hand Good from the Licensee's Second-Hand Shop or the Second-Hand Good Dealer's inventory during the twenty-one (21) calendar days as required under subsection (1) above.
 - (3) A Licensee, upon demand by an Officer, shall make available for inspection a Second-Hand Good that is required to be held under subsections (1) and (2) above.
 - (4) For Licensees that also act as Pawnbrokers, if a Second-Hand Good was acquired as part of a default in payment of a short-term loan, pawn or

pledge, the item must be held for twenty-one (21) days from the date of default in payment.

- (5) This section does not apply to Second-Hand Goods that are obtained by a Licensee from an auction.

Reporting

28. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of the Region's business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number for the Licensing Officer, as publicly posted on the Region's website from time to time.

PART VII REGISTER

29. (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Second-Hand Shop Business in accordance with this section.
- (2) A copy of the Register entries, including photographs that may be required under subsection (5) below, documenting the previous day's transactions shall be delivered to the Licensing Officer, via email, daily by 10:00 am, save and except those days that the Business is not operating due to a Statutory Holiday or some other closure, in which case, the entries shall be submitted the following operating day.
- (3) Where the Licensee owns or operates more than one Second-Hand Good Shop, the Licensee shall maintain a separate Register for each licenced Second-Hand Good Shop.
- (4) A Register, as required under this By-law, shall be in the form of either:
- (i) A paper booklet or electronic version Register supplied by the Licensing Officer; or,
 - (ii) A computer software program that has been approved for use by the Licensing Officer.

- (5) Every Licensee who acquires a Second Hand Good from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
- (i) The full legal name, and date of birth of the Person from whom they received the Second-Hand Good;
 - (ii) The type of identification, and any serial number thereon, that is shown pursuant to the requirements of this By-law;
 - (iii) The date and time of the transaction;
 - (iv) The full legal name of the Licensee's or agent that accepted the Second-Hand Good;
 - (v) A unique receipt number for every item sold;
 - (vi) The consideration given for the Second-Hand Good;
 - (vii) A general description of the Second-Hand Good, including, where applicable, the serial number, make, and model; and
 - (viii) A photograph of each item received, whether the item was acquired pursuant to a default in payment of a short-term loan or pawn, or not.
- (6) Where a Second-Hand Good is acquired from an auction, the Licensee, in substitute for the requirements under subsections (i)) and (ii)) above, shall record the full legal name and address of the auctioneer, and auction, if different.
- (7) Every Licensee who sells a Second-Hand Good to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
- (8) Every Licensee shall make the Register and receipts available for inspection upon demand by an Officer.

- (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
 - (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.
 - (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
 - (11) A Second-Hand Shop Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from their Second-Hand Shop.
30. A Licensee, upon suspicion that any Second-Hand Goods offered to the Licensee may be stolen property, shall not purchase said Second-Hand Goods and shall forthwith report the incident to a Police Officer and the Licensing Officer.
31. Any Second-Hand Good purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner or any financial compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regard to the property, and shall notify the Licensing Officer.

PART VIII INSPECTIONS

32. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Second-Hands Good Business premises to ensure compliance with all provisions of this By-law.
33. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences, and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying, and returned to the Licensee within forty eight (48) hours of removal.

34. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART VIII POWERS OF THE LICENSING OFFICER

35. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
36. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law, and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
37. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
- (1) The conduct of the Applicant or Licensee, or where the Person is a partnership and/or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Second Hand Goods Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;

- (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
38. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
39. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
40. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.

41. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
42. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

43. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
44. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
45.
 - (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 39, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) above and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
 - (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.

- (4) After conducting a hearing under subsection (2) above, the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 40 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART IX ORDERS

- 46. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 40.
47. Every Person shall comply with an Order issued under the authority of this By-law.

PART X ADMINISTRATION AND ENFORCEMENT

Penalty

- 48. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty, as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

49. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
50. (1) Notwithstanding section 48 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
51. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

52. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this By-law;
 - (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;

- (v) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
53. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
54. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
55. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law shall be considered in violation of this By-law.
56. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with an Officer in the execution of their duties, and shall be considered in violation of this By-law.

Survival

57. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

58. This By-law may be cited as the "Second-Hand Goods Business By-law".

By-law Commencement / Transition

59. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1), all Second Hand Good-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Second-Hand Good-related licences issued under the provisions of By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this by-law upon the renewal date of their Licence shall have their Licence revoked.

60. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Second Hand Goods

The following items, whether in new or used condition, are considered "Second Hand Goods" for the purposes of this By-law:

1. Paper currency, coins and stamps from Canada or any other country;
2. Gold, silver or other precious metals;
3. Gemstones, jewelry, including costume, and watches or any parts thereof;
4. Paintings, photographs, sculptures or any other work of art;
5. Antiques and collectables including, but not limited to, photographs, figurines, furniture, glassware, steins, vases and pottery;
6. Musical instruments and electronic amplifiers or any part thereof;
7. Photographic equipment and peripherals including, but not limited to, cameras and lenses;
8. Military and police articles including, but not limited to, uniforms, medals, crests, insignias;
9. Swords, knives, axes or antique firearms that do not require a Possession Acquisition Licence, as issued by the Chief Fire Arms Officer of Ontario or other Province or Territory within Canada, to purchase or resell;
10. Binoculars, monoculars, telescopes, scopes, rangefinders and microscopes;
11. Computers and peripherals or any part thereof;
12. Computer software;
13. Video game consoles and peripherals or any part thereof;
14. Video games including console and computer games and any peripherals or part thereof;
15. Personal electronics, including but not limited, to cellular phones, tablets, notebooks, pagers and any other device or part thereof;
16. Handheld recording devices or any part thereof;

Schedule "A"

Second Hand Goods

17. Home electronics including, but not limited to, lamps, televisions, radios, stereos (including car stereos), speakers, vacuum cleaners, air purifiers, humidifiers, de-humidifiers or any part thereof;
18. Home appliances including, but not limited to, microwaves, refrigerators, freezers, stoves, washers, dryers, dishwashers, toasters, coffee makers or any part thereof;
19. Home and car alarms, remote starters and security cameras, security systems and peripherals or any part thereof;
20. Sports equipment including, but not limited to, hunting gear, bicycles, golf clubs, skis, hockey equipment, football equipment, basketball equipment or any part thereof;
21. Sports memorabilia and collectibles, including but not limited, to trading cards, figurines, autographs, photographs;
22. Toys and toy collectibles including, but not limited to, model trains, model cars, radio controlled vehicles;
23. Automobile equipment including, but not limited to, carburetors, intakes, wheels, fuel injection systems, gauges, headers or performance equipment;
24. Scooters, skateboards, e-bikes;
25. Hand tools and power tools, including but not limited to, wrenches, air compressors, welders, drills, sanders or any part thereof;

The following items, whether in new or used condition, are considered Second Hand Goods but are excluded from the requirement of having to be documented in a Licensee's Register pursuant to Part VII of this By-law:

1. Vinyl records, cassette tapes, compact discs, DVDs, and Blu-ray discs .

Schedule "B"

Standard Character Criteria

An application for a Licence or for renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.