



# **THE CORPORATION OF THE CITY OF PORT COQUITLAM**

## **BYLAW NO. 3774**

*A Bylaw to regulate the conduct of business by persons purchasing, taking in barter, or receiving used or second hand goods.*

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*Whereas the Community Charter empowers Council to regulate the conduct of business;*

*And whereas Council considers it expedient to regulate the business of buying and selling second hand goods in the City of Port Coquitlam;*

*Now therefore the Council of the Corporation of the City of Port Coquitlam, in open meeting assembled, enacts as follows:*

### **Citation**

1. This Bylaw may be cited for all purposes as the “Second Hand Dealers Bylaw, 2011, No. 3774”.

### **Interpretation**

2. In this Bylaw:

**Business Day** means any calendar day, including any holiday, during which a Second Hand Dealer is open for business to one or more members of the public;

**Bylaw Enforcement Officer** means a person appointed to the position of Bylaw Enforcement Officer for the City;

**City** means the City of Port Coquitlam;

**Collectible** means any item that may be rare or of a unique or unusual nature, which may be collected in sets or series or on its own, and which possesses a reasonable monetary or sentimental value to its owner;

**Council** means the Council of the City of Port Coquitlam;

**Goods Information** means:

- a) a complete description of the property including the make, model and accurate serial number;
- b) the amount paid for the property;
- c) the precise date and hour of purchasing the property;
- d) identifiable or distinguishing marks on the property;
- e) where the Second Hand Dealer has purchased a new item, or an item in its retail packaging, an indication that the item was new or in its retail packaging.

**Picture Identification** means one or more of the following documents, which is not more than five years old and which includes a photograph of the bearer:

- a) a valid driver's licence issued by a Canadian province or territory; or any state within the United States of America;
- b) a valid Provincial identity card;
- c) a valid passport issued by a legitimate government;
- d) a certificate of Indian status issued by the Government of Canada;
- e) a certificate of Canadian citizenship issued by the Government of Canada; or
- f) a conditional release card issued by the Correctional Services Canada.

**Police** means the Officer in Charge of the Coquitlam Detachment of the RCMP and includes an officer designated to receive information pursuant to this Bylaw;

**Purchase** includes buy, barter, deal in, take in exchange, take in part payment, or receive on consignment;

**Recyclable materials** include bottles, cans, plastics, glass, cardboard, paper or other materials commonly collected for recycling or reuse;

**Registers** means the Second Hand Dealer's Goods Information Register and the Second Hand Dealer's Seller Information Register as referred to in this Bylaw and where this Bylaw stipulates that a Second Hand Dealer has an obligation in connection with a register, the reference is to the registers which the Second Hand Dealer is obliged, under this Bylaw, to establish and maintain.

**Second Hand Goods** means second hand, used, or pre-owned goods and chattels that are purchased, taken in barter, received, offered for sale or sold and, without limiting the generality of the foregoing, shall include:

- a) jewellery;
- b) electronic home entertainment products, including, but not limited to, audio and video equipment and accessories; audio or video cassettes, in any format; compact, video or computer discs; and phonograph records;
- c) home repair tools;
- d) construction tools;
- e) metals, such as aluminum, copper, and other valuable salvage;
- f) leather jackets and fur coats;
- g) musical instruments;
- h) bicycles, including bicycle parts and accessories;
- i) automotive parts;
- j) computers, printers and fax machines and their accessories;
- k) collectibles;
- l) cameras, including digital, video and still cameras, related equipment and accessories;
- m) sports equipment;

but shall not include:

- a) recyclable bottles and cans;
- b) clothing, except leather jackets and fur coats.

**Second Hand Dealer** means any person who deals in Second Hand Goods or merchandise in any manner whatsoever.

**Seller** means an individual, firm or corporation who sells or otherwise disposes of Second Hand Goods to a Second Hand Dealer.

**Seller Information** means:

- a) the full name, current residence or street address, telephone number, and birth date of the person from whom the Second Hand Goods were purchased by the Second Hand Dealer;
- b) confirmation of the identity of the Seller by way of Picture Identification bearing the signature of the Seller, together with a

complete description of the Picture Identification and name of the authority that issued it;

**Transaction** means any process including a purchase, barter or trade by which Second Hand Goods come into the possession of a Second Hand Dealer.

**Transaction Report** means a report of transactions submitted to the Police in the form specified in this Bylaw.

### **Maintenance and Use of Goods Information Register**

3. Every Second Hand Dealer must establish and maintain a record, to be called the Goods Information Register, of all Second Hand Goods transacted by the Second Hand Dealer.
4. Immediately after the transaction of any Second Hand Goods, every Second Hand Dealer must set out in the Goods Information Register in chronological order by date of purchase, in the English language, a record of the transaction including the the Goods Information.
5. Every Second Hand Dealer must:
  - a) maintain the Goods Information Register electronically or manually;
  - b) record all information in the Goods Information Register;
  - c) transmit to the Police by electronic mail a report of the daily transactions in the Goods Information Register at the end of each Business Day; and
  - d) before the close of each Business Day, print out a hard copy of all electronic information recorded during the course of the day, and maintain all such hard copies as a manual version of the Goods Information Register;
  - e) before the close of each Business Day where no transactions were made, transmit to the Police by electronic mail a statement that no transactions were made on that Business Day.
6. If the Second Hand Dealer is temporarily unable, for good reason, to record or transmit information electronically, he or she must maintain the Goods Information Register, in legible handwriting in ink, using the form attached to this Bylaw as Schedule A, until electronic recording is resumed, so that no omissions or delays or gaps in record keeping or reporting may occur.

## **Maintenance and Use of Seller Information Register**

7. Every Second Hand Dealer must establish and maintain a record to be called the Seller Information Register respecting all transactions by the Second Hand Dealer.
8. Immediately after the transaction of any Second Hand Goods, every Second Hand Dealer must set out in the Seller Information Register in chronological order by date of transaction in the English language a record of the transaction that must include the Seller Information.
9. Every Second Hand Dealer must:
  - a) maintain the Seller Information Register electronically or manually;
  - b) record all information in the Seller Information Register; and
  - c) before the close of each Business Day, print out a hard copy of all electronic information recorded during the course of the day, and maintain all such hard copies as a manual version of the Seller Information Register.
10. If the Second Hand Dealer is temporarily unable, for good reason, to record information electronically, he or she must maintain the Seller Information Register in legible handwriting in ink, using the form attached to this Bylaw as Schedule B, until electronically recording it so that no omissions or delays or gaps in record keeping or reporting may occur.

## **Preservation and Inspection of Registers**

11. A Second Hand Dealer must:
  - a) not amend, obliterate or erase any entry in the Registers or remove any page from the Registers either wholly or partially or electronically or manually;
  - b) not permit, allow or suffer any other person to amend, obliterate or erase any entry in the Registers, or remove any page from the Register either wholly or partially or electronically or manually;
  - c) immediately report to the City's Bylaw Enforcement Officer any amendment, obliteration, or erasure of an entry in the Registers or the removal of the Registers or any part thereof from the premises of the Second Hand Dealer;
  - d) take steps to ensure that information recorded in the Registers is reasonably secure from access, collection, use, disclosure, or disposal; and

- e) maintain on the Second Hand Dealer's premises all records pertaining to each purchase of Second Hand Goods including any written invoice, cancelled cheques and Registers, for a period of 24 months following the transaction.

**12.** On request by the Police, Bylaw Enforcement Officer or any person authorized to act on behalf of the Police or Bylaw Enforcement Officer, a Second Hand Dealer must:

- a) produce the Goods Information Register for inspection on the premises of the Second Hand Dealer;
- b) provide the Goods Information Register to the Police for inspection on premises other than those of the Second Hand Dealer or for use as evidence in court or other proceedings;
- c) immediately upon return of the Goods Information Register removed from the premises under this section or otherwise, record in the Register, in chronological order, every purchase by the Second Hand Dealer of Second Hand Goods that occurred during the absence of the Goods Information Register; and
- d) permit the Police and the Bylaw Enforcement Officer to inspect:
  - (i) the premises of the Second Hand Dealer and any Second Hand Goods thereon; and
  - (ii) any Second Hand Goods purchased or held by the Second Hand Dealer.

**13.** Every Second Hand Dealer must:

- a) subject to removal of the Goods Information Register pursuant to section 12(b), or to directions by a court of competent jurisdiction, keep on the business premises of the Second Hand Dealer the Registers, or any portion of the Registers, that contains any record made or required to be made within the previous 24 months;
- b) keep, within the Province of British Columbia, each record entered on the Registers for a period of seven (7) years following the date the record was made; and
- c) if the business of the Second Hand Dealer is sold, leased, assigned, transferred or disposed of to any person, transfer possession of the entire Registers to the person who bought, leased, took assignment or transfer of the business or to whom the business was otherwise disposed.

- 14.** A person who receives a Register pursuant to section 13(c) must comply with this Bylaw in relation to securing and maintaining the Registers, and for producing or providing the Register to the Police or Bylaw Enforcement Officer.

**Display of Name**

- 15.** Every Second Hand Dealer shall place and maintain his or her name and address on:
- a) the front of the premises at which he or she carries on business; and
  - b) both sides of any vehicle or vessel used in connection with such business.

**Premises, Hours, Markings, Minors**

- 16.** A Second Hand Dealer must not:
- a) purchase, sell, or keep Second Hand Goods except at the premises designated in the Second Hand Dealer's business licence;
  - b) transact Second Hand Goods from any person between 7:00 p.m. of any calendar day and 7:00 a.m. of the next calendar day;
  - c) purchase or take in Second Hand Goods of which any serial number or other identifying marks appear to have been wholly or partially obliterated, tampered with or removed;
  - d) transact any Second Hand Goods from a person:
    - (i) under the age of 18 years; or
    - (ii) who appears to be intoxicated by alcohol or drugs.

**Retention and Management of Goods**

- 17.** During the applicable period established in section 18, every Second Hand Dealer, with respect to each purchase of Second Hand Goods must:
- a) clearly and individually tag each purchase by date and transaction identifier, and clearly and physically separate it from other Second Hand Goods in the Second Hand Dealer's premises;
  - b) not alter, repair, dispose of, or in any way part with possession of the Second Hand Goods, or remove them from the premises of the Second Hand Dealer; and
  - c) not permit, allow or suffer any other person to alter, repair, dispose of the item, or in any way part with possession of it, or remove it from the premises of the Second Hand Dealer.

18. Every Second Hand Dealer shall comply with the requirements of section 17 for at least 7 days after the date that a transaction has been recorded electronically or manually in the Register.
19. A Second Hand Dealer who, before expiry of the applicable time period established in section 18 wishes to sell or otherwise dispose of Second Hand Goods at an earlier time may deliver a written request to the Police, who may, in writing, waive the applicable time period on such conditions as the Police consider appropriate and necessary in the circumstances.

### **Mixed Businesses**

A person who holds a licence for both a Second Hand Dealer and a separate business must clearly and physically separate from other goods and inventory all Second Hand Goods purchased.

A Second Hand Dealer who buys or sells any Scrap Metal as defined in the Scrap Metal Dealers Bylaw No. 3740, as amended from time to time, is deemed to be a Scrap Metal Dealer and is subject to the regulations contained in that Bylaw.

### **Exemptions**

20. This Bylaw shall not apply to
  - a) the buying, selling, or collection of recyclable materials for the sole purpose of recycling;
  - b) the collection by donation, and resale of Second Hand Goods by a registered non-profit society having charitable purposes;
  - c) the buying and selling of clothing, except leather jackets and fur coats.

### **Offence**

21. Any person who refuses to allow any Police Officer or Bylaw Enforcement Officer to inspect such place, premises or thing associated with the carrying on of a business regulated by this Bylaw shall be guilty of an infraction of this Bylaw.
22. Any person who violates any provision of this Bylaw, or who allows or permits any act or thing to be done in violation of any provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by any provision of this Bylaw, is guilty of an offence against this Bylaw and each day that a violation continues to exist is deemed to be a separate offence against the Bylaw.

### **Penalty**



23. Any person who commits an offence contrary to the provisions of this Bylaw is liable on summary conviction to a penalty of not less than \$1,000 (one thousand dollars) and not more than \$10,000 (ten thousand dollars).
24. Pursuant to the authority granted by the *Community Charter*, the Council may, after a hearing and for reasonable cause, cancel, suspend or refuse to issue a business licence to a business regulated by this Bylaw.

### **Severability**

25. If any section, subsection or sub-subsection of this Bylaw is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the Bylaw.

### **Repeal**

26. The “Second-Hand Dealers Regulation Bylaw, 1979, No. 1706” is repealed.

*Read a first time by the Municipal Council this 12<sup>th</sup> day of September, 2011.*

*Read a second time by the Municipal Council this 12<sup>th</sup> day of September, 2011.*

*Read a third time by the Municipal Council this 12<sup>th</sup> day of September, 2011.*

*Public Input Opportunity held this 11<sup>th</sup> day of October, 2011.*

*Adopted by the Municipal Council of the Corporation of the City of Port Coquitlam this 11<sup>th</sup> day of October, 2011.*

***G.B. MOORE***  
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*Mayor*

***S. RAUH***  
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*Corporate Officer*