

BY-LAW NO. 161

A BY-LAW RESPECTING PAWNBROKERS

Whereas subsection 167(2) of the Municipalities Act provides that a Council may make By-Law's regulating the trade of pawnbrokers.

Therefore be it enacted by the Council of the Town of Sackville as follows:

1. In this By-Law:
 - a) "Clerk" means the clerk of the Municipality;
 - b) "Council" means the Mayor and Councillors of the Municipality;
 - c) "Councillor" means a member of the Council other than the Mayor;
 - d) "Member of the Council" means any person other than the Mayor;
 - e) "Municipality" means the Town of Sackville;
 - f) "Pawnbroker" means any person who takes or receives by way of pawn, pledge or exchange any goods as security for the repayment of money lent;
 - g) "Pawnbroker's License" means a pawnbroker's license, and any renewal thereof, issued pursuant to this By-Law that has not expired or been revoked;
 - h) "Pawnd Goods" means goods pawned, pledged or exchanged by a pawner as security for the repayment of money lent by a pawnbroker;
 - i) "Pawner" means any person who gives by way of pawn, pledge or exchange any goods as security for the repayment of money borrowed.
2. No person shall exercise the trade of a pawnbroker within the Municipality without a pawnbroker's license issued by the Clerk.
3. An application for a pawnbroker's license shall be submitted by the pawnbroker to the Clerk in such form and manner and shall contain such information as may be prescribed from time to time by the Council.
4. No pawnbroker's license shall be issued by the Clerk to any pawnbroker unless the Clerk has been authorized by Council to issue such license to that pawnbroker.

5. Upon receiving authorization from Council to issue a pawnbroker's license to a pawnbroker, the Clerk shall promptly issue such license to that pawnbroker upon payment by the pawnbroker of a fee of \$100.00.

6. A pawnbroker's license shall expire on the 31st day of December in the year in which it is issued.

7.(1) Any person exercising the trade of a pawnbroker within the Municipality on the day this By-Law comes into effect shall submit an application for a pawnbroker's license to the Clerk not later than 30 days after such day.

7.(2) No person exercising the trade of a pawnbroker within the Municipality on the day this By-Law comes into effect shall be prosecuted for a violation of section 2 until:

(a) he fails to submit his application for a pawnbroker's license to the Clerk in accordance with subsection 7(1), or

(b) he submits his application for a pawnbroker's license to the Clerk in accordance with subsection 7(1) and that application is rejected by the Council.

8.(1) A pawnbroker's license may be renewed and the provisions of section 3 to 6 apply mutatis mutandis to such renewal.

(2) An application for a renewal of a pawnbroker's license shall be submitted to the Clerk not later than the 31st day of October in the year in which the pawnbroker's license, or the last renewal thereof, expires.

(3) Where an application for a renewal of a pawnbroker's license has been submitted to the Clerk pursuant to subsection (2), the person submitting such application shall not be prosecuted for a violation of section 2 until such application has been considered and rejected by the Council.

9. A pawnbroker, while carrying on his business in any shop, store, building or premises, shall place over the outside door thereof, a sign, upon which shall be printed in legible characters at least four inches in height, his name, and underneath his name, the word "Pawnbroker".

10.(1) A pawnbroker shall keep a book in which shall be entered at the time of each loan:

(a) the name and address of the pawner;

(b) the description of the pawned goods, including, if applicable, the make, model and serial number of the pawned goods;

- (c) the date and time when the pawned goods were received by the pawnbroker;
- (d) the principal amount of the loan;
- (e) the annual interest rate on the loan, and;
- (f) the signatures of the pawnbroker and the pawner.

(2) At the time each loan is made, the pawnbroker shall deliver to the pawner a duplicate copy of the entry referred to in subsection (1).

(3) The book to be kept by a pawnbroker pursuant to subsection (1) shall be open to inspection by the Clerk, the Council, any member of the Council, and their respective authorized agents.

11. No pawnbroker shall take goods by way of pawn, pledge or exchange as security for the repayment of money lent by the pawnbroker from:

- (a) any person between six o'clock in the afternoon and eight o'clock in the forenoon;
- (b) a minor, knowing him to be so, and
- (c) an intoxicated person.

12. No pawnbroker shall refuse to return pawned goods if the pawner, or his personal representative tenders:

- (a) the outstanding principal and interest due on the loan secured by the pawned goods;
- (b) a duplicate copy of the entry given to the pawner pursuant to subsection 10(2), or an affidavit, duly sworn before any person entitled to take oaths in the Province of New Brunswick stating that the pawner never received such duplicate copy or that it was lost, stolen or mislaid, as the case may be, and
- (c) the expenses incurred by the pawnbroker, if any, for advertising the notice of sale pursuant to subsection 13(2) prior to the sale of the pawned goods pursuant to subsection 13(1).

13.(1) Subject to the rights of the pawner, or his personal representative, granted by section 12, pawned goods not redeemed within one year of their being received by the pawnbroker may be sold by the pawnbroker at public auction not earlier than ten days after notice of sale is served upon the pawner setting forth:

- (a) the name and address of the pawner;
 - (b) the description of the pawned goods to be sold;
 - (c) the date and time in which the pawned goods were received by the pawnbroker;
 - (d) the principal amount of the loan secured by the pawned goods;
 - (e) the annual interest rate applying to such loan;
 - (f) the outstanding principal and interest due on such loan, and;
 - (g) the date, time and place of the sale of the pawned goods.
- (2) The notice to be served upon the pawner pursuant to subsection (1) shall be sufficiently served upon him if:
- (a) it is delivered personally to the pawner, or his personal representative, or if it is mailed prepaid registered post to the address of the pawner as specified in the book to be kept by the pawnbroker pursuant to subsection 10(1), and
 - (b) it appears once in a newspaper published in the Municipality.
- (3) Service of the notice referred to in subsection (2) shall be deemed to have been effected:
- (a) if delivered personally to the pawner or his personal representative, the day the notice is so delivered;
 - (b) if any notice sent by Registered Mail is deemed to be service upon the addressee if forwarded to the addressee by last known address.
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- (c) the day the notice appears in a newspaper published in the Municipality
- whichever is the latest date.
14. Where pawned goods are sold, the pawnbroker shall enter in a book an account of such sale setting forth:
- (a) the name and address of the pawner;
 - (b) the date and time in which the pawned goods were received by the pawnbroker;

- (c) the date, time and place of the sale;
- (d) the name of the auctioneer;
- (e) a copy of the notice referred to in subsection 13(1);
- (f) full particulars respecting service of the notice upon the pawner of his personal representative;
- (g) the proceeds of the sale of the pawned goods, and
- (h) the expense of advertising and selling the pawned goods.

which book may be inspected at any time by the pawner, or his personal representative, the Clerk, the Council, any member of the Council and their respective authorized agents.

15. If any surplus remains after deducting from the proceeds of the sale of pawned goods:

- (a) the outstanding principle and interest due on the loan secured by the pawned goods; and
- (b) the expenses of advertising and selling the pawned goods.

such surplus shall forthwith be paid to the pawner, or his personal representative.

16. A person who violates the provisions of section 2, 9, 10, 11, 12, 14 or 15 is guilty of an offense punishable on Summary Conviction and liable to a fine or penalty of not less than fifty dollars and not more than two hundred dollars and in default of payment is liable to imprisonment in accordance with subsection 31(3) of the Summary Convictions Act.

17.(1) Where, in the opinion of Council, a pawnbroker has violated this By-Law or any provision of this By-Law, the Clerk shall, upon direction of the Council, in addition to any other remedy or penalty prescribed herein, by notice served upon the pawnbroker, revoke the pawnbroker's license issued to that pawnbroker.

(2) The notice referred to in subsection (1) shall be sufficiently served upon the pawnbroker if it is delivered personally to the pawnbroker, or if it is mailed prepaid registered post to the place of business of the pawnbroker.

(3) Service of the notice referred to subsection (1) by registered post shall be deemed to have been effected five days after the notice was deposited in the mail.

18. By-Law No. 59, A By-Law Respecting Pawnbrokers is hereby repealed.

19. This By-Law comes into force on the date of final passing thereof.

Read a first time this 14th day of October, 1997.

Read a second time this 14th day of October, 1997.

Read a third time and done and passed Council this 3rd day of
November, 1997.

Hazel J. Steeves
MAYOR

Rhonda Howe
CLERK
