

City of Portage la Prairie
BY-LAW NO. 05-8268

BEING A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE to regulate Pawnbrokers, Second Hand Dealers, and Buyers of Precious Metals, pursuant to the provisions of The Municipal Act C.C.S.M. Chap. M225.

NOW THEREFORE THE MAYOR AND COUNCIL OF THE CITY OF PORTAGE LA PRAIRIE IN OPEN SESSION ASSEMBLED, HEREBY ENACT AS FOLLOWS:

1. CITATION

This By-Law may be referred to as “The Pawnbroker’s By-Law”.

2. *[DEL. By By-Law 05-8281]*

3. DEFINITIONS

- a) “Auctioneer” means any person who sells or offers for sale any real or personal property by public or private auction;
- b) “City” means the City of Portage la Prairie;
- c) “License Inspector” means a Police Officer, the City Manager, or any duly authorized person acting on behalf of the City Manager;
- d) “Pawnbroker” means a person who exercises the trade of receiving or taking by way of pledge any goods for the repayment of money lent thereon, and includes a pawnbroker business;
- e) “Police Force” means the police force currently under contract to the City;
- f) “Police Officer” means any member of the Police Force currently under contract to the City.
- g) “Second Hand Dealer” means a keeper of a Second Hand Store;
- h) “Second Hand Store” means a store, shop, yard or place where second hand goods are stored or dealt in, excluding those places run by a charitable organization.

4. PAWNBROKERS

- a) **Every Pawnbroker shall:**
 - i) have a sign with his name and the word “Pawnbroker” in large legible characters thereon placed over the door outside the shop or other place used by him for carrying on his business;

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- ii) at all times keep posted in a conspicuous position on his premises so as to be easily seen and read by persons pledging goods, on a card or sign having printed or painted thereon the interest to be paid on the loan, or the terms of the repurchase agreement;
 - iii) before 12:00 hours on Monday of each week, make out, sign and deliver to the Police Force a ledger containing a true and correct written statement of all goods and articles received on deposit or by way of pledge during the preceding week, which statement shall include a true and correct copy of the entries made in the book during the stated period;
 - iv) undertake a transaction only with a person from whom goods, articles or things are received who provides, at the time of the transaction:
 - a) one piece of current photograph identification such as a valid Manitoba Driver's License, a Manitoba Liquor Control Commission Photo Identification Card, or any other comparable item of personal identification containing a photograph, address and signature; or
 - b) a legible inked right thumb impression along with one piece of non-photograph identification such as a Birth Certificate, Manitoba Health Registration Card, a Provincial Social Assistance Identification Card or Credit Card.
 - v) In the event a person chooses to provide an inked thumb impression as identification, provide each employee with training on proper method of obtaining inked thumb impressions as designated by the Chief of Police or his designate.
 - vi) record every pawn, pledge or purchase:
 - a) by keeping for two years a record book with pre-numbered pages in which shall be clearly written in ink in numerical order, at the time of each transaction:
 - i) an accurate account and description of the goods, articles or things included in the transaction; and
 - ii) the serial number or a statement of any distinctive marks on those goods; and
 - iii) the date and time of the transaction; and
 - iv) the rate of interest to be paid on the loan or the terms of the repurchase agreement; and
 - v) the name, address, and a detailed description of the person the transaction is conducted with.

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- b) all articles taken in pawn shall be tagged with a number corresponding to the record number in the record book;
 - c) no entry made in the book shall be erased, obliterated or defaced and no leaves shall be torn out or removed;
 - vii) at the time of each loan, deliver to the person pawning or pledging any goods, articles or things, a memorandum or note signed by the Pawnbroker, containing the substance of the entry required to be made in the record book. No charge shall be made or received by any Pawnbroker for any such entry, memorandum or note;
 - viii) keep the record book, as well as every article or thing pawned or pledged, open at all reasonable times to the inspection of any License Inspector;
 - ix) permit the person who pawned the goods or the person for whom they were pawned, or either person's legal representative or agent to inspect the record of sale of goods by auction;
 - x) at all reasonable times produce all records of transactions and identification as referred to in sub clauses 4(a)(iv) and 4(a)(vi), as well as any article or thing pawned, pledged or purchased for the inspection of any Police Officer or License Inspector.
- b) **No Pawnbroker shall:**
- i) receive on deposit or pledge any goods, article or thing outside of regular posted business hours;
 - ii) take or receive in pawn or pledge for money loaned, any property, bonds, notes, securities, article or thing produced or presented by any person under the age of 18 years, or the ownership of which is in or which is claimed by such person or which may be in the possession or under control of such person;
 - iii) solely because of the non-production of the note, refuse to deliver pledged goods or articles to the person entitled thereto upon payment of the amount lawfully owing thereon;
 - iv) permit to be redeemed or removed from the place of business any property received on deposit or pledge, except for redemption by the owner, for a period of 30 days after entry in the record book, unless such removal is directed by a Police Officer;
 - v) employ any person under the age of 18 years;

- vi) take any article in pawn from any person who appears to be under the influence of alcohol or drugs or under the age of 18 years;
- vii) carry on the trade of Auctioneer.

5. SECOND HAND DEALERS, BUYERS OF PRECIOUS METALS

- a) **Dealing with Persons Under the Age of 18 Years Prohibited**
The purchase by Second Hand Dealers or Buyers of Precious Metals, of second hand goods or precious metals from any person under the age of 18 years is prohibited. Further, a second hand broker is prohibited from acting as a broker on behalf of a person under the age of 18 years.
- b) **Records to be Kept**
Every Second Hand Dealer or Buyer of Precious Metal shall:
 - i) keep for two years a record book with pre-numbered pages in which shall be clearly written in ink in numerical order, at the time of each transaction:
 - a) an accurate account and description of the goods, articles or things included in the transaction; and
 - b) the serial number or a statement of any distinctive marks on those goods; and
 - c) the date and time of the transaction; and
 - d) the name, address and a detailed description of the person the transaction is conducted with.
 - ii) no entry made in the book shall be erased, obliterated or defaced and no leaves shall be torn out or removed.
- c) **Identification**
Every Second Hand Dealer or Buyer of Precious Metal shall:
Undertake a transaction only with a person from whom goods, articles or things are received who provides, at the time of the transaction:
 - i) one piece of current photograph identification such as a valid Manitoba Driver's License, a Manitoba Liquor Control Commission Photo Identification Card, or any other comparable item of personal identification containing a photograph, address and signature, or,
 - ii) a legible inked right thumb impression along with one piece of non-photographed identification such as a Birth Certificate, Manitoba Health Registration Card, a Provincial Social Assistance Identification Card or Credit Card.

d) **Thumb Print Training**

In the event a person chooses to provide an inked thumb impression as identification, provide each employee with training on proper method of obtaining inked thumb impressions as designated by the Chief of Police or his designate.

e) **Records Open to Inspection**

The record book, as well as all goods or articles purchased or deposited, shall at all reasonable times be open to the inspection of a License Inspector.

f) **Retention of Goods**

i) Any goods purchased by or deposited or left with any Second Hand Dealer or Buyer of Precious Metals shall be retained by such dealer or buyer as the case may be in the store or shop where it carries on its business for a period of thirty days from the date on which it entered such in the book as required, that such goods had been purchased by it or deposited or left with it. Such goods shall be kept separate and apart from all other goods on the premises for the whole of the said period, unless such removal is directed by a Police Officer.

ii) Subsection i) shall not apply to:

- o second hand furniture or automobiles;
- o precious stones, precious metals, plates, coins or second hand goods purchased at public auction or from a Second Hand Dealer. *[AM. by By-Law 05-8281]*

g) **Distinctive Marks Not to be Removed**

i) No distinctive mark upon any second hand goods, precious stones, precious metals or plates purchased by any Second Hand Dealer or buyer of precious metals shall be removed, erased, obliterated, rendered obscure or in any way altered until the expiration of the retention period provided for in section f) above.

ii) Subsection i) above shall not apply to precious stones, precious metals, plates, coins or second hand goods purchased at public auction or from a Second Hand Dealer. *[AM. by By-Law 05-8281]*

h) **House to House Collection of Precious Metals Prohibited**

No Buyer of Precious Metals shall go from house to house soliciting, purchasing or collecting precious stones, precious metals, plates or coins.

i) **Showing Goods to Police**

At all reasonable times produce all records of transactions and identifications as referred to in sub clauses 5(b) and 5(c), as well as any article or thing purchased for the inspection of any Police Officer or License Inspector.

j) **Exceptions**

Clauses 5(b) and (f) shall not apply to any transaction consisting solely of used household furniture (excluding figurines), clothing and accessories, sports apparel, books and magazines, or any combination thereof, or any other item deemed to be uniquely identifiable by a License Inspector or his designate.

[EN. by By-Law 05-8281]

6. **OFFENCES AND PENALTIES**

- a) Any Person who violates, contravenes, disobeys or refuses, omits, neglects, fails to observe, obey or comply with any or all provisions of this By-law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding 3 months, or to both such fine and such imprisonment.

- b) Pursuant to Section 249 of The Municipal Act where such contravention, refusal, neglect, omission, or failure to obey or observe continues for more than one day, the Person is guilty of a separate offence for each day that it continues.

7. **REPEAL OF OLD BY-LAWS**

By-Law 01-8099 is hereby repealed.

FORCE AND EFFECT

This by-law shall come into force the day following receipt of third reading.

DONE AND PASSED AS A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE
BY COUNCIL THEREOF IN OPEN SESSION ASSEMBLED THIS 24th DAY OF
MAY, A.D. 2005.

_____ *original signed by Mayor Ian MacKenzie*
Mayor

_____ *original signed by Tieny Kirchner, Manager of Administration*
Manager of Administration

READ A FIRST TIME the 11th day of April, A.D. 2005
READ A SECOND TIME the 24th day of May, A.D. 2005
READ A THIRD TIME the 24th day of May, A.D. 2005