



Corporate Report

NO: R081

COUNCIL DATE: May 3, 2010

REGULAR COUNCIL

TO: Mayor & Council DATE: April 28, 2010

FROM: City Solicitor FILE: 3900-20-16655
XC: 3900-20-13183

SUBJECT: Scrap Metal Dealer Regulation By-law and Other Related By-law
Amendments

RECOMMENDATION

The By-law & Licensing Section recommends that Council:

1. Receive this report as information;
2. Authorize the City Clerk to bring forward for adoption the Scrap Metal Dealer Regulation By-law, 2008, No. 16655 (the "Scrap Metal Dealer By-law") attached as Appendix A to this report;
3. Authorize the City Clerk to bring forward for adoption Business License By-law, 1999, No. 13680, Amendment By-law, 2008, No. 16668 (the "Business License By-law Amendment") attached as Appendix B to this report as it relates to scrap metal dealers;
4. Authorize the City Clerk to bring forward for adoption the Surrey Secondhand Dealers and Pawnbrokers By-law, 1997, No. 13183, Amendment By-law, 2008, No. 16669 (the "Secondhand Dealers and Pawnbrokers By-law Amendments") attached as Appendix C to this report to comply with recent Court decisions and have consistent record keeping and reporting requirements with the Scrap Metal Dealer By-law;
5. Approve consequential amendments to Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508 (the "MTI By-law") as documented in Appendix D to this report to reflect the Secondhand Dealers and Pawnbrokers By-law Amendments; and
6. Authorize the City Clerk to bring forward for the required readings the necessary amendment by-law to the MTI By-law.

DISCUSSION

On May 26, 2008, Council reviewed Corporate Report No. Rogo relating to the proposed new regulation of scrap metal dealers in a manner similar to the regulation of pawnbrokers and secondhand dealers. A copy of that report is attached to this report as Appendix E. Council directed staff to consult with the scrap metal dealer businesses in Surrey that would be affected by the proposed by-law amendments and report back to Council on the outcome of the consultations.

The Manager, By-law & Licensing Services sent a notice to each scrap metal business in the City, which included a copy of the proposed Scrap Metal Dealer By-law and invited feedback on the proposed by-law. There were seven scrap metal dealers in the City at the time based on the City's business license records. Each was contacted by letter and then followed contacted by phone by the Manager of By-law and Licensing Services.

Summary of Feedback Received:

Concerns were raised by two of the seven businesses regarding the length of time (seven days) they would be required to hold scrap metal. No other concerns were raised. It was explained to the businesses that the seven day holding period was the minimum length of time required for the Surrey RCMP and/or the By-law Enforcement Section to conduct inspections of the scrap metal goods received at their businesses. It is recommended that no changes be made to these provisions of the proposed Scrap Metal Dealer By-law.

Timing of By-laws

During the time between Council's initial consideration of these recommendations and the present, there was an attempt by local governments to have the Province enact legislation on this issue. That initiative was not undertaken by the Province and it has been left to individual local governments to regulate in this area. Also during that time, there were challenges to similar by-laws in two other municipalities and these have been monitored to ensure that the City's proposed regulations would sustain a challenge. As those issues have now been resolved, it is appropriate to bring the by-laws forward for final adoption.

Communication of the Requirements of the By-laws

Subject to Council approval of the recommendations of this report and final adoption of the related by-laws, staff will forward a letter to each scrap metal business in the City that informs them of the requirements of the by-laws.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Authorize the City Clerk to bring forward for adoption the Scrap Metal Dealer Regulation By-law, 2008, No. 16655 (the "Scrap Metal Dealer By-law") attached as Appendix A to this report;
- Authorize the City Clerk to bring forward for adoption Business License By-law, 1999, No. 13680, Amendment By-law, 2008, No. 16668 (the "Business License By-law

- Amendment") attached as Appendix B to this report as it relates to scrap metal dealers;
- Authorize the City Clerk to bring forward for adoption the Surrey Secondhand Dealers and Pawnbrokers By-law, 1997, No. 13183, Amendment By-law, 2008, No. 16669 (the "Secondhand Dealers and Pawnbrokers By-law Amendments") attached as Appendix C to this report to comply with recent Court decisions and have consistent record keeping and reporting requirements with the Scrap Metal Dealer By-law;
 - Approve consequential amendments to Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508 (the "MTI By-law") as documented in Appendix D to this report to reflect the Secondhand Dealers and Pawnbrokers By-law Amendments; and
 - Authorize the City Clerk to bring forward for the required readings the necessary amendment by-law to the MTI By-law.

CRAIG MacFARLANE
City Solicitor

EW/KER:mlg

Attach. Appendix A – Scrap Metal Dealer Regulation By-law
 Appendix B – Business License By-law Amendment
 Appendix C – Surrey Secondhand Dealers and Pawnbrokers By-law Amendments
 Appendix D – Proposed Amendment to MTI By-law
 Appendix E - Corporate Report No. Rogo - 2008

APPENDIX "A"

**CITY OF SURREY
BY-LAW NO. 16655**

Scrap Metal Dealer Regulation By-law

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WHEREAS Council considers it necessary to regulate the business of buying and selling scrap metal in the City of Surrey.

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**SECTION 1
INTERPRETATION**

Title

- 1.1 This By-law may be cited as "Scrap Metal Dealer Regulation By-law, 2008, No. 16655".

Definitions

- 1.2. In this By-law:

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

"By-law Enforcement Officer" means any By-law Enforcement Officer appointed by the Council to enforce City by-laws;

"City" means the City of Surrey;

"Commercial Transaction" means a transaction whereby the Scrap Metal Dealer pays the Seller by cheque drawn on an account in the name of the Scrap Metal Dealer at a financial institution, and which cheque is mailed by the Scrap Metal Dealer to the address indicated by the Seller and the payment includes GST as a component of the total;

"Council" means the Council of the City of Surrey;

"Goods Information" means, as regards a Scrap Metal Dealer:

- (a) the price paid for the Scrap Metal including:
 - (i) the method of payment,
 - (ii) the weight and type of metal purchased, and
 - (iii) the GST registration number of the Seller;
- (b) the precise date and time of purchase of the Scrap Metal, and
- (c) identifiable or distinguishing marks on the Scrap Metal including, where applicable, identification of the item as selected scrap metal;

"License Inspector" means the Manager of By-law and Licensing Services and any authorized deputy;

"Non-Commercial Transaction" means any transaction by the Scrap Metal Dealer that is not a Commercial Transaction;

"Picture Identification" means one or more of the following, not more than five years old, that includes a photograph of the bearer:

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

"Police" means the Officer in Charge at the Surrey RCMP Detachment and includes his or her designate;

"Registers" means the Scrap Metal Dealer's Goods Information Register and the Scrap Metal Dealer's Seller Information Register as referred to in this By-law and where this By-law stipulates that a Scrap Metal Dealer has an obligation in connection with a register, the reference is to the registers which the Scrap Metal Dealer is obliged, under this By-law, to establish and maintain;

"Reported Stolen" means that the item(s) had been reported as taken without colour of right by the true owner thereof to a municipal police department or RCMP detachment, and that particular police agency has delivered a report of the complaint to the premises of the particular Scrap Metal Dealer;

"Scrap Metal" means Scrap Metal Ferrous, Scrap Metal Nonferrous, and Selected Scrap Metal, but does not include used cans or containers for food, beverages, paint, domestic or household products normally recycled to avoid waste;

"Scrap Metal Dealer" means any person licensed pursuant to the City's Business License By-law, 1999, No. 13680, as amended, in force from time to time to carry on the business of selling, purchasing, or otherwise dealing in Scrap Metal;

"Scrap Metal Nonferrous" means a metal or alloy that is free of iron or comparatively so, including but not limited to:

- (a) copper, including brass and bronze,
- (b) aluminum, excepting recyclable beverage cans and food containers,

- (c) zinc,
- (d) magnesium,
- (e) lead, and
- (f) nickel;

"Scrap Metal Ferrous" means new or used items made principally of iron, steel, or tin, and includes items of Scrap Metal outside the definitions of Scrap Metal Nonferrous and Selected Scrap Metal;

"Selected Scrap Metal" means Scrap Metal which bears any markings of, or is unique to any of, the following:

- (a) public utilities or similar businesses distributing through piping or wiring, electricity, telephone services or cable television signals. Without limiting the generality of the foregoing, this will include metal items marked with any of the following words "British Columbia Hydro", "British Columbia Transmission Corporation", "Telus", "Shaw" or "Rogers",
- (b) extruded aluminum of the type used by corporations or similar businesses which provide display signs,
- (c) civic street and traffic signs, manhole lids, catch basin grates, water valve lids, and any other items marked with the name of a municipal corporation,
- (d) grave markers,
- (e) aluminum ladders bearing any identifying markings from a public agency, municipality, regional district, school district, or similar corporation,
- (f) new production scrap or new materials that are part of a manufacturing process that are being sold by an individual and not by a company,
- (g) full sized new materials, such as those used in construction, or components of construction equipment and construction tools,
- (h) materials that have been Reported Stolen, or
- (i) wire that has been burned;

"Seller" means an individual, firm or corporation who sells or otherwise disposes of property to a Scrap Metal Dealer;

"Seller Information" means:

- (a) the full name, current residence or street address, telephone number, and birth date of the person from whom the Scrap Metal was purchased by the Scrap Metal Dealer,
- (b) confirmation of the identify 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,
- (c) the Seller's stated source of the Scrap Metal,
- (d) the make, model, colour and provincial vehicle license plate number of any motor vehicle used by the Seller to deliver the Scrap Metal to the Scrap Metal Dealer's premises including if applicable, taxi cab company name, taxi cab number and provincial vehicle license plate number, and
- (e) in a case where the Seller is not the owner of the Scrap Metal, the full name, street address, telephone number and if applicable, goods and services registration number of that owner; and

"Transaction" means any process including a purchase, barter or trade by which Scrap Metal comes into the possession of a Scrap Metal Dealer.

Table of Contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Severability

1.4 A decision by a court that any part of this By-law is illegal, void or unenforceable severs that part from this By-law and is not to affect the balance of this By-law.

Duty of Administration and Enforcement

1.5 The intent of this By-law is to set standards in the general public interest, and not to impose a duty on the City or its employees to enforce its provisions and:

- (a) a failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not give rise to a cause of action in favour of any person; and

- (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the By-law and the issuance thereof in error is not to give rise to a cause of action.

SECTION 2 MAINTENANCE AND USE OF GOODS INFORMATION REGISTER

Requirements

- 2.1 Every Scrap Metal Dealer must establish and maintain a record to be called the Scrap Metal Dealer's Goods Information Register, of all Transactions of Scrap Metal Nonferrous and Selected Scrap Metal by the Scrap Metal Dealer.

Entry of Transactions

- 2.2 Immediately after the Transaction of any Scrap Metal Nonferrous or Selected Scrap Metal, every Scrap Metal 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 that must include the Goods Information.

Maintenance and Reporting

- 2.3 Every Scrap Metal 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 facsimile 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.

Handwritten Entries

- 2.4 If the Scrap Metal 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 By-law as Schedule "A", until electronically recording it so that no omissions or delays or gaps in record keeping or reporting may occur.

**SECTION 3
MAINTENANCE AND USE OF
SELLER INFORMATION REGISTER**

Requirements

- 3.1 Every Scrap Metal Dealer must establish and maintain a record to be called the Scrap Metal Dealer's Seller Information Register respecting all Transactions of Scrap Metal Nonferrous and Selected Scrap Metal by the Scrap Metal Dealer.

Entry of Transactions

- 3.2 Immediately after the Transaction of any Scrap Metal Nonferrous or Selected Scrap Metal, every Scrap Metal 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.

Maintenance and Reporting

- 3.3 Every Scrap Metal 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.

Handwritten Entries

- 3.4 If the Scrap Metal 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 By-law as Schedule "B", until electronically recording it so that no omissions or delays or gaps in record keeping or reporting may occur.

SECTION 4 PRESERVATION AND INSPECTION OF REGISTERS

Preservation

- 4.1 A Scrap Metal 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 License Inspector 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 Scrap Metal 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 Scrap Metal Dealer's premises, all records pertaining to each Non-Commercial Transaction purchase of Scrap Metal Nonferrous and Selected Scrap Metal including any written invoice, cancelled cheques and Registers, for a period of 24 months following the Transaction.

Inspection

- 4.2 On request by the Police, License Inspector, By-law Enforcement Officer or any person authorized to act on their behalf, a Scrap Metal Dealer must:
- (a) produce the Goods Information Register for inspection on the premises of the Scrap Metal Dealer;
 - (b) provide the Goods Information Register to the Police for inspection on premises other than those of the Scrap Metal 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 Scrap Metal Dealer of Scrap Metal Nonferrous or of Selected Scrap Metal, that occurred during the absence of the Goods Information Register; and
 - (d) permit the Police, License Inspector and By-law Enforcement Officer to inspect:

- (i) the premises of the Scrap Metal Dealer and any Scrap Metal Nonferrous and Selected Scrap Metal thereon; and
- (ii) any Scrap Metal Nonferrous and Selected Scrap Metal purchased or held by the Scrap Metal Dealer.

Time Periods

4.3 Every Scrap Metal Dealer must:

- (a) subject to removal of the Goods Information Register pursuant to section 4.2(b), or to directions by a court of competent jurisdiction, keep on the business premises of the Scrap Metal 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 Scrap Metal 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.

Transfer

4.4 A person who receives a Register pursuant to section 4.3(c) must comply with this By-law in relation to securing and maintaining the Registers, and for producing or providing the Register to the Police, License Inspector or By-law Enforcement Officer.

SECTION 5 DISPLAY OF NAME

Requirements

- 5.1 Every Scrap Metal 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.

**SECTION 6
PREMISES, HOURS, MARKINGS, MINORS**

Requirements

- 6.1 A Scrap Metal Dealer must not:
- (a) purchase, sell, or keep Scrap Metal Nonferrous or Selected Scrap Metal except at the premises designated in the Scrap Metal Dealer's business license;
 - (b) transact Scrap Metal Nonferrous or Selected Scrap Metal 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 Scrap Metal Nonferrous or Selected Scrap Metal of which any serial number or other identifying marks appear to have been wholly or partially obliterated, tampered with or removed; and
 - (d) transact any Scrap Metal Nonferrous or Selected Scrap Metal from a person:
 - (i) under the age of 18 years; or
 - (ii) who appears to be intoxicated by alcohol or drugs.

**SECTION 7
RETENTION AND MANAGEMENT OF GOODS**

Requirements

- 7.1 During the applicable period established in section 7.2, every Scrap Metal Dealer, with respect to each Non-Commercial Transaction purchase of Scrap Metal Nonferrous, must:
- (a) clearly and individually tag each purchase by date and Transaction identifier, and clearly and physically separate it from other Scrap Metal Nonferrous and Selected Scrap Metal in the dealer's premises;
 - (b) not alter, repair, dispose of, or in any way part with possession of the Scrap Metal Nonferrous, or remove it from the premises of the Scrap Metal 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 Scrap Metal Dealer.

Time Period

- 7.2 In relation to a Non-Commercial Transaction purchase of Scrap Metal Nonferrous every Scrap Metal Dealer must comply with the requirements of section 7.1 for at least seven (7) days after the date that a Transaction has been recorded electronically or manually in the Registers.

Exception to Time Period

- 7.3 The time periods established in section 7.2 do not apply to a Commercial Transaction purchase of Scrap Metal Nonferrous by a Scrap Metal Dealer.

Commercial Transactions

- 7.4 It shall be unlawful for a Scrap Metal Dealer to purchase Selected Scrap Metal, unless the Selected Scrap Metal is delivered to the Scrap Metal Dealer's premises in a vehicle clearly marked as that of the corporation or similar business surrendering the Selected Scrap Metal, and the Seller also:
- (a) has identification showing employment with that entity or appointment as an agent of the Seller or under written contract with the owner of the Selected Scrap Metal; and
 - (b) has an originally signed letter, on that entity's usual letterhead, authorizing the identified person to sell Selected Scrap Metal to a Scrap Metal Dealer.

In such cases, purchase of the Selected Scrap Metal shall be made only by way of Commercial Transaction.

Waiver of Time Period

- 7.5 A Scrap Metal Dealer who, before expiry of the applicable time period established in section 7.2, wishes to sell or otherwise dispose of Scrap Metal Nonferrous 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.

SECTION 8 MIXED BUSINESSES

Separate Licenses

- 8.1 A person who holds a license for both a Scrap Metal Dealer and a further business must clearly and physically separate all Scrap Metal purchased from other goods and inventory.

**SECTION 9
EXEMPTIONS**

Scrap Metal Ferrous

9.1 This By-law shall not apply to purchases of Scrap Metal Ferrous.

Other Exemptions

9.2 This By-law shall not apply to a person:

- (a) who only purchases, sells or collects recyclable materials for the sole purpose of recycling. Recyclable materials include bottles, cans, plastics, glass, cardboard, paper or other recyclable materials but shall not include Scrap Metal that is not part of a can or food container; or
- (b) buying, selling or collecting a used motor vehicle that has been, or will be crushed for the purpose of recycling it.

**SECTION 10
OFFENCES AND PENALTIES**

Prevent Inspection

10.1 A person who refuses to allow the Police, License Inspector or By-law Enforcement Officer to inspect such place, premises or thing associated with the carrying on of a business regulated by this By-law shall be guilty of an infraction of this By-law.

Other Offences

10.2 Any person who violates any provision of this By-law, or who allows or permits any act or thing to be done in violation of any provision of this By-law, or who neglects to or refrains from doing anything required to be done by any provision of this By-law, is guilty of an offence against this By-law and each day that a violation continues to exist is deemed to be a separate offence against the By-law.

Fines

10.3 Any person who commits an offence contrary to the provisions of this By-law is liable on summary conviction to a penalty of not less than \$1,000 and not more than \$10,000, in addition to the costs of the prosecution.

Business License Powers

10.4 Pursuant to the authority granted in Section 60(4) of the *Community Charter*, the License Inspector may, for reasonable cause, cancel, suspend or refuse to issue a business license to businesses regulated by this By-law.

**SECTION 11
ENACTMENT**

Effective Date

11.1 This By-law comes into force and takes effect on final reading, or on _____, 2008, whichever is the later.

PASSED THREE READINGS on the _____ day of _____, 2008.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2008.

_____ MAYOR

_____ CLERK

SCHEDULE "A"
SCRAP METAL DEALER
GOODS INFORMATION REGISTER

TRANSACTION REPORT

Date:	Time:	Transaction Number:
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Complete Description of Type, Composition and Weight of Purchase					
Material Type	Weight	Material Type	Weight	Material Type	Weight
No. 1 Copper		Stainless			
No. 2 Copper					
Aluminum					
Aluminum					
Brass					
Radiators					
Stainless					
				Total Weight (lbs):	
				Total Price Paid	\$
Paid by <input type="checkbox"/> Cheque <input type="checkbox"/> Cash					

Record Identifiable or Distinguishing Marks on Selected Scrap Metal

Method of Payment
Cash
Cheque
GST # (if Commercial Transaction)

Prepared by:	
Signature:	

SCHEDULE "B"
SCRAP METAL DEALER
SELLER INFORMATION REGISTER

Date:	Time:	Transaction Number:
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Seller Information	
---------------------------	--

Name:	Phone #:
Home Address:	Date of Birth:
	Description of Picture ID:
	Seller's Signature

Owner Information if different from above	
--	--

Name:	Phone #:
Address:	GST Number:

Vehicle Information	
----------------------------	--

Make:	Taxicab Company Name:
Model:	Taxi Cab Number:
Colour:	License Plate #:
License Plate #	

Prepared By:	
Signature	

APPENDIX "B"
PROPOSED AMENDMENTS TO BUSINESS LICENSE
BY-LAW, 1999, NO. 13680, AS AMENDED (the "By-law")

That the By-law be further amended as follows:

1. Section 2 – Interpretation be amended by adding the following new definition of scrap metal dealer:

"Scrap Metal Dealer" means a scrap metal dealer as defined in Scrap Metal Dealer Regulation By-law, 2008, No. 16655.

2. By adding a new Section 58.1 immediately following Section 58:

Scrap Metal Dealers

58.1 (1) Every Scrap Metal Dealer must comply with the provisions of Scrap Metal Dealer Regulation By-law, 2008, No. 16655.

3. By amending the existing category entitled "Scrap Dealer" in Schedule "A" to read "Scrap Metal Dealer" and amend the fee to read "3,000.00 per year".

APPENDIX "C"
**PROPOSED AMENDMENTS TO SURREY SECONDHAND
DEALERS AND PAWNBROKERS BY-LAW, 1997,
NO. 13183, AS AMENDED (the "By-law")**

That the By-law be further amended as follows:

1. Section 2 – Definitions be amended by deleting "Dealer's Register" and replacing it with "Dealer's Registers" as follows:

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

2. Section 2 – Definitions be amended by adding the following new definition of "Goods Information" after "Dealer's Registers":

"Goods Information" means, as regards a dealer:

- (a) the price paid for goods, articles or things purchased or received by the dealer including:
 - (i) the method of payment, and
 - (ii) the GST registration number of the seller;
- (b) the precise date and time of purchase;
- (c) a full and complete description of, and any descriptive mark or name, on any goods, articles or things purchased or received, including make, model number, serial number, and the gram weight of jewelry or any engravings.

3. Section 2 – Definitions be amended by deleting "metal" from the definition of "Junk".

4. Section 2 – Definitions be amended by deleting "License Inspector" and replacing as it as follows:

"License Inspector" means the Manager of By-law and Licensing Services and any authorized deputy.

5. Section 2 – Definitions be amended by adding the following new definition of "Seller" after "Secondhand Dealer":

"Seller" means an individual, firm or corporation from whom any goods, articles or things are received by a dealer ;

6. Section 2 – Definitions be amended by adding the following new definition of Seller Information after "Seller":

"Seller Information" means:

- (a) the full name, current residence or street address, telephone number, and birth date of the person from whom the goods, articles or things were received by the dealer;
- (b) confirmation of the identify of the seller by way of authorized identification bearing the signature of the seller, together with a complete description of the authorized identification and name of the authority that issued it;
- (c) the make, model, colour and provincial vehicle license plate number of any motor vehicle used by the seller to deliver the goods, articles or things to the dealer's premises including if applicable, taxi cab company name, taxi cab number and provincial vehicle license plate number; and
- (d) in a case where the seller is not the owner of the goods, articles or things, the full name, street address, telephone number and if applicable, goods and services registration number of that owner.

7. Deleting sections 3 through 6 and replacing them with:

Dealer's Registers

- 3. Every dealer shall keep a record to be called the Goods Information Register of the Goods Information respecting all goods, articles or things other than bottles purchased or otherwise received by the dealer.
- 4. Every dealer shall keep a record to be called the Seller Information Register of the Seller Information respecting all transactions of the dealer.
- 5. Immediately after the receipt of any goods, articles or things, every dealer must set out in the dealer's registers in chronological order by date of receipt, in the English language, a record of the transaction that must include the Goods Information and Seller Information.

6. Every dealer must:
 - (a) maintain the dealer's registers electronically or manually;
 - (b) record all Goods Information and Seller Information in the dealer's registers; 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 dealer's registers.
8. By changing the heading before Section 7 to "**Inspection of a Goods Information Register**".
9. By deleting Section 7 and replacing it with:
 7. On request by an Officer, a dealer must produce the Goods Information Register for inspection on the premises of the dealer.
10. By changing "dealer's register" in Section 8 to "Goods Information Register".
11. By changing "register" in Section 9 to "Goods Information Register" everywhere it appears.
12. By changing the heading before Section 10 to "**Preservation and Alteration of Dealer's Registers**".
13. By deleting Section 10 and replacing it with the following:
 10. A dealer must:
 - (a) not amend, obliterate or erase any entry in the dealer's registers or remove any page from the dealer's 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 dealer's registers, or remove any page from the dealer's registers either wholly or partially or electronically or manually;
 - (c) immediately report to the License Inspector any amendment, obliteration, or erasure of an entry in the dealer's registers or the removal of the dealer's registers or any part thereof from the premises of the dealer;
 - (d) take steps to ensure that information recorded in the dealer's registers is reasonably secure from access, collection, use, disclosure, or disposal; and

- (e) maintain on the dealer's premises, all records pertaining to each transaction including any written invoice, cancelled cheques and dealer's registers, for a period of 24 months following the transaction.

14. By deleting Section 12 and replacing it with:

- 12. Every dealer shall transmit to the Chief of Police by facsimile daily before 9:30 a.m., a report of every record from the Goods Information Register for every good, article or thing purchased or received by the dealer during the twenty-four (24) hours immediately preceding the hour of 9:00 a.m. of the day on which the report is made.

15. By deleting the words "particulars set forth in Section 6" from Section 13 and replacing them with the words "Goods Information".

16. By deleting Section 15 and inserting a new Section 15 and heading:

Keeping of Records

15. Every dealer must:

- (a) subject to removal of the Goods Information Register pursuant to section 8, or to directions by a court of competent jurisdiction, keep on the business premises of the dealer the dealer's registers, or any portion of the dealer's 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 dealer's registers for a period of seven (7) years following the date the record was made; and
- (c) if the business of the dealer is sold, leased, assigned, transferred or disposed of to any person, transfer possession of the entire dealer's registers to the person who bought, leased, took assignment or transfer of the business or to whom the business was otherwise disposed.

17. By deleting Sections 29(b) and 30(b) and replacing them each with:

- (b) report the Goods Information for the goods, articles and things to the Chief of Police; and

18. By replacing "dealer's register" with "dealer's registers" in Sections 29, 30 and 33.

APPENDIX "D"

Proposed Amendments to Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, as amended (the "By-law")

That the By-law be further amended as follows:

1. By deleting Schedule 17 in its entirety and replacing it with the new Schedule 17 attached hereto.

SCHEDULE 17 TO BY-LAW NO. 12508

**SURREY SECONDHAND DEALERS AND
PAWNBROKERS BY-LAW, 1997, NO. 13183**

	<u>SECTION</u>	<u>FINE</u>
1. Fail to keep record	3	\$1,000.00
2. Fail to maintain registers	6(a)	\$ 500.00
3. Fail to record information	6(b)	\$ 500.00
4. Fail to print/maintain copies	6(c)	\$ 500.00
5. Fail to produce register	7	\$1,000.00
6. Erase/alter entry	10(a)	\$ 500.00
7. Permit erasing/alteration of entry	10(b)	\$ 500.00
8. Fail to report amendment	10(c)	\$ 500.00
9. Fail to secure access	10(d)	\$ 500.00
10. Fail to maintain records on premises	10(e)	\$ 500.00
11. Register not in sequence	11	\$ 500.00
12. Fail to deliver daily report	12	\$ 500.00
13. Fail to keep registers on premises	15(a)	\$ 500.00
14. Fail to keep records for prescribed time	15(b)	\$ 500.00
15. Fail to transfer registers	15(c)	\$ 500.00
16. Operate without license	16	\$ 500.00
17. Incorrect place of business	17	\$ 500.00
18. Purchase/receive after 6:00 pm/before 9:00 am	20	\$ 500.00
19. Purchase/receive – person under 18 years	21(a)	\$ 500.00
20. Purchase/receive – no identification	21(b)	\$ 500.00
21. Purchase/receive from person acting on behalf of person under 18 years	21(c)	\$ 500.00
22. Purchase/receive from person acting on behalf of person without authorized identification	21(c)	\$ 500.00

23. Identifiable markings altered/removed	22	\$1,000.00
24. Refuse inspection of goods	23	\$1,000.00
25. Alter/repair/dispose of goods within 30 clear days	24(a)	\$ 500.00
26. Dispose of goods within 30 clear days	24(b)	\$ 500.00
27. Fail to segregate goods	25(a)	\$ 500.00
28. Prevent inspection for identification	25(b)	\$1,000.00
29. Fail to hold goods when required	26	\$ 500.00
30. Fail to separate secondhand and pawned goods	28	\$ 500.00
31. Fail to record secondhand goods	29(a)	\$ 500.00
32. Fail to report secondhand goods	29(b)	\$ 500.00
33. Fail to hold secondhand goods	29(c)	\$ 500.00
34. Fail to record new goods	30(a)	\$ 500.00
35. Fail to report new goods	30(b)	\$ 500.00
36. Fail to produce receipt	30(c)	\$ 500.00
37. Extend expiration of pawn	33	\$ 500.00
38. Change of name of pawner	33	\$ 500.00
39. Refuse right of entry	34	\$1,000.00

APPENDIX "E"



Corporate Report

NO: R090

COUNCIL DATE: May 26, 2008

REGULAR COUNCIL

TO: Mayor & Council DATE: May 22, 2008
FROM: City Solicitor FILE: 3900-20-16655
XC: 3900-20-13183
SUBJECT: Scrap Metal Dealer Regulation By-law and Other Related By-law Amendments

RECOMMENDATION

Legal Services recommends that Council:

1. Endorse in principle the Scrap Metal Dealer Regulation By-law (the "By-law") attached as Appendix "A" to this report;
2. Approve amendments to the Business Licence By-law, 1999, No. 13680 (the "Business License By-law") attached as Appendix "B" to this report as it relates to scrap metal dealers;
3. Approve amendments to Surrey Secondhand Dealers and Pawnbrokers By-law, 1997, No. 13183 (the "Secondhand Dealers and Pawnbrokers By-law") attached as Appendix "C" to this report to comply with recent Court decisions and have consistent record keeping and reporting requirements with the By-law; and
4. Direct the Manager, By-law & Licensing Services to give notice of the proposed changes and hold an information session for affected businesses to make representations on the proposed changes and report back to Council on the outcome of that session.

INTENT

The intent of this report is to introduce a new Scrap Metal Dealer By-law that, if adopted, will require scrap metal dealers to maintain records of purchase transactions related to scrap metal. The scrap metal transactions regulated under the By-law will be subject to an inventory retention period to permit sufficient time to enable police services to examine the inventory and recover stolen scrap metal that may be used as evidence in a Court proceeding. The Secondhand Dealers and Pawnbrokers By-law is being revised to have consistent record keeping and reporting requirements with the By-law. The provisions of both by-laws have been drafted to be in compliance with the intent of recent Court decisions.

BACKGROUND

Metal theft and its related economic impact and safety issues are a significant problem not only in Surrey, but also throughout the Province of British Columbia. The economic impacts are especially severe on municipal governments and major utility companies. It is estimated the economic impact of metal theft (i.e., street light wiring, street furniture, piping, etc.) on local governments in the Lower Mainland runs into the millions of dollars per year.

A study was conducted by the Regional Scrap Metal Working Group (the "Working Group") over the past two years to review and investigate the possibilities of developing regulations for the scrap metal industry in order to deter metal thefts. The Working Group had representation from RCMP, City Police forces, BC Hydro, BC Transmission, Telus and local governments.

The objective of the Working Group was to recommend a regulatory framework in the form of a municipal by-law, which could be applied to the scrap metal industry within the Region with the objective of deterring and thereby reducing metal theft throughout the Province.

DISCUSSION

The By-law is structured to require scrap metal dealers to maintain a Goods Information Register. Transactions from the Goods Information Register will include a description of each purchase of "nonferrous scrap metal" or "selected scrap metal". The seller information will not be provided to police unless they have a search warrant. Scrap metal dealers will be required to separate, identify and retain each purchase of nonferrous scrap metal for a specified period. Commercial transactions will be exempt from this requirement. The By-law also features "selected scrap metal" which includes commonly stolen items/materials from municipalities, utilities and sign companies.

The By-law has also been drafted to comply with the recent B.C. Court of Appeal decision in the *Royal City Jewellers and Loans Limited v. New Westminster (City)*. That decision clarified the scope of local government powers to regulate businesses under the *Community Charter*, S.B.C. 2003, c. 26.

The By-law is worded to distinguish "commercial transactions" from "non-commercial transactions" to minimize the impact on business-to-business transactions. This approach is taken as the metal theft phenomenon largely revolves around cash payments for stolen goods. This represents the best compromise for discouraging metal theft while minimizing unnecessary intrusion into day-to-day business operations.

The purpose of the retention period is to permit sufficient time to enable police services to recover stolen scrap metal to be used as evidence in a court proceeding. In consideration of this requirement, the By-law has been written to exempt all "commercial transactions" from these retention periods. The By-law will not apply to auto wreckers and other dealers in ferrous metals (iron and steel). In addition, recyclers of beverage and food containers such as bottles and cans are also exempt from the By-law.

Proactive enforcement of the By-law will be necessary to effectively monitor the scrap metal industry to ensure by-law compliance. Enforcement will be a joint function between By-law Enforcement Officers and Surrey RCMP. This enforcement will entail audits and spot checks of transactions by By-law Enforcement Officers. The By-law is similar to other by-laws within the City whereby joint enforcement initiatives have been undertaken.

To fully integrate the By-law it will be necessary to amend the Business License By-law to refer to "scrap metal dealers" and set a business license fee of \$500 per year. It is also necessary to revise the Secondhand Dealers and Pawnbrokers By-law to comply with the Court's decision in *Royal City Jewellers and Loans Limited v. New Westminster (City)* and to create consistency in the record keeping and reporting requirements of this by-law with the proposed new By-law.

Among the B.C. municipalities with scrap metal dealers only Richmond has enacted a by-law similar to the subject By-law. Burnaby, Kelowna and Langley City have indicated they will likely follow Surrey's lead in enacting legislation similar to the By-law.

Public Consultation

Prior to forwarding the by-laws to Council for the required readings, it is proposed that City staff provide notice to the businesses that will be affected by the By-law and by-law amendments, hold a public information meeting to receive input and provide a further report back to Council on the input that is received.

CONCLUSION

The proposed By-law reflects a considerable amount of work by representatives of the Lower Mainland municipalities, utility companies, the RCMP and others in developing a regulation to address the significant metal theft problem within the region. The adoption of the By-law and the joint enforcement of its provisions by By-law and Licensing staff and the Surrey RCMP will help to discourage metal theft throughout the City.

It is recommended that Council:

- Endorse in principle the Scrap Metal Dealer Regulation By-law (the "By-law") attached as Appendix "A" to this report;
- Approve amendments to the Business Licence By-law, 1999, No. 13680 (the "Business License By-law") attached as Appendix "B" to this report as it relates to scrap metal dealers;
- Approve amendments to Surrey Secondhand Dealers and Pawnbrokers By-law, 1997, No. 13183 (the "Secondhand Dealers and Pawnbrokers By-law") attached as Appendix "C" to this report to comply with recent Court decisions and have consistent record keeping and reporting requirements with the By-law; and
- Direct the Manager, By-law & Licensing Services to give notice of the proposed changes and hold an information session for affected businesses to make representations on the proposed changes and report back to Council on the outcome of that session.

CRAIG MacFARLANE
City Solicitor

CM:mlg
Attachs.

c.c. John Sherstone, Manager By-law and Licensing Services

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APPENDIX "A"

**CITY OF SURREY
BY-LAW NO. 16655**

Scrap Metal Dealer Regulation By-law

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WHEREAS Council considers it necessary to regulate the business of buying and selling scrap metal in the City of Surrey.

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SECTION 1

INTERPRETATION

Title

1.1 This By-law may be cited as "Scrap Metal Dealer Regulation By-law, 2008, No. 16655".

Definitions

1.2. In this By-law:

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

"By-law Enforcement Officer" means any By-law Enforcement Officer appointed by the Council to enforce City by-laws;

"City" means the City of Surrey;

"Commercial Transaction" means a transaction whereby the Scrap Metal Dealer pays the Seller by cheque drawn on an account in the name of the Scrap Metal Dealer at a financial institution, and which cheque is mailed by the Scrap Metal Dealer to the address indicated by the Seller and the payment includes GST as a component of the total;

"Council" means the Council of the City of Surrey;

"Goods Information" means, as regards a Scrap Metal Dealer:

- (a) the price paid for the Scrap Metal including:
 - (i) the method of payment,
 - (ii) the weight and type of metal purchased, and
 - (iii) the GST registration number of the Seller;
- (b) the precise date and time of purchase of the Scrap Metal, and
- (c) identifiable or distinguishing marks on the Scrap Metal including, where applicable, identification of the item as selected scrap metal;

"License Inspector" means the Manager of By-law and Licensing Services and any authorized deputy;

"Non-Commercial Transaction" means any transaction by the Scrap Metal Dealer that is not a Commercial Transaction;

"Picture Identification" means one or more of the following, not more than five years old, that includes a photograph of the bearer:

- (a) valid driver's license issued by a Canadian province or territory, or any state within the United States of America,
- (b) valid Provincial identity card,

- (c) valid passport issued by a legitimate government,
- (d) certificate of Indian status issued by the Government of Canada,
- (e) certificate of Canadian citizenship issued by the Government of Canada, or
- (f) conditional release card issued by Correctional Services Canada;

"Police" means the Officer in Charge at the Surrey RCMP Detachment and includes his or her designate;

"Registers" means the Scrap Metal Dealer's Goods Information Register and the Scrap Metal Dealer's Seller Information Register as referred to in this By-law and where this By-law stipulates that a Scrap Metal Dealer has an obligation in connection with a register, the reference is to the registers which the Scrap Metal Dealer is obliged, under this By-law, to establish and maintain;

"Reported Stolen" means that the item(s) had been reported as taken without colour of right by the true owner thereof to a municipal police department or RCMP detachment, and that particular police agency has delivered a report of the complaint to the premises of the particular Scrap Metal Dealer;

"Scrap Metal" means Scrap Metal Ferrous, Scrap Metal Nonferrous, and Selected Scrap Metal, but does not include used cans or containers for food, beverages, paint, domestic or household products normally recycled to avoid waste;

"Scrap Metal Dealer" means any person licensed pursuant to the City's Business License By-law, 1999, No. 13680, as amended, in force from time to time to carry on the business of selling, purchasing, or otherwise dealing in Scrap Metal;

"Scrap Metal Nonferrous" means a metal or alloy that is free of iron or comparatively so, including but not limited to:

- (a) copper, including brass and bronze,
- (b) aluminum, excepting recyclable beverage cans and food containers,
- (c) zinc,
- (d) magnesium,
- (e) lead, and
- (f) nickel;

"Scrap Metal Ferrous" means new or used items made principally of iron, steel, or tin, and includes items of Scrap Metal outside the definitions of Scrap Metal Nonferrous and Selected Scrap Metal;

"Selected Scrap Metal" means Scrap Metal which bears any markings of, or is unique to any of, the following:

- (a) public utilities or similar businesses distributing through piping or wiring,

electricity, telephone services or cable television signals. Without limiting the generality of the foregoing, this will include metal items marked with any of the following words "British Columbia Hydro", "British Columbia Transmission Corporation", "Telus", "Shaw" or "Rogers",

- (b) extruded aluminum of the type used by corporations or similar businesses which provide display signs,
- (c) civic street and traffic signs, manhole lids, catch basin grates, water valve lids, and any other items marked with the name of a municipal corporation,
- (d) grave markers,
- (e) aluminum ladders bearing any identifying markings from a public agency, municipality, regional district, school district, or similar corporation,
- (f) new production scrap or new materials that are part of a manufacturing process that are being sold by an individual and not by a company,
- (g) full sized new materials, such as those used in construction, or components of construction equipment and construction tools,
- (h) materials that have been Reported Stolen, or
- (i) wire that has been burned;

"Seller" means an individual, firm or corporation who sells or otherwise disposes of property to a Scrap Metal Dealer;

"Seller Information" means:

- (a) the full name, current residence or street address, telephone number, and birth date of the person from whom the Scrap Metal was purchased by the Scrap Metal Dealer,
- (b) confirmation of the identify 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,
- (c) the Seller's stated source of the Scrap Metal,
- (d) the make, model, colour and provincial vehicle license plate number of any motor vehicle used by the Seller to deliver the Scrap Metal to the Scrap Metal Dealer's premises including if applicable, taxi cab company name, taxi cab number and provincial vehicle license plate number, and
- (e) in a case where the Seller is not the owner of the Scrap Metal, the full name, street address, telephone number and if applicable, goods and services registration number of that owner; and

"Transaction" means any process including a purchase, barter or trade by which Scrap Metal comes into the possession of a Scrap Metal Dealer.

Table of Contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Severability

1.4 A decision by a court that any part of this By-law is illegal, void or unenforceable severs that part from this By-law and is not to affect the balance of this By-law.

Duty of Administration and Enforcement

1.5 The intent of this By-law is to set standards in the general public interest, and not to impose a duty on the City or its employees to enforce its provisions and:

- (a) a failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not give rise to a cause of action in favour of any person; and
- (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the By-law and the issuance thereof in error is not to give rise to a cause of action.

**SECTION 2
MAINTENANCE AND USE OF
GOODS INFORMATION REGISTER**

Requirements

2.1 Every Scrap Metal Dealer must establish and maintain a record to be called the Scrap Metal Dealer's Goods Information Register, of all Transactions of Scrap Metal Nonferrous and Selected Scrap Metal by the Scrap Metal Dealer.

Entry of Transactions

2.2 Immediately after the Transaction of any Scrap Metal Nonferrous or Selected Scrap Metal, every Scrap Metal 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 that must include the Goods Information.

Maintenance and Reporting

2.3 Every Scrap Metal 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 facsimile 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.

Handwritten Entries

- 2.4 If the Scrap Metal 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 By-law as Schedule "A", until electronically recording it so that no omissions or delays or gaps in record keeping or reporting may occur.

**SECTION 3
MAINTENANCE AND USE OF
SELLER INFORMATION REGISTER**

Requirements

- 3.1 Every Scrap Metal Dealer must establish and maintain a record to be called the Scrap Metal Dealer's Seller Information Register respecting all Transactions of Scrap Metal Nonferrous and Selected Scrap Metal by the Scrap Metal Dealer.

Entry of Transactions

- 3.2 Immediately after the Transaction of any Scrap Metal Nonferrous or Selected Scrap Metal, every Scrap Metal 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.

Maintenance and Reporting

- 3.3 Every Scrap Metal 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.

Handwritten Entries

- 3.4 If the Scrap Metal 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 By-law as Schedule "B", until electronically recording it so that no omissions or delays or gaps in record keeping or reporting may occur.

**SECTION 4
PRESERVATION AND INSPECTION OF REGISTERS**

Preservation

4.1 A Scrap Metal 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 License Inspector 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 Scrap Metal 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 Scrap Metal Dealer's premises, all records pertaining to each Non-Commercial Transaction purchase of Scrap Metal Nonferrous and Selected Scrap Metal including any written invoice, cancelled cheques and Registers, for a period of 24 months following the Transaction.

Inspection

4.2 On request by the Police, License Inspector, By-law Enforcement Officer or any person authorized to act on their behalf, a Scrap Metal Dealer must:

- (a) produce the Goods Information Register for inspection on the premises of the Scrap Metal Dealer;
- (b) provide the Goods Information Register to the Police for inspection on premises other than those of the Scrap Metal 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 Scrap Metal Dealer of Scrap Metal Nonferrous or of Selected Scrap Metal, that occurred during the absence of the Goods Information Register; and
- (d) permit the Police, License Inspector and By-law Enforcement Officer to inspect:
 - (i) the premises of the Scrap Metal Dealer and any Scrap Metal Nonferrous and Selected Scrap Metal thereon; and
 - (ii) any Scrap Metal Nonferrous and Selected Scrap Metal purchased or held by the Scrap Metal Dealer.

Time Periods

4.3 Every Scrap Metal Dealer must:

- (a) subject to removal of the Goods Information Register pursuant to section 4.2(b), or to directions by a court of competent jurisdiction, keep on the business premises of the Scrap Metal 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 Scrap Metal 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.

Transfer

- 4.4 A person who receives a Register pursuant to section 4.3(c) must comply with this By-law in relation to securing and maintaining the Registers, and for producing or providing the Register to the Police, License Inspector or By-law Enforcement Officer.

SECTION 5 DISPLAY OF NAME

Requirements

- 5.1 Every Scrap Metal 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.

SECTION 6 PREMISES, HOURS, MARKINGS, MINORS

Requirements

- 6.1 A Scrap Metal Dealer must not:
- (a) purchase, sell, or keep Scrap Metal Nonferrous or Selected Scrap Metal except at the premises designated in the Scrap Metal Dealer's business license;
 - (b) transact Scrap Metal Nonferrous or Selected Scrap Metal 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 Scrap Metal Nonferrous or Selected Scrap Metal of which any serial number or other identifying marks appear to have been wholly or partially obliterated, tampered with or removed; and
 - (d) transact any Scrap Metal Nonferrous or Selected Scrap Metal from a person:

- (i) under the age of 18 years; or
- (ii) who appears to be intoxicated by alcohol or drugs.

SECTION 7 RETENTION AND MANAGEMENT OF GOODS

Requirements

- 7.1 During the applicable period established in section 7.2, every Scrap Metal Dealer, with respect to each Non-Commercial Transaction purchase of Scrap Metal Nonferrous, must:
- (a) clearly and individually tag each purchase by date and Transaction identifier, and clearly and physically separate it from other Scrap Metal Nonferrous and Selected Scrap Metal in the dealer's premises;
 - (b) not alter, repair, dispose of, or in any way part with possession of the Scrap Metal Nonferrous, or remove it from the premises of the Scrap Metal 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 Scrap Metal Dealer.

Time Period

- 7.2 In relation to a Non-Commercial Transaction purchase of Scrap Metal Nonferrous every Scrap Metal Dealer must comply with the requirements of section 7.1 for at least seven (7) days after the date that a Transaction has been recorded electronically or manually in the Registers.

Exception to Time Period

- 7.3 The time periods established in section 7.2 do not apply to a Commercial Transaction purchase of Scrap Metal Nonferrous by a Scrap Metal Dealer.

Commercial Transactions

- 7.4 It shall be unlawful for a Scrap Metal Dealer to purchase Selected Scrap Metal, unless the Selected Scrap Metal is delivered to the Scrap Metal Dealer's premises in a vehicle clearly marked as that of the corporation or similar business surrendering the Selected Scrap Metal, and the Seller also:
- (a) has identification showing employment with that entity or appointment as an agent of the Seller or under written contract with the owner of the Selected Scrap Metal; and
 - (b) has an originally signed letter, on that entity's usual letterhead, authorizing the identified person to sell Selected Scrap Metal to a Scrap Metal Dealer.

In such cases, purchase of the Selected Scrap Metal shall be made only by way of Commercial Transaction.

Waiver of Time Period

- 7.5 A Scrap Metal Dealer who, before expiry of the applicable time period established in section 7.2, wishes to sell or otherwise dispose of Scrap Metal Nonferrous 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.

**SECTION 8
MIXED BUSINESSES****Separate Licenses**

- 8.1 A person who holds a license for both a Scrap Metal Dealer and a further business must clearly and physically separate all Scrap Metal purchased from other goods and inventory.

**SECTION 9
EXEMPTIONS****Scrap Metal Ferrous**

- 9.1 This By-law shall not apply to purchases of Scrap Metal Ferrous.

Other Exemptions

- 9.2 This By-law shall not apply to a person:
- (a) who only purchases, sells or collects recyclable materials for the sole purpose of recycling. Recyclable materials include bottles, cans, plastics, glass, cardboard, paper or other recyclable materials but shall not include Scrap Metal that is not part of a can or food container; or
 - (b) buying, selling or collecting a used motor vehicle that has been, or will be crushed for the purpose of recycling it.

**SECTION 10
OFFENCES AND PENALTIES****Prevent Inspection**

- 10.1 A person who refuses to allow the Police, License Inspector or By-law Enforcement Officer to inspect such place, premises or thing associated with the carrying on of a business regulated by this By-law shall be guilty of an infraction of this By-law.

Other Offences

- 10.2 Any person who violates any provision of this By-law, or who allows or permits any act or

thing to be done in violation of any provision of this By-law, or who neglects to or refrains from doing anything required to be done by any provision of this By-law, is guilty of an offence against this By-law and each day that a violation continues to exist is deemed to be a separate offence against the By-law.

Fines

10.3 Any person who commits an offence contrary to the provisions of this By-law is liable on summary conviction to a penalty of not less than \$1,000 and not more than \$10,000, in addition to the costs of the prosecution.

Business License Powers

10.4 Pursuant to the authority granted in Section 60(4) of the *Community Charter*, the License Inspector may, for reasonable cause, cancel, suspend or refuse to issue a business license to businesses regulated by this By-law.

**SECTION 11
ENACTMENT**

Effective Date

11.1 This By-law comes into force and takes effect on final reading, or on _____, 2008, whichever is the later.

PASSED THREE READINGS on the _____ day of _____, 2008.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2008.

_____ MAYOR

_____ CLERK

**SCHEDULE "A"
SCRAP METAL DEALER
GOODS INFORMATION REGISTER**

TRANSACTION REPORT

Date:	Time:	Transaction Number:
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Complete Description of Type, Composition and Weight of Purchase					
Material Type	Weight	Material Type	Weight	Material Type	Weight
No. 1 Copper		Stainless			

No. 2 Copper					
Aluminum					
Aluminum					
Brass					
Radiators					
Stainless					
				Total Weight (lbs):	
				Total Price Paid	\$
Paid by <input type="checkbox"/> Cheque <input type="checkbox"/> Cash					

Record Identifiable or Distinguishing Marks on Selected Scrap Metal

Method of Payment
Cash
Cheque
GST # (if Commercial Transaction)

Prepared by:	
Signature:	

**SCHEDULE "B"
SCRAP METAL DEALER
SELLER INFORMATION REGISTER**

Date:	Time:	Transaction Number:
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Seller Information	
Name:	Phone #:
Home Address:	Date of Birth:

	Description of Picture ID:
	Seller's Signature

Owner Information if different from above	
Name:	Phone #:
Address:	GST Number:

Vehicle Information	
Make:	Taxicab Company Name:
Model:	Taxi Cab Number:
Colour:	License Plate #:
License Plate #	

Prepared By:	
Signature	

APPENDIX "B"
PROPOSED AMENDMENTS TO BUSINESS LICENSE
BY-LAW, 1999, NO. 13680, AS AMENDED (the "By-law")

That the By-law be further amended as follows:

1. Section 2 – Interpretation be amended by adding the following new definition of scrap metal dealer:

"Scrap Metal Dealer" means a scrap metal dealer as defined in Scrap Metal Dealer Regulation By-law, 2008, No. 16655.
2. By adding a new Section 58.1 immediately following Section 58:

Scrap Metal Dealers

58.1 (1) Every Scrap Metal Dealer must comply with the provisions of Scrap Metal Dealer Regulation By-law, 2008, No. 16655.
3. By amending the existing category entitled "Scrap Dealer" in Schedule "A" to read "Scrap Metal Dealer" and amend the fee to read "3,000.00 per year".

APPENDIX "C"
**PROPOSED AMENDMENTS TO SURREY SECONDHAND
 DEALERS AND PAWNBROKERS BY-LAW, 1997,
 NO. 13183, AS AMENDED (the "By-law")**

That the By-law be further amended as follows:

1. Section 2 – Definitions be amended by deleting "Dealer's Register" and replacing it with "Dealer's Registers" as follows:

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

2. Section 2 – Definitions be amended by adding the following new definition of "Goods Information" after "Dealer's Registers":

"Goods Information" means, as regards a dealer:

- (a) the price paid for goods, articles or things purchased or received by the dealer including:
 - (i) the method of payment, and
 - (ii) the GST registration number of the seller;
- (b) the precise date and time of purchase;
- (c) a full and complete description of, and any descriptive mark or name, on any goods, articles or things purchased or received, including make, model number, serial number, and the gram weight of jewelry or any engravings.

3. Section 2 – Definitions be amended by deleting "metal" from the definition of "Junk".

4. Section 2 – Definitions be amended by deleting "License Inspector" and replacing as it as follows:

"License Inspector" means the Manager of By-law and Licensing Services and any authorized deputy.

5. Section 2 – Definitions be amended by adding the following new definition of "Seller" after "Secondhand Dealer":

"Seller" means an individual, firm or corporation from whom any goods, articles or things are received by a dealer ;

6. Section 2 – Definitions be amended by adding the following new definition of Seller

Information after "Seller":

"Seller Information" means:

- (a) the full name, current residence or street address, telephone number, and birth date of the person from whom the goods, articles or things were received by the dealer;
- (b) confirmation of the identify of the seller by way of authorized identification bearing the signature of the seller, together with a complete description of the authorized identification and name of the authority that issued it;
- (c) the make, model, colour and provincial vehicle license plate number of any motor vehicle used by the seller to deliver the goods, articles or things to the dealer's premises including if applicable, taxi cab company name, taxi cab number and provincial vehicle license plate number; and
- (d) in a case where the seller is not the owner of the goods, articles or things, the full name, street address, telephone number and if applicable, goods and services registration number of that owner.

7. Deleting sections 3 through 6 and replacing them with:

Dealer's Registers

- 3. Every dealer shall keep a record to be called the Goods Information Register of the Goods Information respecting all goods, articles or things other than bottles purchased or otherwise received by the dealer.
 - 4. Every dealer shall keep a record to be called the Seller Information Register of the Seller Information respecting all transactions of the dealer.
 - 5. Immediately after the receipt of any goods, articles or things, every dealer must set out in the dealer's registers in chronological order by date of receipt, in the English language, a record of the transaction that must include the Goods Information and Seller Information.
 - 6. Every dealer must:
 - (a) maintain the dealer's registers electronically or manually;
 - (b) record all Goods Information and Seller Information in the dealer's registers; 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 dealer's registers.
8. By changing the heading before Section 7 to "**Inspection of a Goods Information Register**".

9. By deleting Section 7 and replacing it with:
7. On request by an Officer, a dealer must produce the Goods Information Register for inspection on the premises of the dealer.
10. By changing "dealer's register" in Section 8 to "Goods Information Register".
11. By changing "register" in Section 9 to "Goods Information Register" everywhere it appears.
12. By changing the heading before Section 10 to "**Preservation and Alteration of Dealer's Registers**".
13. By deleting Section 10 and replacing it with the following:
10. A dealer must:
- (a) not amend, obliterate or erase any entry in the dealer's registers or remove any page from the dealer's 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 dealer's registers, or remove any page from the dealer's registers either wholly or partially or electronically or manually;
 - (c) immediately report to the License Inspector any amendment, obliteration, or erasure of an entry in the dealer's registers or the removal of the dealer's registers or any part thereof from the premises of the dealer;
 - (d) take steps to ensure that information recorded in the dealer's registers is reasonably secure from access, collection, use, disclosure, or disposal; and
 - (e) maintain on the dealer's premises, all records pertaining to each transaction including any written invoice, cancelled cheques and dealer's registers, for a period of 24 months following the transaction.
14. By deleting Section 12 and replacing it with:
12. Every dealer shall transmit to the Chief of Police by facsimile daily before 9:30 a.m., a report of every record from the Goods Information Register for every good, article or thing purchased or received by the dealer during the twenty-four (24) hours immediately preceding the hour of 9:00 a.m. of the day on which the report is made.
15. By deleting the words "particulars set forth in Section 6" from Section 13 and replacing them with the words "Goods Information".
16. By deleting Section 15 and inserting a new Section 15 and heading:
- Keeping of Records**
15. Every dealer must:

- (a) subject to removal of the Goods Information Register pursuant to section 8, or to directions by a court of competent jurisdiction, keep on the business premises of the dealer the dealer's registers, or any portion of the dealer's 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 dealer's registers for a period of seven (7) years following the date the record was made; and
 - (c) if the business of the dealer is sold, leased, assigned, transferred or disposed of to any person, transfer possession of the entire dealer's registers to the person who bought, leased, took assignment or transfer of the business or to whom the business was otherwise disposed.
17. By deleting Sections 29(b) and 30(b) and replacing them each with:
- (b) report the Goods Information for the goods, articles and things to the Chief of Police; and
18. By replacing "dealer's register" with "dealer's registers" in Sections 29, 30 and 33.