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London
CANADA

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Chair and Members
Community and Protective Services Committee

RE: PAWNBROKERS AND SALVAGE YARD REGULATIONS – FALSE VERIFICATION OF OWNERSHIP FOR STOLEN ITEMS. LIST OF PROHIBITED ITEMS FOR SCRAP METAL RECYCLING YARDS.

I have received numerous complaints from businesses and residents in the Old East Village and Ward 4, about thefts of various items that are being pawned or sold to scrap yards. Businesses have had their **commercial size A/C units completely disembowelled of copper tubing coils**, homes have been stripped of copper plumbing, contractors have had copper pipes stolen off work sites, residents bikes, jewellery and other items have been stolen from cars and sheds. All for what appears to be the fueling of the drug trade. The cash back for thousands of these expensive items is pennies on the dollar and the cost of policing this matter is overwhelming and unnecessary.

I would like to tighten up the Pawnbroker & Salvage Yard Regulations, to help stop these thefts. Lack of strong Bylaw rules is resulting in **FALSE VERIFICATION OF OWNERSHIP**, is problematic on many levels and must come to an end.

Scrap metal salvage yards and pawn broker businesses should be forced to get proper photo identification of customers who are seeking to pawn or sell items, to prove they are not stolen. I also suggest thumb printing (direct police identification) or videotaping all transactions for evidence purposes later. This will deter and intercept criminals from seeing the fruits of their crime.

If criminals have no place to sell it - there is no drive to steal it.

I understand this is under review by staff however; I would like to expedite this matter and tighten up the rules, in hopes of reducing crime and saving thousands of police man hours and dollars.

Please see proposed list of prohibited items for scrap metal yards:

- Manhole covers & storm grates
- Light poles or utility structures
- Guard rails
- Street signs, traffic signs and traffic signals
- Service wire from a utility
- Funeral or historical markers
- Railroad equipment
- Items that are clearly marked as the property of a government, utility company, cemetery or railroad.
- Copper or aluminum condensing or evaporator coils from air HVAC systems
- Containers or bottles designed to hold propane
- Stainless steel beer keg
- Catalytic convertors, unless purchased as part of a vehicle
- Metallic wire that has been burned to remove insulation
- Fire department connectors or control valves
- Shopping carts
- Brass water meters

I respectfully request delegation status to speak to this matter.

Stephen Orser
Councillor, Ward 4
(519) 851-4968

Attch.

Pawnbroker and Salvage Yard Regulations

Introduction

This report discusses different laws surrounding pawnbrokers and salvage yard operators related to preventing sales of stolen items through collection of seller information including fingerprinting. The practice of fingerprinting is less common in Canada than in the USA. In US states such as Florida, the State Legislature outlines fingerprinting requirements. In Canada, fingerprinting is much less common and where it is allowed, it is used as an alternative to providing photo identification. In Ontario the Provincial Government outlines information collection laws at pawnshops and these laws do not require fingerprinting. Two cities have attempted to pass bylaws related to information collection at pawnshops that go beyond what the Province requires; in both cases it has been ruled that these bylaws cannot proceed because they are outside of municipal jurisdiction and conflict with privacy laws.

List of cases related to pawnshop identification bylaws

- Portage la Prairie in Manitoba attempted to require fingerprinting. Due to public privacy concerns, the bylaw was changed to allow to maintain existing photo identification requirements and to provide non-photo ID with fingerprints as an alternative
- Winnipeg by-laws also allow fingerprinting as an optional form of identification along with non-photo ID but it is not required
- The City of Ottawa attempted to institute a bylaw under which information was provided to the City instead of the Police. The Information Privacy Commissioner ruled that this was in violation of a municipal privacy act.
- Oshawa attempted to enact a bylaw requiring collection of information that expanded beyond the regulations of the Provincial *Pawnbrokers Act* and the Ontario Court of Appeal struck the bylaw and ruled that the bylaw overstepped municipal jurisdiction

Summary of How Fingerprint/Photograph Laws Work

In Florida, the State requires pawnshops to keep detailed information on all sellers including fingerprints (pg 2). This information is required to be kept on file and sent to the police daily. Salvage yards follow the same rules but must also keep information on vehicles delivering scrap and must take photographs of sellers (pg 2-3). The State sets the laws and businesses must register with the state. Fingerprinting can be done either with paper and ink or electronically. However, electronic records are only required if local police purchase the equipment and provide it to the pawnshops. This requires increases to police budget to implement.

In Ontario, pawnshops are required by Provincial law to maintain detailed seller information but do not have to collect fingerprints (pg 4). The requirements are set by the Province, however municipalities are able to impose some additional requirements through licensing provisions. These restrictions cannot interfere with the Provincial law but could regulate things such as operating hours, location, total shops, etc. Whether the City could implement fingerprinting is a matter of legal nuance and would need to be determined by the City Clerk or City Solicitor.

London bylaws do currently set additional limitations (pg. 5) on who can sell an item (must be older than 16) and what can be sold (items with damaged serial numbers must first be reported to police). Florida has a long list of items that cannot be sold (pg. 3) including copper wire, shopping carts and manhole covers. It may be possible that similar bylaws could be implemented rather than fingerprinting requirements in order to prevent sales of stolen items without overstepping municipal jurisdiction. This would also need to be confirmed by the Clerk or Solicitor's office.

Regulations in Florida

The Florida State Legislature regulates pawnbrokers and salvage yards through *The 2012 Florida Statutes, Title XXXIII, Regulation of Trade, Commerce, Investments, and Solicitations, Chapter 538 Secondhand Dealers and Secondary Metals Recyclers* ["Chapter 538"]. This legislation is set at the state level and imposes a number of restrictions and requirements on all pawnbrokers and salvage yard operators within the state.

Pawnbrokers

Part 1 of *Chapter 538* addresses secondhand dealers including pawnbrokers. Under State law, all pawnbrokers are required to maintain records for all transactions using a "pawnbroker transaction form". This form must be on standard sized paper, and although pawnbrokers can create their own form, the design and format must be approved before it can be used. Records must include:

1. The name and address of the pawnshop
2. A description of the item to be pawned including brand name, model number, manufacturer's serial number, size, colour, precious metal type (if applicable), gemstone description (if applicable), any other identifying marks, numbers, name or letters
3. If the item is a firearm the description must include the type of action, caliber or gauge, number of barrels, barrel length and finish
4. A description of the person selling the item including name, address, workplace, home and work phone numbers, height, weight, date of birth, race, gender, hair and eye colour and any identifying marks
5. The right thumbprint of the person selling the item
6. Verification of this information provided through examination of a government-issued identification card including the type of identification used, the issuing agency, and the serial number.

Under *Chapter 538*, the pawnbroker must provide a copy of the form to local police within 24 hours. The law does allow for the police department to provide electronic software and equipment to pawnbrokers in order. If this is done, then electronic copies must be provided and maintained. The police department in this case is responsible for purchasing and maintaining the equipment and retains ownership of it. In addition, a pawnbroker must allow any law enforcement officer to examine the records during regular business hours. Copies of the form must be kept for three years.

All pawnbrokers must register with the state Department of Revenue in order to operate. Chapter 538 does specify that counties and municipalities may enact laws that are more restrictive than the state law.

Link to 2012 Florida Statutes, Title XXXIII, Regulation of Trade, Commerce, Investments, and Solicitations, Chapter 538 Secondhand Dealers and Secondary Metals Recyclers:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0500-0599/0538/0538.html

Salvage Yards

Chapter 538 refers to salvage yards as "secondary metal recyclers" and includes both businesses that purchase or gather scrap metal as well as those that process scrap metal into raw materials. Similar to pawnbrokers, salvage yard operators are required to maintain detailed records of all transactions. However, these records differ slightly in that they must be maintained electronically, and all records must be provided to police by 10 AM on the business day after the transaction. All forms must be approved by the State. Forms must include information including:

1. The name and address of the salvage yard
2. The name, initials or other identification of the person entering the information on the form

3. The date and time of the transaction
4. The weight, quality or volume of the materials
5. The amount paid for the materials
6. A signed statement from the person selling the materials saying that he is the rightful owner or is entitled to sell
7. The number on the identification card used by the person selling (ie. Driver's licence number)
8. A description of the person selling the materials including
 - a. Name, address, workplace, home and work phone numbers
 - b. Height, weight, date of birth, race, gender, hair colour, eye colour and other identifying marks
 - c. Right thumbprint
 - d. Vehicle description including make, model and tag number of the vehicle and trailer delivering the materials
9. A photograph, videotape or digital image of the materials being sold
10. A photograph, videotape or similar likeness of the person selling the materials in which facial features are clearly visible

There are also a number of prohibited practices under *Chapter 538*. It is against the law for a salvage yard to:

1. Purchase materials that are not delivered by motor vehicle
2. Purchase materials off-site
3. Purchase materials from anyone using a name that is not their own, or the registered name of the seller's business; who is younger than 18 years of age; or is visibly under the influence of drugs or alcohol
4. Purchase from a list of prohibited items including
 - a. Manhole covers and storm grates
 - b. Light poles or utility structures
 - c. Guard rails
 - d. Street signs, traffic signs and traffic signals
 - e. Service wire from a utility
 - f. Funeral or historical markers
 - g. Railroad equipment
 - h. Items that are clearly marked as the property of a government, utility company, cemetery or railroad
 - i. Copper and aluminum condensing or evaporator coils from air HVAC systems
 - j. Containers or bottles designed to hold propane
 - k. Stainless steel beer keg
 - l. Catalytic converters unless purchased as part of a vehicle
 - m. Metallic wire that has been burned to remove insulation
 - n. Fire department connectors or control valves
 - o. Shopping carts
 - p. Brass water meters

Law enforcement officers may, at any time during business hours, inspect all materials stored at the salvage yard as well as the records. No salvage yard can operate without registering with the state Department of Revenue. *Chapter 538* states that counties and municipalities are explicitly stated to have no authority to provide additional regulations unless the regulation was enacted before March 1, 2012.

Regulations in Ontario

Pawnbrokers

In Ontario, the Provincial Government regulates pawnbrokers through the *Pawnbrokers Act (1990)*. This act is similar to the Florida legislation in that it is set at the provincial/state level and imposes restrictions on the operations of pawnbrokers. Although the Act requires licensing of pawnbrokers and reporting of pawn sales to be reported at the municipal level, the recordkeeping requirements are set by the *Pawnbrokers Act (1990)* and set by the Province. As in Florida, the Province requires pawnbrokers to maintain records for all transactions. However, rather than using a standard, province-wide form, pawnbrokers must maintain a book including information for each transaction including:

1. The date of the transaction
2. The name, address and description of the seller including information sufficient to identify sex, estimate age, height, complexion, the full particulars of identification produced (ie. Type of ID, serial number)
3. Name and address of the owner of the item if the owner is not the person selling it
4. A description of the item to be pawned
5. The sum lent for the item to be pawned

In the event that identification is not provided, the pawnbroker must note this in the book, however all other relevant information must be included. Note that the only information not required in Ontario that is required in Florida is place of employment and thumbprint. Also, although a physical description is required, the Ontario legislation is less specific on what must be recorded than the Florida legislation.

There are additional restrictions imposed by the *Pawnbrokers Act (1990)*. Pawnbrokers are not allowed to:

1. Purchase items from anyone who appears to be under the influence of drugs or alcohol
2. Purchase an item pawned by himself
3. Enter into a sale with the intention of purchasing the item himself
4. Accept any cross, medal, insignia or other decoration granted by or with the approval of the crown
5. Melt any precious metal unless authorised to do so by the municipal council

Each business day the pawnbroker must provide a report to the local Chief of Police (or other representative if stated in a municipal by-law) showing every transaction made on the previous business day including all the information included in the pawnbroker's book. This could be provided on a standard form if required by the municipality or as a reproduction of the actual book. In the event that a pawnbroker suspects an item has been stolen, this is to be reported to the local police force.

All pawnbrokers in Ontario are required to be licensed by the municipality they are operating in on an annual basis. The requirements for licensing are determined by each municipality. However, the act does not explicitly state whether additional restrictions can be imposed by a municipality.

Link to the *Pawnbrokers Act 1990*:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p06_e.htm

Salvage Yards

There is no Provincial equivalent to the *Pawnbrokers Act (1990)* addressing salvage yards. The *Municipal Act* does delegate authority to municipalities to provide licensing by-laws for "salvage businesses" which include both salvage yards and automobile wrecking yards.

Regulations in London

In London, pawnbrokers and salvage yards are regulated by Part 19 of the *Business Licensing By-law* which imposes a number of additional restrictions on second-hand-dealers and salvage yards. Pawnbrokers are also regulated by the *Pawnbroker By-law* which outlines licensing requirements. The by-laws reference the Provincial *Pawnbrokers Act (1990)* and the *Municipal Act* as granting the authority to control the licensing and impose additional restrictions. As such, the authority for this type of legislation comes from the Province. The *Business Licensing By-law* provides additional theft prevention measures including:

1. Requiring pawnbrokers and salvage yards to provide police with 24 hours notice in order to purchase any item brought in where a serial number has been removed, altered or damaged
2. Forbidding pawnbrokers and salvage yards from purchasing and items from minors under the age of 16 without written permission from a parent or guardian
3. Requiring pawnbrokers and salvage yards to attempt to obtain the name and address and report to police any person who is believed to be selling stolen goods or who is providing false information
4. Requiring pawnbrokers and salvage yards to make all records of transactions available to police at “any reasonable time”

The by-law includes a requirement outlining the information that must be recorded for each transaction. However, these requirements are the same as those required under provincial legislation. No additional information is required and it is unclear whether or not the municipality has the authority to impose additional regulations such as collecting fingerprints and photographs as a requirement of the licensing process or if this falls under provincial jurisdiction. For more information on jurisdiction it would be best to contact either a staff member responsible for the management and enforcement of these bylaws, a staff member from the legal department, or a staff member at the Ministry of Municipal Affairs.

Link to Business Licensing By-law:

http://www.london.ca/By-laws/PDFs/business_licensing.pdf

Link to Pawnbrokers By-law:

<http://www.london.ca/By-laws/PDFs/pawnbroker.pdf>