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| TO: | CHAIR AND MEMBERS FINANCE AND ADMINISTRATION COMMITTEE MEETING ON AUGUST 17, 2011 |
| FROM: | CATHY SAUNDERS CITY CLERK |
| SUBJECT | BY-LAW AMENDMENTS TO PROVIDE FOR APPEALS TO A HEARINGS OFFICER |

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| RECOMMENDATION |
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That, on the recommendation of the City Clerk the following actions be taken to amend certain municipal by-laws to provide for the delegation of powers of decision to City of London Hearings Officers:

- (a) the proposed by-law attached as Schedule 'A' **BE INTRODUCED** at the Municipal Council meeting on August 29, 2011 to amend By-law No. C.P.-19, entitled "A by-law to provide for the licensing and regulation of Residential Rental Units in the City of London";
- (b) the proposed by-law attached as Schedule 'B' **BE INTRODUCED** at the Municipal Council meeting on August 29, 2011 to amend By-law L-6 entitled, "A by-law to provide for the licensing and regulation of various businesses";
- (c) the proposed by-law attached as Schedule 'C' **BE INTRODUCED** at the Municipal Council meeting on August 29, 2011 to amend By-law L-7 entitled, "A by-law to provide for licensing the business of a pawnbroker"; and
- (d) the proposed by-law attached as Schedule 'D' **BE INTRODUCED** at the Municipal Council meeting on August 29, 2011 to amend By-Law No. S.-3775-94 entitled "A by-law prohibiting and regulating signs and other advertising devices, and regulating the placing of signs and canopies upon highways".

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| PREVIOUS REPORTS PERTINENT TO THIS MATTER |
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Report from the City Solicitor, Item 3 of the July 14, 2008 Environment and Transportation Committee Agenda
 Report from the City Clerk, Item 2 of the December 8, 2008 Environment and Transportation Committee Agenda
 Report from the City Clerk, Item 17 of the February 11, 2009 Board of Control Agenda
 Report from the City Clerk, Item 1 of the April 13, 2011 Finance and Administration Committee Agenda

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| BACKGROUND |
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On April 18, 2011 City Council passed By-law No. A.-6653-121, entitled "A by-law to establish the positions of Hearings Officer" in order to to establish the positions of Hearings Officers to whom may be delegated quasi-judicial and legislative authority under various City by-laws.

On the same date, City Council directed the Civic Administration to bring forward the necessary by-law amendments and to arrange for public meetings, where required, delegating powers of decision to Hearings Officers.

This report brings forward to Council the proposed amending by-laws delegating powers of decision to City of London Hearings Officers for the following by-laws:

| BY-LAW NUMBER | BY-LAW TITLE |
|----------------------|---|
| C.P.-19 | A by-law to provide for the licensing and regulation of Residential Rental Units in the City of London |
| L-6 | A by-law to provide for the licensing and regulation of various businesses |
| L-7 | A by-law to provide for licensing the business of a pawnbroker |
| S.-3775-94 | A by-law prohibiting and regulating signs and other advertising devices, and regulating the placing of signs and canopies upon highways |

The amending by-laws reflect the requirements of the *Municipal Act, 2001* for the delegation of legislative and quasi-judicial powers including the Section 23.2(4) requirement that Council shall delegate to an individual only those legislative powers considered by Council to be of a minor nature.

| PREPARED BY: | RECOMMENDED BY: |
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| | |
| NAME: Jim Purser TITLE: Manager of Records and Information Services | NAME: Cathy Saunders TITLE: City Clerk |

SCHEDULE 'A'

Bill No.
2011

By-law No. CP-19-_____

A By-law to amend By-law No. CP-19 entitled, "A by-law to provide for the licensing and regulation of Residential Rental Units in the City of London."

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its powers under the *Municipal Act, 2001* or any other Act;

AND WHEREAS the Municipal Council passed By-law No. A.-6653-121 being the Hearings Officer By-law;

AND WHEREAS the Municipal Council desires to amend By-law No. CP-19 being the Residential Rental Housing Units By-law to provide for appeals before a Hearings Officer;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Residential Rental Housing Units By-law CP-19 is hereby amended by adding a new recital under the eighth recital as follows:

"AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this by-law to the Licensing Manager and the Hearings Officer including without limitation to the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;"

2. The Residential Rental Housing Units By-law CP-19 is hereby amended by deleting the following from section 1.1:

"Hearings Committee" means a person or body that has been delegated the power or duty to hold a hearing or provide an opportunity to be heard for the purpose of this By-law;"

And replacing it with the following:

"Hearings Officer" means a Hearings Officer appointed under the City's Hearings Officer By-law A.-6653-121, as amended;"

3. The Residential Rental Housing Units By-law CP-19 is hereby amended by deleting section 7.6(d) and replacing it with a new section 7.6(d) as follows:

"(d) state that the Applicant or Licencee is entitled to request a hearing by a Hearings Officer if the Applicant or Licencee files with the City Clerk a notice of appeal in writing and the appeal fee as set out in this By-law within ten (10) days after the notice in subsection 7.5 is served. The notice of appeal must comply with the requirements as set out in Schedule 1 of the City's Hearings Officer By-law A.-6653-121, as amended."

4. The Residential Rental Housing Units By-law CP-19 is hereby amended by deleting Part 8 in its entirety and replacing it with a new Part 8 as follows:

"8.0 HEARINGS BEFORE THE HEARINGS OFFICER

8.1 The power and authority to conduct hearings of appeals under this By-law are hereby

delegated to the Hearings Officer.

8.2 The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, apply to all hearings conducted by a Hearings Officer.

8.3 The Hearings Officer may uphold or vary the decision of the Licence Manager or make any decision that the Licence Manager was entitled to make in the first instance.

8.4 The decision of the Hearings Officer is final.”

5. This by-law comes into force and effect on September 19, 2011.

PASSED in Open Council on August 29, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – August 29, 2011
Second Reading – August 29, 2011
Third Reading – August 29, 2011

SCHEDULE 'B'

Bill No.
2011

By-law No. L-6-_____

A by-law to amend By-law No. L-6 entitled "A by-law to provide for the licensing and regulation of various businesses".

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its powers under the *Municipal Act, 2001* or any other Act;

AND WHEREAS the Municipal Council passed By-law No. A.-6653-121 being the Hearings Officer By-law;

AND WHEREAS the Municipal Council desires to amend By-law No. L-6 being the Business Licensing By-law to provide for appeals before a Hearings Officer;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Business Licensing By-law L-6 is hereby amended by adding a new recital under the eighth recital as follows:

"AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this by-law to the Licensing Manager and the Hearings Officer including without limitation to the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*";

2. The Business Licensing By-law L-6 is hereby amended by adding the following to section 1.1 after the definition "Fire Chief – defined":

"Hearings Officer – Defined
"Hearings Officer" means a Hearings Officer appointed under the City's Hearings Officer By-law A.-6653-121, as amended."

3. The Business Licensing By-law L-6 is hereby amended by deleting from section 2.21 line 4, the text "the Community and Neighbourhoods Committee" and replacing it with the new text "a Hearings Officer".

4. The Business Licensing By-law L-6 is hereby amended by deleting section 2.25 in its entirety and replacing it with the following new section 2.25:

"2.25 Licensing powers – delegation to a Hearings Officer

(a) the general licensing powers contained in Part IV of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended are hereby assigned by the Municipal Council to a Hearings Officer.

(b) the Hearings Officer shall make the final decisions with respect to refusing to issue, refusing to renew, suspending or revoking a licence under this by-law."

5. The Business Licensing By-law L-6 is hereby amended by deleting each instance of the text "Community and Neighbourhoods Committee" from the title and body of section 2.26(a) and

section 2.26(b) and replacing it with the new text "Hearings Officer" in each instance.

6. The Business Licensing By-law L-6 is hereby amended by deleting each instance of the text "Community and Neighbourhoods Committee" from the title and the body of section 2.27(a) and replacing it with the new text "Hearings Officer" in each instance.

7. The Business Licensing By-law L-6 is hereby amended by deleting section 2.27(b) in its entirety and replacing it with the new section 2.27(b) as follows:

"(b) The applicant or licence holder may request a hearing before a Hearings Officer by filing a written notice of appeal with the City Clerk within 10 days after the notice is given. The notice of appeal must comply with the requirements as set out in Schedule 1 of the City's Hearings Officer By-law A.-6653-121, as amended."

8. The Business Licensing By-law L-6 is hereby amended by deleting section 2.28 in its entirety and replacing it with the new section 2.28 as follows:

"2.28 Refusal - suspension - revocation – Rules of Practice and Procedure
Where the City Clerk receives a written request for a hearing in compliance with section 2.27(b), the City Clerk shall proceed under the rules and procedures as set out in Schedule 1 to By-law A.-6653-121, as amended."

9. The Business Licensing By-law L-6 is hereby amended in the title of section 2.29 by deleting the text "Community and Neighbourhoods Committee" and replacing it with the text "a Hearings Officer", and by deleting from the first line of section 2.29 the text "Community and Neighbourhoods Committee" and replacing it with the text "Hearings Officer".

10. The Business Licensing By-law L-6 is hereby amended by deleting section 2.30 in its entirety and replacing it with the new section 2.30 as follows:

"2.30 Suspension - interim - pending - during meeting
Where there is a referral or request for a hearing to a Hearings Officer, the Hearings Officer may, where the Hearings Officer considers it to be necessary in the public interest, immediately suspend the licence for a period not exceeding 15 days."

11. The Business Licensing By-law L-6 is hereby amended in section 2.31 by deleting each instance of the text "Community and Neighbourhoods Committee" and replacing it in each instance with the new text "Hearings Officer".

12. The Business Licensing By-law L-6 is hereby amended by deleting section 2.32 in its entirety.

13. The Business Licensing By-law L-6 is hereby amended by deleting section 2.33 in its entirety and replacing it with the new section 2.33 as follows:

"2.33 Hearings
The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Officer"

14. The Business Licensing By-law L-6 is hereby amended by deleting sections 2.34 and 2.35 in their entirety.

15. The Business Licensing By-law L-6 is hereby amended in the title of section 2.36 and in the body of section 2.36 by deleting the text "Community and Neighbourhoods Committee" and replacing it with the text "Hearings Officer" in each instance.

16. The Business Licensing By-law L-6 is hereby amended in Part 2 by renumbering from section 2.33 onward, so that section 2.33 becomes 2.32, section 2.36 becomes 2.33, section 2.37 becomes 2.34, and section 2.38 becomes 2.35.

17. This by-law shall come into force and effect on September 19, 2011.

PASSED in Open Council on August 29, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - August 29, 2011
Second Reading - August 29, 2011
Third Reading - August 29, 2011

SCHEDULE 'C'

Bill No.
2011

By-law No. L-7 ____

A By-law to amend By-law L-7, as amended, entitled "A by-law to provide for licensing the business of a pawnbroker."

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS sections 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its powers under the *Municipal Act, 2001* or any other Act;

AND WHEREAS the Municipal Council passed By-law No. A.-6653-121 being the Hearings Officer By-law;

AND WHEREAS the Municipal Council desires to amend By-law L-7 being the Pawnbrokers By-law to provide for appeals before a Hearings Officer;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Pawnbrokers By-law L-7 is hereby amended by adding a new recital under the third recital as follows:

"AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this by-law to the Licensing Manager and the Hearings Officer including without limitation to the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

2. The Pawnbrokers By-law L-7 is hereby amended by adding the following definition to section 1.1 after the definition for "Council – defined":

""Hearings Officer - defined" shall mean a Hearings Officer appointed under the City's Hearings Officer By-law A.-6653-121, as amended."

3. The Pawnbrokers By-law L-7 is hereby amended by adding the following definition to section 1.1 after the new definition for "Hearings Officer – defined":

""License Manager - defined" shall mean the Director of Building Controls and includes his or her designates."

4. The Pawnbrokers By-law L-7 is hereby amended in sections 2.1, 2.4, 2.6, and 2.13 by replacing the words "Clerk" and "City Clerk" with the words "License Manager".

5. The Pawnbrokers By-law L-7 is hereby amended by deleting section 3.1 in its entirety and by replacing it with a new section 3.1 as follows:

"3.1 License Manager – authority - conditions

The License Manager may suspend or revoke the licence:

(a) for any reason that would disentitle the holder to a licence if he were an applicant;

(b) where the holder of the licence is in breach of a condition of the licence or of this by-law; or

(c) if a subsequent report is filed by any department or agency specified in section 2.6 of this by-law which indicates that a licence holder no longer complies with any of the provisions of this by-law.”

6. The Pawnbrokers By-law L-7 is hereby amended in sections 3.2 and 3.4 by replacing the words “Board” and “Board of Control” with the words “License Manager”.
7. The Pawnbrokers By-law L-7 is hereby amended by deleting section 3.3 in its entirety and by replacing it with a new section 3.3 as follows:

“3.3 Notice – contents – information requirements

The notice under section 3.2 of this by-law shall:

(a) contain the reason for the proposed suspension or revocation;

(b) inform the holder of the licence that he or she may request a hearing before a Hearings Officer by filing a written notice of appeal with the City Clerk within 10 days after the notice is given. The notice of appeal must comply with the requirements as set out in Schedule 1 of the City’s Hearings Officer By-law A.-6653-121, as amended; and

(c) afford the holder of the licence a reasonable opportunity, before the Hearing, to show or achieve compliance with all lawful requirements for the retention of the licence.”

8. The Pawnbrokers By-law L-7 is hereby amended by deleting section 3.5 in its entirety and by replacing it with a new section 3.5 as follows:

“3.5 Suspension – interim – extension

The Hearings Officer may, at the hearing mentioned in section 3.3 (b) of this by-law, extend the interim suspension until the Hearings Officer disposes of the proposed suspension or revocation.”

9. The Pawnbrokers By-law L-7 is hereby amended by deleting section 3.6 in its entirety and by replacing it with a new section 3.6 as follows:

“3.6 Suspension – interim – notice – consent

The notice mentioned in section 3.2 of this by-law shall inform the holder of the licence of any interim suspension.”

10. The Pawnbrokers By-law L-7 is hereby amended in the title of Part 4 by replacing the words “**Board of Control – Proceedings**” with the words “**Hearings – Proceedings**”.

11. The Pawnbrokers By-law L-7 is hereby amended by deleting sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, and 4.8 in their entirety.

12. The Pawnbrokers By-law L-7 is hereby amended by adding a new section 4.1 to Part 4 as follows:

“4.1 Hearings

The power and authority to conduct hearings of appeals under this By-law are hereby delegated to a Hearings Officer.”

13. The Pawnbrokers By-law L-7 is hereby amended by adding a new section 4.2 to Part 4 as follows:

“4.2 Decision – as considered proper

The Hearings Officer shall take such action as to suspend or revoke the license, or not to suspend or revoke the licence, as he or she considers proper in the circumstances.”

14. The Pawnbrokers By-law L-7 is hereby amended by adding a new section 4.3 to Part 4 as follows:

“4.3 Decision – final and binding

The decision by the Hearings Officer to revoke or suspend the license, or not to suspend or revoke the licence, shall be considered final and binding.”

15. This by-law shall come into force and effect on September 19, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – August 29, 2011
Second Reading – August 29, 2011
Third Reading – August 29, 2011

SCHEDULE 'D'

Bill No.
2011

By-law No. S.-3775()-

A By-law to amend By-law No. S.-3775-94, as amended, entitled "A by-law prohibiting and regulating signs and other advertising devices, and regulating the placing of signs and canopies upon highways."

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS sections 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its powers under the *Municipal Act, 2001* or any other Act;

AND WHEREAS the Municipal Council passed By-law No. A.-6653-121 being the Hearings Officer By-law;

AND WHEREAS the Municipal Council desires to amend By-law No. S.-3775-94 being the Sign and Canopy By-law to provide for appeals before a Hearings Officer,

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law No. S.-3775-94 is hereby amended in section 3.1 by adding the following definition after "GROUP USES":

"Hearings Officer" shall mean a Hearings Officer appointed under the City's Hearings Officer By-law A.-6653-121, as amended;
2. By-law No. S.-3775-94 is hereby amended by deleting subsections 13.3 (g), (h) & (i) in their entirety.
3. By-law No. S.-3775-94 is hereby amended by adding a new section 13.4 as follows:

"13.4 Appeals

- (a) The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Officer.
- (b) The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, apply to all hearings conducted by a Hearings Officer under this By-law.
- (c) An applicant may appeal the variance application decision of the Chief Building Official to the Hearings Officer.
- (d) A request by the owner for a hearing under this Section shall be made in writing and filed with the City Clerk within fifteen days of the applicant receiving the decision of the Chief Building Official. The request shall consist of a notice of appeal and must comply with the requirements set out in Schedule 1 of the City's Hearings Officer By-law A.-6653-121, as amended.
- (e) The Hearings Officer may authorize the variance or uphold the decision of the Chief Building Official.
- (f) The decision of the Hearings Officer shall be final."

4. This by-law shall come into force and effect on September 19, 2011.

PASSED in Open Council on August 29, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - August 29, 2011
Second Reading - August 29, 2011
Third Reading – August 29, 2011