

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, on May 3, 2010.

PASSED THREE READINGS on the 26th day of May, 2008.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 3rd day of May, 2010.

_____ MAYOR

_____ CLERK

SCHEDULE "A"
SCRAP METAL DEALER
GOODS INFORMATION REGISTER

TRANSACTION REPORT

| | | |
|-------|-------|---------------------|
| Date: | Time: | Transaction Number: |
|-------|-------|---------------------|

| 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 |
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| |
| |
| |

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

| | |
|--------------|--|
| Prepared by: | |
| Signature: | |
| | |